

THE CODE OF CIVIL PROCEDURE OF CAMBODIA

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Note:

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The official version of this Law is Khmer

BOOK ONE GENERAL PROVISIONS

Chapter One PURPOSE OF THIS CODE, PURPOSE OF CIVIL ACTIONS, OBLIGATIONS OF COURT AND PARTIES

1. Purpose of this Code

Procedures for civil suits shall be governed by the provisions of this Code in addition to the provisions of the other laws and regulations.

2. Purpose of civil actions; right to access to the court

1. The purpose of civil suits is for courts to resolve civil disputes in accordance with the law in order to protect the rights of private parties.
2. The right of access to the court in a civil dispute shall be guaranteed to any person.

3. Right to request hearing; the principle of adversarial examination

1. No party shall be tried without hearing or summons.
2. The court shall, in all cases, follow the principle of adversarial system.

4. Responsibility of courts and parties

Courts shall endeavor to ensure that civil suits are carried out fairly and expeditiously, and parties shall conduct civil suits in good faith.

5. Language used at court; right of party to request interpreter

1. In the court, the Khmer language shall be used.
2. A party who is unable to understand the Khmer language may have a qualified interpreter. If the party is unable to secure such interpreter by his/her own means, the State shall assign one for him/her.

6. Attendance of public prosecutors

1. Where the court deems it necessary for the public interest, the court shall notify public prosecutors about the receipt of a complaint.
2. Regardless of whether public prosecutors have received a notice prescribed in Paragraph 1, public prosecutors may, where they deem it necessary in the public interest, attend the proceedings of the civil suit and present opinions.

Chapter Two COURT

Section I. Jurisdiction

7. Definition of court with jurisdiction

A court with jurisdiction shall mean a court that has the right to receive a complaint lawfully, conduct proceedings and render a judgment.

8. Jurisdiction determined by domicile

Actions against the following listed persons shall be filed in the court of first instance that has jurisdiction over the place specified for the respective items:

- (a) a natural person:
 - [1] his/her domicile; [2] his /her residence, if he/she has no domicile in Cambodia or his/her domicile is unknown; or [3] his/her last domicile if he/she has no residence in Cambodia or his/her residence is unknown.
- (b) a Cambodian juridical person:
 - [1] its place of principal office or business office; or [2] the place of the domicile of its representative or any other principal person in charge of its business if it has no business office or other office.
- (c) a foreign juridical person
 - [1] the place of its principal office or business office in Cambodia; or [2] the place of the domicile of its representative or any other principal person in charge of its business assigned in Cambodia if it has no business office or other office in Cambodia.

9. Jurisdiction over Action on Property Right

In addition to the courts prescribed in **Article 8 Jurisdiction determined by domicile**, the following listed actions may also be filed with the court with jurisdiction over the place specified in the respective items:

- (a) An action demanding performance of obligations:
 - The place where the obligations should be performed;
- (b) An action demanding payment of money for a bill, note or check:
 - The place where payment of the bill, note or check shall be made;
- (c) An action demanding performance of obligations against a person who have no domicile in Cambodia, or those whose domicile is unknown:
 - The place of the defendant's property, which is the subject of the claim or security thereof or of any seizable property of the defendant;
- (d) An action demanding performance of obligations against juridical persons that have no principal office or business office in Cambodia, or those whose principal office or business office is unknown:
 - The place of the defendant's property that is the subject of the claim or security thereof, or of any seizable property of the defendant;
- (e) Actions against a person who has a business office or other office, which relates to the business conducted at such business office:
 - The place of the business office or other office in question;
- (f) An action relating to tort:
 - The place where the tort was committed;
- (g) An action relating to real property:
 - The place where the real property is located;
- (h) An action relating to a registration:
 - The place where the registration should be made;
- (i) An action relating to inherited property:
 - [1] The place of the domicile of the deceased at the time of commencement of inheritance; [2] his/her residence if he/she has no domicile in Cambodia or his/her domicile is unknown, or [3] his/her last domicile if he/she have no residence in Cambodia or his/her residence is unknown.

