

**21 GCA REAL PROPERTY
CH. 1 PROPERTY IN GENERAL**

**DIVISION 1
OWNERSHIP OF REAL OR IMMOVABLE PROPERTY**

**CHAPTER 1
PROPERTY IN GENERAL**

- Article 1. Nature of Property.
- Article 2. Ownership.
- Article 3. Rights of Owners.
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- Article 5. General Definitions.

**ARTICLE 1
NATURE OF PROPERTY**

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- § 1102. In What Property may Exist.
- § 1103. Wild Animals.
- § 1104. Real and Personal Property.
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- § 1106. Land.
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§ 1101. What is Property.

The ownership of a thing is the right of one or more persons to possess and use it to the exclusion of others. In this Code, the thing of which there may be ownership is called property.

SOURCE: CC § 654, which begins Division Second of the former Civil Code.

§ 1102. In What Property may Exist.

There may be ownership of all inanimate things which are capable of appropriation or of manual delivery; of all domestic animals; of all obligations; of such products of labor or skill as the composition of an author, the goodwill of a business, trademarks and signs, and of rights created or granted by law.

SOURCE: CC § 655.

§ 1103. Wild Animals.

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Animals wild by nature are the subject of ownership, while living, only when on the land of the person claiming them, or when tamed, or taken and held in possession, or disabled and immediately pursued.

SOURCE: CC § 656.

§ 1104. Real and Personal Property.

Property is either:

1. Real or immovable; or,
2. Personal or movable.

SOURCE: CC § 657.

§ 1105. Real Property.

Real or immovable property consists of:

1. Land;
2. That which is affixed to land;
3. That which is incidental to or appurtenant to land;
4. That which is immovable by law.

SOURCE: CC § 658.

§ 1106. Land.

Land is the solid material of the earth, whatever may be the ingredients of which it is composed, whether soil, rock, or other substance.

SOURCE: CC § 659.

§ 1107. Fixtures.

A thing is deemed to be affixed to land when it is attached to it by roots, as in the case of trees, vines, or shrubs; or imbedded in it, as in the case of buildings; or permanently attached to what is thus permanent, as by means of cement, plaster, nails, bolts, or screws.

SOURCE: CC § 660.

§ 1108. Appurtenances.

A thing is deemed to be incidental or appurtenant to land when it is by right used with the land for its benefit, as in the case of a way, or watercourse, or of a passage for light, air, or heat from or across the land of another.

SOURCE: CC § 661.

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NOTE: No §§662-668 existed in the Civil Code of Guam.

ARTICLE 2
OWNERSHIP

Subpart A. Owners.
Subpart B. Modifications of Ownership.
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Subpart D. Restraints Upon Alienation.
Subpart E. Accumulation.

SUBPART A
OWNERS

- § 1201. Owner.
- § 1202. Government Property.
- § 1203. Who May Own Property.
- § 1204. Alien Ownership; Limitations; Escheat to the Government.

§ 1201. Owner.

All property has an owner whether that owner is the government of Guam, and the property public, or the owner an individual, and the property private. The United States Government may also hold property as a private proprietor.

SOURCE: CC § 669.

§ 1202. Government Property.

The government of Guam is the owner of all land below tidewater, and below ordinary high-water mark, bordering on tidewater within Guam; of all land below the water of a navigable lake or stream; of all property lawfully appropriated by it to its own use; of all property dedicated to the government; and of all property of which there is no other owner.

SOURCE: CC § 670.

§ 1203. Who May Own Property.

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Any person, except an alien, may take, hold, and dispose of real property within Guam, and any person, whether an alien or not, may take, hold, and dispose of personal property within Guam.

SOURCE: CC § 671.

CROSS-REFERENCES: See § 1204, below, for exceptions to the prohibition against aliens owning real property.

§ 1204. Alien Ownership; Limitations; Escheat to the Government.

(a) No alien or person who is not a citizen of the United States, or who has not declared his intention to become a citizen of the United States in the manner provided by law shall acquire title to or own any land in Guam except as hereinafter provided. The prohibition shall not apply to cases in which the right to hold or dispose of lands in Guam is secured by existing treaties to citizens or subjects of foreign countries, which rights so far as they exist by force of any such treaty, shall continue to exist so long as such treaties are in force, and no longer. The prohibition shall not apply to ownership or lease of single family, residential, apartment, or condominium type housing (one unit per alien family) and the land on which such housing is located plus any interest in common elements including land associated with such housing, as delineated in §45106 of this Title. As used in this subparagraph "family" shall mean a husband, a wife and dependent children, if any, or a widow or widower and dependent children, if any, or any unmarried alien occupying his or her own dwelling.