10. Special jurisdiction in the cases of divorce; parent-child

relationships

1. An action for divorce or an action to confirm the existence or nonexistence of a parent-child relationship shall be subject exclusively to the jurisdiction of the court of first instance with jurisdiction over the place of the domicile of the person whose status is related to the action or the location of the domicile of the person at the time of his/her death.
2. If he/she has no domicile set forth in Paragraph 1 within Cambodia, or if his/her domicile within Cambodia is unknown, the venue shall be determined by his/her location of residence. If he/she has no place of residence or his/her place of residence is unknown, the venue shall be determined by the last known domicile.

11. Jurisdiction over joint claim

Where two or more claims that are subject to the jurisdiction of different courts are to be made by a single action, such action may be filed with the court that has jurisdiction over one of those claims.

12. Designation of court with jurisdiction

Should the court having jurisdiction is unable to exercise its jurisdiction by law or fact, or if a court with jurisdiction is not determined due to ill-defined districts of the courts, the Supreme Court shall, upon petition, by a ruling, designate a court with jurisdiction.

13. Agreement on jurisdiction

1. An agreement that determines a court with jurisdiction shall become effective only where it is made between a merchant(s) and/or juristic person(s) only where it is made in the first instance.
2. The agreement set forth in Paragraph 1 shall not become effective unless it is made with respect to an action based on specific legal relationships and made in writing.

14. Jurisdiction by appearance

Should the defendant, before the court of first instance and without filing a defense of lack of jurisdiction, has made statements in preparatory proceedings or presented oral arguments on the merits, that court shall have jurisdiction .

15. Exclusion from application in the case of statutory exclusive jurisdiction

The provisions of **Articles 13 Agreement on jurisdiction** and **Article 14 Jurisdiction by appearance** shall not apply where exclusive jurisdiction over an action in question is provided for by law.

16. Examination of evidence under court's own authority

The court may conduct examination of evidence under its own authority with regard to the matters concerning to jurisdiction.

17. Basis at time of determining jurisdiction

The jurisdiction of a court shall be determined on the basis of the time of the filing of an action.

18. Lack of jurisdiction

1. The court, when it finds that the whole or part of a suit is not subject to its jurisdiction, upon petition or by its own authority, shall

- transfer the suit to a court with jurisdiction.
2. A petition for transfer shall be filed in writing, except in case of filing the petition on an appearance date. When filing the petition set forth in the preceding sentence, the reasons for the petition shall be made clear.

19. Transfer to avoid delay

1. A court of first instance, even where a suit is subject to its jurisdiction, upon petition or by its own authority, may transfer the whole or part of the suit to another court with jurisdiction, when it finds such necessary in order to avoid substantial delay in the suit or ensure equity between parties, while taking into consideration the domicile of each party and witnesses to be examined by the parties, the location of any subject of an observation to be used and any other applicable circumstance.
2. When the petition set forth in Paragraph 1 has been filed, the court shall issue an order after hearing the opinion of the counterparties. A court may, when issuing an order of transfer set forth Paragraph 1 by its own authority hear the opinion of the parties.

20. Restriction on transfer in case of exclusive jurisdiction

The provision of **Article 19 Transfer to avoid delay** shall not apply where a suit is subject to the exclusive jurisdiction of the court before which it is pending.

21. Chomtoah Appeal

A *Chomtoah Appeal* may be filed against a ruling of transfer and may dismiss without prejudice a petition for transfer.

22. Binding effect of ruling of transfer

1. A ruling of transfer that has become final and binding shall be binding on the court that has accepted the suit transferred thereto.
2. The court that has accepted the suit transferred thereto may not transfer the suit to another court.
3. When a ruling of transfer becomes final and binding, the transferred suit shall be deemed to have been pending before the court to which it has been transferred since it was first filed to the initial court.
4. When a ruling of transfer has become final and binding, the court that has issued the ruling of transfer shall forward the case record to the court that has accepted the suit transferred thereto.