(b) This section shall not apply to land owned in Guam by aliens, which was acquired on or before the Treaty of Paris, of December 10, 1898, between the United States and Spain, so long as it is held by the then owners, their heirs, or legal representatives.

(c) This section shall not prevent aliens resident in Guam from acquiring lands or any interest therein by inheritance, succession, or in the ordinary course of justice. All lands so acquired shall be sold within five years after title shall be perfected in such alien or it shall escheat to the government as hereinafter provided.

(d) Any alien who shall hold lands in Guam in contravention of this section may nevertheless convey his title thereto any time before the institution of proceedings as hereinafter provided. If such conveyance shall be made by such alien to any other person, in trust and for the purpose and with the intention of evading the provisions of this section, said conveyance

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shall be null and void, and any such lands so conveyed shall be forfeited and escheat to the government.

(e) It shall be the duty of the Attorney General of Guam, when he shall be informed or have reason to believe that land in Guam is being held contrary to the provisions of this section, to institute escheat proceedings in the Superior Court of Guam on behalf of the government.

(f) If it shall be determined upon the trial of any such escheat proceedings that the lands are held contrary to the provisions of this section, the court shall render judgment condemning such lands and shall order them to be sold as under execution; and the proceeds of such sale, after deducting the costs of such suit, shall be paid to the clerk of the court. The clerk of the court shall deposit said sum in a bank licensed to do business in Guam, where it shall be held for one year subject to the claims of the alien owners. Within that period, if the alien owner of such lands, his heirs or legal representatives, appear before the Superior Court, and establish a just claim to any or all of said fund, the Superior Court shall direct the claimants to be paid therefrom. If not claimed within one year from the time of such deposit, said fund shall be delivered to the Treasurer of Guam.

(g) Subject to the provisions regarding the lease or ownership of land and buildings as set forth in Subsections (a) and (h) of this Section, the lease to aliens of real property in Guam for a longer period than five (5) years is prohibited and void. The penalty for a violation of this Subsection shall be a fine of fifty percent (50%) of the value of the lease for each year over five (5) years, one-half (1/2) to be paid by the lessee and one-half (1/2) by the lessor, and an additional fine not exceeding One Hundred Dollars (\$100.00) to be paid by the lessor.

(h) This Section shall *not* apply to time-share estates as delineated in Chapter 47 of this Title, *Time-Share Ownership*. Aliens and foreign corporations shall be allowed to acquire title to own or lease time-share estates based on the following:

- (1) no time-share estate shall be limited to any specific duration or period time;
- (2) no alien or foreign corporation shall be limited to the number of time-share estates they acquire title to, own or lease;
- (3) occupancy or use of time-share estates shall not be limited to the 'family,' as defined in Subsection (a) of this Section; and

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4) aliens and foreign corporations shall have all the rights and incidents of ownership, or of their particular non-ownership estate, and shall not be restricted with respect to their ability to sell, lease, sublease or otherwise dispose of their time-share estates.

SOURCE: CC § 672; subsections (a) and (g) amended by P.L. 12-192. Subsection (g) amended by P.L. 24-167:3. Subsection (h) added by P.L. 24-167:2.

NOTE: 1. "Island Attorney" replaced by *Attorney General*. See 5 GCA Chapter 30.
2. "District Court" replaced by *Superior Court* by authority of P.L. 1285, the Court Reorganization Act of 1974.