Section II. Structure of Courts

23. Single judge systems and panel systems in the court of first instance

1. A Court of first instance shall, except for the cases prescribed in Paragraph 2, handle cases via a single judge.
2. The following cases shall be handled by a panel of judges:
 - (a) Cases where the value of the subject of the action equals or exceeds 5 million riel and it is determined that adjudication of the case conducted by a panel of judges is appropriate, taking into consideration the number of parties and any other relevant circumstances;
 - (b) Cases where it is established by law that the case should be heard and adjudicated by a panel of judges.

3. A panel prescribed in Paragraph 2 shall consist of three judges, one of whom shall be the presiding judge.
4. Where a panel of judges conducts the trial and decision pursuant to the provisions of subparagraph (a) of Paragraph 2, the panel shall issue a ruling as such.

24. Deliberations of panel

1. Deliberations of a panel in a case shall not be disclosed.
2. The deliberations shall be commenced and regulated by the presiding judge.
3. Each judge shall express opinions in the deliberations.
4. Strict secrecy must be observed with respect to the proceedings of deliberation, the opinions of each judge and the number of opinions constituting majority and minority.

25. Decision by panel

1. A case shall be decided by the opinions of the majority of the judges.
2. Each judge comprising the panel shall be given an equal vote.

Section III. Distribution of Cases, Disqualification of and Challenge to Judge

26. Distribution of cases

1. The distribution of cases within a court, and the order of appointment of substitute judges in case that there is conflict or detriment for a particular judge shall be determined in advance for each year by the president of that court.
2. Cases shall be distributed automatically to each judge pursuant to Paragraph 1.
3. The distribution of cases within a court and the order of appointment of substitute judges where there is a conflict or detriment for a particular judge, as provided in Paragraph 1, shall not be changed during the year except where one judge is deemed to have an excessive workload, or where a judge retires or is transferred, or where there is a continuing conflict or detriment for a particular judge due to the long-term absence of a judge or other reasons. Changes made for these reasons shall be decided on by the president of that court.

27. Disqualification of judges

1. In the following cases, a judge shall be disqualified from performing his/her duties:
 - (a) Where said judge or his/her spouse is a person who was a party to the case;
 - (b) Where said judge is or was a party's relative by blood within the sixth degree or a relative through marriage within the third degree;
 - (c) Where said judge is a guardian in relation to a party;
 - (d) Where litigation is or was pending between the judge and a party;
 - (e) Where said judge has served as a witness or an expert witness in the case;
 - (f) Where said judge is or was a party's agent or assistant in court in the case; or
 - (g) Where said judge has participated in making an arbitral award in the case or participated in making a judicial decision in the prior instance against which an appeal is entered.

2. Should any of the grounds for disqualification prescribed in Paragraph 1 exist, the court, upon petition or by its own authority, shall make a judicial decision of disqualification.

28. Challenge to judges

1. Should there be circumstances with regard to a judge that would prejudice the impartiality of the judicial decision, a party may challenge such judge.
2. A party, if he/she, in the presence of a judge, has presented oral arguments or made a statement in the preparatory proceedings, may not challenge the judge. However, this shall not apply where the party did not know of the existence of any grounds for challenge or where any grounds for challenge occurred thereafter.

29. Withdrawal of judges

A judge may, in the cases prescribed in Paragraph 1 of Article 27 Disqualification of judges or Paragraph 1 of Article 28 Challenge to judges, withdraw by obtaining the permission of the court that has the power of supervision.

30. Judicial decisions of disqualification or challenges

1. The judicial decision of the disqualification of or challenge to a judge shall be made by a ruling of the panel of the court to which the judge belongs.
2. A judge may not participate in making a judicial decision on the qualification of or the challenge to him/herself.
3. A petition for disqualification of or challenge shall be filed in writing with the court to which the judge belongs, while clearly indicating the cause thereof.
4. When a petition for disqualification of or challenge is filed, the court proceedings shall be stayed until an order on the petition becomes final and binding. However, this shall not apply to the preservation of evidence or any other urgent action.
5. No appeal may be entered against a ruling finding that the disqualification or challenge is with merit.
6. A *Chomtoah Appeal* may be filed against a ruling finding a disqualification or challenge is groundless.

31. Mutatis mutandis application to court clerk

The provisions of this section shall apply *mutatis mutandis* to court clerks. In such case, a judicial decision shall be made by the court to which the court clerk in question belongs.

Chapter Three PARTIES

Section I. Capacity to be Party and Capacity to Litigate

32. Capacity to be a party; capacity to litigate; statutory agents for person without the capacity litigate

1. Persons who are entitled to exercise rights or have obligations pursuant to the provisions of the Civil Code or other laws may be a plaintiff or defendant in civil suits.

2. Persons who have the capacity to independently act pursuant to the provisions of the Civil Code or other laws may file a complaint on their own as a plaintiff, appear as a defendant or perform any other necessary procedural act.
3. Minors and persons in a general ward may not perform valid procedural acts unless by a statutory agent. However, this shall not apply where a minor is allowed to perform acts independently.
4. Statutory agents and their authority thereof shall be subject to the provisions of the Civil Code and other laws.

33. Special provisions on procedural acts by person under curatorship and statutory agents

1. In order for a person under curatorship or statutory agent to perform any procedural act with regard to an action or appeal filed by a counterparty, he/she shall not be required to obtain consent or delegation of powers from the curator or supervisor of the guardian.
2. In order for a person under curatorship or statutory agent to perform any of the following procedural acts, he or/she shall be required to obtain a special delegation of power:
 - (a) Discontinuing an action, entering into a settlement, waiving or acknowledging a claim; or
 - (b) Discontinuing an *Uttor* appeal or *Satuk* appeal.

34. Special provision on capacity to sue or be sued foreign national

A foreign national, even where he/she does not have the capacity to sue or be sued under his/her national law, shall be deemed to be capable for bringing suit or being sued if he/she shall have the capacity to sue or be sued under laws of the Kingdom of Cambodia.

35. Measures for lack of capacity to sue or be sued

1. Should a person lack the capacity to sue or be sued, the authority of statutory agency or delegation of powers necessary for performing procedural acts; the court shall specify a period for and order the correction of such defect. In such case, if there is risk of causing damages due to a delay, the court may have such person perform the procedural act on a temporary basis.
2. Any procedural act by a person who lacks the capacity to sue or be sued or the authority of statutory agency or delegation of powers necessary for performing procedural acts shall become effective retroactively as of the time of the act if ratified by the party or statutory agent has acquired any of said requisites.
3. The authority of statutory agency or the delegation of powers necessary for performing procedural acts shall be provided in writing.

36. Special agent

1. Where there is no statutory agent or where a statutory agent is unable to exercise the authority of agency, a person who intends to perform a procedural act against a person who lacks the capacity to sue or be sued may request the presiding judge of the court in charge of the case to appoint a special agent by said person making a prima facie showing of the risk of suffering damage due to delay.
2. The court may replace a special agent at any time.
3. A notice of a judicial decision of the appointment or replacement of a special agent shall also be given to the special agent.

4. In order for a special agent to perform procedural acts, he/she shall be required to obtain the same delegation of powers as a guardian.

37. Notice of extinction of authority of statutory agency authority

1. The extinction of the authority of statutory agency shall not become effective unless the principal or her/his agent notifies the other party to that effect.
2. A person who has given a notice of extinction of the authority of statutory agency shall notify the court in writing to that effect.

38. Application *Mutatis mutandis* to representative of juridical person

In this code, the provisions concerning a statutory agency and statutory agent shall apply *mutatis mutandis* to representatives of juridical persons.