SUBPART B
MODIFICATIONS OF OWNERSHIP

- § 1210. Ownership.
- § 1211. Absolute Ownership.
- § 1212. Qualified Ownership.
- § 1213. What is 'Several Ownership'.
- § 1214. When Different Persons are Owners.
- § 1215. Joint Interest.
- § 1216. Partnership Interest.
- § 1217. Interests in Common.
- § 1218. Common Interests Defined.
- § 1219. Interests, as to time.
- § 1220. What is a Present Interest.
- § 1221. What is a Future Interest.
- § 1222. What is a Perpetual Interest.
- § 1223. What is a Limited Interest.
- § 1224. Kinds of Future Interests.
- § 1225. Vested Interests.
- § 1226. Contingent Interests.
- § 1227. Two or More Future Interests.
- § 1228. Certain Future Interests not to be Void.
- § 1229. Posthumous Children.
- § 1230. Qualities, expectant estates.
- § 1231. 'Mere possibility' not an interest.
- § 1232. Interest in Real Property.
- § 1233. Relationship to Personal Property.
- § 1234. Future Interests recognized.

§ 1210. Ownership.

The ownership of property is either:

1. Absolute; or,
2. Qualified.

SOURCE: CC § 678.

§ 1211. Absolute Ownership.

The ownership of property is absolute when a single person has the absolute dominion over it, and may use it or dispose of it according to his pleasure, subject only to general laws.

SOURCE: CC § 679.

§ 1212. Qualified Ownership.

The ownership of property is qualified:

1. When it is shared with one or more persons;
2. When the time of enjoyment is deferred or limited; or,
3. When the use is restricted.

SOURCE: CC § 680.

§ 1213. What is 'Several Ownership'.

The ownership of property by a single person is designated as sole or several ownership.

SOURCE: CC § 681.

§ 1214. When Different Persons are Owners.

The ownership of property by several persons is either:

1. Of joint interests;
2. Of partnership interests;
3. Of interests in common;
4. Of community interest of husband and wife.

SOURCE: CC § 682.

§ 1215. Joint Interest.

A joint interest is one owned by several persons in equal shares, by a title created by a single will or transfer, when expressly declared in the will or transfer to be a joint tenancy, or by a transfer from a sole owner to

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himself and others, or from tenants in common to themselves, or to themselves and others, when expressly declared in the transfer to be a joint tenancy, or when granted or devised to executors or trustees as joint tenants. No joint tenancy shall be created except as herein provided.

SOURCE: CC § 683.

§ 1216. Partnership Interest.

A partnership interest is one owned by several persons, in partnership, for partnership purposes.

SOURCE: CC § 684.

§ 1217. Interests in Common.

An interest in common is one owned by several persons, not in joint ownership or partnership.

SOURCE: CC § 685.

§ 1218. Common Interests Defined.

Every interest created in favor of several persons in their own right is an interest in common, unless acquired by them in partnership, for partnership purposes, or unless declared in its creation to be a joint interest, as provided in § 1215, or unless acquired as community property.

SOURCE: CC § 686.

NOTE: CC § 687, Community Property, was repealed by P.L. 15-133:22. For the current law on Community Property, and the Marriage Relationship, see Title 19 of this Code.

§ 1219. Interests, as to time.

In respect to time of enjoyment, an interest in property is either:

1. Present or future; and,
2. Perpetual or limited.

SOURCE: CC § 688.

§ 1220. What is a Present Interest.

A present interest entitled the owner to the immediate possession of the property.

SOURCE: CC § 689.

§ 1221. What is a Future Interest.

A future interest entitled the owner to the possession of the property only at a future period.

SOURCE: CC § 690.

§ 1222. What is a Perpetual Interest.

A perpetual interest has a duration equal to that of the property.

SOURCE: CC § 691.

§ 1223. What is a Limited Interest.

A limited interest has a duration less than that of the property.

SOURCE: CC § 692.

§ 1224. Kinds of Future Interests.

A Future Interest is either:

1. Vested; or,
2. Contingent.

SOURCE: CC § 693.

§ 1225. Vested Interests.

A future interest is vested when there is a person in being who would have a right, defeasible or indefeasible, to the immediate possession of the property, upon the ceasing of the intermediate or precedent interest.

SOURCE: CC § 694.

§ 1226. Contingent Interests.

A future interest is contingent, whilst the person in whom, or the event upon which, it is limited to take effect remains uncertain.

SOURCE: CC § 695.

§ 1227. Two or More Future Interests.

Two or more future interests may be created to take effect in the alternative, so that if the first in order fails to vest, the next in succession shall be substituted for it, and take effect accordingly.

SOURCE: CC § 696.

§ 1228. Certain Future Interests not to be Void.

A future interest is not void merely because of the improbability of the contingency on which it is limited to take effect.