Section II. Joint Suit

39. General requirements for joint suit

Where any of the following grounds are shared among multiple persons, such persons may sue or be sued as co-parties:

- (a) Where rights or obligations that are the subject of the suit are common;
- (b) Where the rights or obligations that are the subject of the suit are based on the same factual or statutory cause;
- (c) Where the rights or obligations that are the subject of the suit are of the same kind and based on the same kind of cause in fact or by law.

40. Status of co-party in ordinary joint litigation

Any procedural act performed by one of the co-parties, any procedural acts performed against one of the co-parties by the counter parties, and matters that have occurred with regard to one of the co-parties shall not affect any other co-party(ies).

41. Rules regarding proceedings in mandatory joint suit

1. Where rights and obligation that are the subject of the suit should be determined only in a single form for all co-parties, procedural acts performed by one of the co-parties shall become effective in the interest all of the coparties, notwithstanding the provisions of **Article 40 Status of co-party in ordinary joint litigation**.
2. In the case prescribed in Paragraph 1, procecural acts performed against one of the co-parties by a counterparty shall become effective against all co-parties.
3. In the case prescribed in Paragraph 1, where discontinuing an action or suspending court proceedings with regard to one of the co-parties, the discontinuance or suspension shall become effective in relation to all co-parties.

42. Appointed party

1. A number of persons who share common interest may appoint, from among themselves, one or more persons as parties to stand as plaintiff(s) or defendant(s) behalf of all co-parties.
2. If, after a suit is pending before the court and a party to stand as a plaintiff(s) or defendant(s) is appointed pursuant to the

Paragraph 1, parties other than the one appointed shall automatically withdraw from the suit.

3. Persons who the plaintiff(s) or defendant(s) have appointed pursuant to Paragraph 1 may rescind their appointment or change the party thus appointed.
4. If any of the appointed parties has lost his/her status due to death or for any other grounds, another appointed party (ies) may perform procedural acts on behalf of all co-parties.

Section III. Intervention/Participation

43. Supportive intervention

A third party who has a legal interest in the outcome of a suit may intervene in the suit in order to assist either party in the suit.

44. Application for supportive intervention

1. An application for supportive intervention shall be made to the court where the procedural acts should be performed through supportive intervention by clarifying the purpose of and reasons for such intervention.
2. An application for supportive intervention may be made upon performing a procedural act that may be performed by a supportive intervener.

45. Objection to supportive intervention

1. Where a party makes an objection against supportive intervention, the court, by ruling, shall make a judicial decision with regard to whether or not to permit a supportive intervention. In such cases, the supportive intervener shall make a prima facie showing of the reasons for intervention.
2. A party, after he/she has presented oral arguments or made statements in the preparatory proceedings without making an objection set forth in Paragraph 1, may not make such objection.
3. A *Chomtoah Appeal* may be filed against a ruling set forth in Paragraph 1.

46. Procedural acts by supportive intervener

1. A supportive intervener, with regard to the suit in question, may advance allegations and evidence, make an objection, file an appeal, file an action for retrial or perform any other procedural act. However, this shall not apply to procedural acts that the supportive intervener may not perform depending on the progress of the suit at the time of supportive intervention.
2. Any procedural act performed by supportive intervener shall be effective even if it conflicts with procedural acts performed by the party to be assisted through intervention.
3. A supportive intervener, even where an objection is made to supportive intervention may perform procedural acts until a judicial decision prohibiting supportive intervention has become final and binding.
4. Any procedural acts performed by a supportive intervener, even where a judicial decision prohibiting supportive intervention becomes final and binding, shall be effective if invoked by the party.

47. Effect of judgment against supportive intervener

In a suit that has been intervened to assist either party, where the

judgment again the assisted party has become final and binding, the supportive intervener is bound by such judgment in relation to the assisted party, except in the following situations:

- (a) Where the supportive intervener was unable to perform procedural acts pursuant to the provisions of the second sentence of Paragraph 1 of **Article 46 Procedural acts by supportive intervener**;
- (b) Where the procedural act performed by the supportive intervener was not effective pursuant to the provisions of Paragraph 2 of **Article 46 Procedural acts by supportive intervener**;
- (c) Where the assisted party interfered with the procedural act performed by the supportive intervener; or
- (d) Where the assisted party, intentionally or negligently, did not perform a procedural act that the supportive intervener cannot perform.

48. Special type of supportive intervention similar to joint suit

1. Where the binding effect of a final judgment is to extend to the relation between an supportive intervener and the counterparty to the assisted party, the status of the supportive intervener in the civil action shall be equivalent to that of a joint litigant under **Article 41 Rules regarding proceedings in mandatory joint suit**.
2. In cases described in Paragraph 1, the provisions of Paragraph 2 of **Article 46 Procedural acts by supportive intervener** and of Items (b) and (c) of **Article 47 Effect of judgment against supportive intervener** shall not be applicable.

49. Intervention as co-party

1. Where the right and obligation that is the subject of an action is to be determined only jointly and unseverably for both or one of the parties and a third party, such third party may intervene in the action as a co-party.
2. The provisions of **Article 44 Application for supportive intervention** shall apply *mutatis mutandis* to an applications for intervention under Paragraph 1.
3. An application for intervention under Paragraph 1 shall be made in writing.
4. The written application described in Paragraph 3 shall be served on the other co-parties and the counter-parties.

50. Notice of action

1. While the action is pending, a party may give a notice of the action to a third party who may intervene in said action.
2. A notice of the action shall be given by submitting to the court a document stating the reasons therefor and the progress of the action. The court shall serve this document on the person who is to receive the notice of action and on the counter-party(ies) to the action.
3. Even where a person who has received a notice of an action has not intervened in the action, for the purpose of the application of **Article 47 Effect of judgment against supportive intervener**, such person shall be deemed to have intervened in the action at the time when such person was able to intervene.

51. Action against plaintiff and defendant as joint defendants

1. A third party alleging that all or part of the right that is the subject of an action between the parties belongs to such third party; he/she

may, at any time during the pendency of that underlying action, file an action against both of the parties to the underlying action as joint defendants with the court of first instance in which the underlying action was filed.

2. Where an action is filed pursuant to Paragraph 1 while the underlying action is pending in the court of first instance, the court in which the action was filed may consolidate the two actions.

Section IV. Appointed Representatives and Assistants in Court

52. Litigation by appointed representative

1. A party may perform procedural acts and all other acts concerning the action by himself/herself or by a representative who is appointed by said party.
2. Even where a party has appointed a representative, the party may sit in the court together with the representative and present oral arguments by himself/herself.
3. Acts concerning the action which are performed by an appointed representative shall have the same effect as if they were performed by the party himself/herself. However, an admission of facts or other statement of facts which was made by an appointed representative shall not become effective if the party immediately retracts or corrects such admission or statement.

53. Qualification of appointed representative

1. No person other than an attorney at law may serve as the appointed representative described in **Article 52 Litigation by appointed representative**, except in the cases provided in the following items:
 - (a) where a third party who is not an attorney at law is permitted by this Code or other laws to perform acts concerning an action in place of the party;
 - (b) where the state, the executive agency or other state organ is a party, and that organ or the organ's representative designates an official thereof to act as the representative;
 - (c) where the court permits a specific third party who is not an attorney at law to act as representative in cases where the value of the subject of the action is less than one million riel.
2. The authority of an appointed representative shall be approved in writing.
3. The court may at any time revoke the permission set forth in Item (c) of Paragraph 1.