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SOURCE: CC § 697.

§ 1229. Posthumous Children.

When a future interest is limited to successors, heirs, issue, or children, posthumous children are entitled to take in the same manner as if living at the death of that parent.

SOURCE: CC § 698.

§ 1230. Qualities, Expectant Estates.

Future interests pass by succession, will, and transfer, in the same manner as present interests.

SOURCE: CC § 699.

§ 1231. 'Mere Possibility' Not An Interest.

A mere possibility, such as the expectancy of an heir apparent, is not to be deemed an interest of any kind.

SOURCE: CC §700.

§ 1232. Interest in Real Property.

In respect to real or immovable property, the interests mentioned in this Article are denominated estates, and are specially named and classified commencing with Chapter 2 of this Title.

SOURCE: CC §701; changed by Compiler to reference structure of this Title of the Guam Code Annotated.

NOTE: P.L. 17-56:3 added a new §701 to the Civil Code as a part of the General Corporation Law. This new §701 will be found in its appropriate place in Title 18 of this Code, Business & Professions.

§ 1233. Relationship to Personal Property.

The names and classification of interests in real property have only such application to interests in personal property as is in this Title expressly provided.

SOURCE: CC §702; changed by Compiler in accordance with the structure of this Title.

§ 1234. Future Interests Recognized.

No future interest to property is recognized by the law, except such as is defined in this Title.

SOURCE: CC §703.

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SUBPART C
CONDITIONS OF OWNERSHIP

- § 1250. Fixing Time, Enjoyment.
- § 1251. Conditions.
- § 1252. Conditions Precedent Void.
- § 1253. Conditions Restraining Marriage Void.
- § 1254. Conditions Restraining Alienation Void.

§ 1250. Fixing Time, Enjoyment.

The time when the enjoyment of property is to begin or end may be determined by computation, or be made to depend on events. In the latter case, the enjoyment is said to be upon condition.

SOURCE: CC § 707.

NOTE: No CC §§ 704-707 existed in the Civil Code.

§ 1251. Conditions.

Conditions are precedent or subsequent. The former fix the beginning, the latter, the ending, of the right.

SOURCE: CC § 708.

§ 1252. Conditions Precedent Void.

If a condition precedent requires the performance of an act wrong of itself, the instrument containing it is so far void, and the right cannot exist. If it requires the performance of an act not wrong of itself, but otherwise unlawful, the instrument takes effect and the condition is void.

SOURCE: CC § 709.

§ 1253. Conditions Restraining Marriage Void.

Conditions imposing restraints upon marriage, except upon the marriage of a minor, are void; but this does not affect limitations where the intent was not to forbid marriage, but only to give the use until marriage.

SOURCE: CC § 710.

§ 1254. Conditions Restraining Alienation Void.

Conditions restraining alienation, when repugnant to the interest created, are void.

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SOURCE: CC § 711.

SUBPART D
RESTRAINTS UPON ALIENATION

§ 1265. How Long May Be Suspended.

§ 1266. Future Interests Void.

§ 1267. Sales to Aliens.

§ 1265. How Long May Be Suspended.

Except in the single case mentioned in § 3112, the absolute power of alienation cannot be suspended by any limitation or condition whatever, for a longer period than as follows:

1. During the continuance of the lives of persons in being at the creation of the limitation or condition; or
2. For a period not to exceed twenty-five (25) years from the time of the creation of the suspension.

SOURCE: CC § 715.

§ 1266. Future Interests Void.

Every future interest is void in its creation which, by any possibility, may suspend the absolute power of alienation for a longer period than is prescribed in this Article. Such power of alienation is suspended when there are no persons in being by whom an absolute interest in possession can be conveyed.

SOURCE: CC § 716.

NOTE: No CC § 717 existed.

§ 1267. Sales to Aliens.

The sale, gift, or devise to aliens of lands in Guam is prohibited, except as provided in § 1204 of this Title.

SOURCE: CC § 718.

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SUBPART E
ACCUMULATION

- § 1275. Income Disposition.
- § 1276. When Accumulations are Void.
- § 1277. Accumulation of Income.
- § 1278. Other Directions, When Void in Part.
- § 1279. Application of Income to Support Needy Persons.

§ 1275. Income Disposition.

Dispositions of the income of property to accrue and to be received at any time subsequent to the execution of the instrument creating such disposition, are governed by the rules prescribed in this Chapter in relation to Future Interests.

SOURCE: CC § 722.

NOTE: No CC §§ 719-721 existed in the Civil Code.

§ 1276. When Accumulations are Void.

All directions for the accumulation of the income of property, except such as are allowed by this Chapter, are void.

SOURCE: CC § 723.

§ 1277. Accumulation of Income.

An accumulation of the income of property may be directed by any will, trust, or transfer in writing sufficient to pass the property or create the trust out of which the fund is to arise, for the benefit of one or more persons, objects, or purposes, to commence within the time in this Chapter permitted for the vesting of future interests and not to extend beyond the period limiting the time within which the absolute power of alienation of property may be suspended as prescribed by law.

SOURCE: CC §724.

§ 1278. Other Directions, When Void in Part.

If the direction for an accumulation of the income of property is for a longer term than is limited in the last section, the direction only, whether separable or not from the other provisions of the instrument, is void as respects the time beyond the limit prescribed in said last section, and not other part of such instrument is affected by the void portion of such direction.

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SOURCE: CC §725.

§ 1279. Application of Income to Support Needy Persons.

When one or more persons for whose benefit an accumulation of income has been directed is or are destitute of other sufficient means of support or education, the proper court, upon application, may direct a suitable sum to be thereto out of the fund directed to be accumulated for the benefit of such person or persons.

SOURCE: CC §726.

ARTICLE 3
RIGHTS OF OWNERS

§ 1301. Increase of Property.

§ 1302. Who are Entitled in Certain Circumstances.

§ 1301. Increase of Property.

The owner of a thing owns also all its products and accessions.

SOURCE: CC §732.

NOTE: No CC §§ 727-731 existed.

§ 1302. Who are Entitled in Certain Circumstances.

When, in consequence of a valid limitation of a future interest, there is a suspension of the power of alienation or of the ownership during the continuation of which the income is undisposed of, and no valid direction for its accumulation is given, such income belongs to the persons presumptively entitled to the next eventual interest.

SOURCE: CC §733.

ARTICLE 4
TERMINATION OF OWNERSHIP

§ 1401. When Future Interests are Lost.

§ 1402. How Future Interest Defeated.

§ 1403. Future Interests not Lost.

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§ 1404. Future Interests; Same.

§ 1401. When Future Interests are Lost.

A future interest, depending on the contingency of the death of any person without successors, heirs, issue, or children, is defeated by the birth of a posthumous child of such person, capable of taking by succession.

SOURCE: CC § 739.

NOTE: No CC §§ 734-738 existed.

§ 1402. How Future Interest Defeated.

A future interest may be defeated in any manner or by any act or means which the party creating such interest provided for or authorized in the creation thereof; nor is a future interest, thus liable to be defeated, to be on that ground adjudged void in its creation.

SOURCE: CC § 740.

§ 1403. Future Interests not Lost.

No future interest can be defeated or barred by any alienation or other act of the owner of the intermediate or precedent interest, nor by any destruction of such precedent interest by forfeiture, surrender, merger, or otherwise, except as provided by the next section, or where a forfeiture is imposed by law as a penalty for the violation thereof.

SOURCE: CC § 741.

§ 1404. Future Interests; Same.

No future interest, valid in its creation, is defeated by the determination of the precedent interest before the happening of the contingency on which the future interest is limited to take effect; but should such contingency afterwards happen, the future interest takes effect in the same manner and to the same extent as if the precedent interest had continued to the same period.

SOURCE: CC § 742.

ARTICLE 5
GENERAL DEFINITIONS

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§ 1501. What is Income.

§ 1502. Time of Creation; What.

§ 1501. What is Income.

The income of property, as the term is used in this Chapter, includes the rents and profits of real property, the interest of money, dividends upon stock, and other produce of personal property.

SOURCE: CC § 748.

NOTE: No CC §§743-747 existed.

§ 1502. Time of Creation; What.

The delivery of the grant, where a limitation, condition, or future interest is created by grant, and the death of the testator, where it is created by will, is to be deemed the time of the creation of the limitation, condition, or interest, within the meaning of this Chapter.

SOURCE: CC § 749.