54. Authority of appointed representative

1. An appointed representative, with regard to the case entrusted thereto, shall have the authority to perform procedural acts and all other acts concerning the action, including the filing of an action, response, cross-action, intervention, appeal, settlement, waiver of claims or acknowledgment of claims.
2. The authority of representation granted for an action shall include the authority to carry out preservative relief or compulsory execution, to appoint a sub-agent or to receive performance of an obligation.
3. Where an appointed representative is an attorney at law, the party may not limit the scope of the authority of representation, except

matters with regard to the filing of a cross-action, discontinuance of a suit, settlement, waiver of claims, acknowledgement of claims, secession from the action, appeal and the discontinuance thereof or appointment of a sub-agent.

4. Where the appointed representative is not an attorney at law, the party may permit such representative to perform only the acts concerning an action that are specifically designated by the party.
5. The provisions of the preceding four paragraphs shall not apply to a representative who is permitted by law to perform acts concerning an action in place of the party.

55. Non-extinction of authority of appointed representative

The authority of an appointed representative shall not be extinguished by the death of the party, the loss of the party's capacity to sue or to be sued or a change of the statutory agent.

56. Grounds for extinction of authority of appointed representative

1. The authority of an appointed representative shall be extinguished on the representative's death or loss of qualification, or on the completion of the entrusted tasks.
2. A party may at any time dismiss an appointed representative, and an appointed representative may at any time resign.
3. The extinction of the authority of an appointed representative shall not become effective unless the party or his/her agent notifies the counter-party in the action of such extinction.

57. Measures for lack of authority of representation

1. Where there is a suspicion that a person acting as an appointed representative lacks the authority of representation, the court shall investigate, on its own authority, the lack or existence of such authority at any stage of the proceedings of the action.
2. Where such person lacks the authority of representation the court shall order that such defect be corrected within a specified period of time. In such case, the court may permit such person to perform acts concerning an action *pro tempore*.
3. Any acts concerning an action which have been performed by a person lacking authority to act as appointed representative shall become effective retroactively as of the time of the act, if ratified by the party.

58. Assistant¹ in court

1. A party or appointed representative may, with the permission of the court, appear before the court with an assistant in court where necessary in order to clarify any matter related to the action.
2. The permission described in Paragraph 1 may be revoked at any time.
3. Statements made by an assistant in court shall be deemed to have been made by the party or the appointed representative unless they are immediately retracted or corrected by the party or the appointed representative.

¹ An "assistants" is a person who allowed to supplement arguments or statements presented by the party or representative or clarify the grounds of the assertion of the party, where the action requires highly specialized or technical knowledge to resolve the case (e.g., an intellectual property related case) or where the party suffers from a speech disorder, defect of hearing ability, and other matters

Chapter Four LITIGATION COSTS²

Section I. Definitions and Types of Litigation Costs

59. Scope and amount of costs of civil action to be borne by parties or other persons

The parties or other persons³ shall bear: [1] the "court costs" set forth in **Articles 61 Filing fee** and **Article 62 Court costs other than filing fees**; and [2] the "Party's Costs" set forth in **Article 63 Party's Costs**, in accordance with the provisions of **Article 64 Apportionment of burden and compensation for costs**.

60. Computation of value of subject of action, computation of value of joint claims

1. The value of the subject of an action shall be computed based on the value of the interest claimed in the action. Where multiple claims are asserted in one action, the value of the subject of the action shall be computed by aggregating the values of the multiple claims; provided however that, where the interest asserted in the action is common to each claim, this shall not apply with respect to such claims.
2. Where a claim for fruits [natural or legal], damages, penalties for breach of contract or costs is an incidental subject of the action, the value of such claim shall not be included in the computation of the value of the subject of the action.
3. Where it is difficult to determine the value of the subject of an action in accordance with Paragraph 1, the court shall determine the value thereof at its reasonable discretion. Where it is impossible to determine the value of the subject of an action, the value shall be deemed to be 5,500,000 riel.

61. Filing fee

1. When an action is filed, a fee calculated by provisions of the following Items in accordance with the value of the subject of the action shall be paid to the court:
 - (a) for the portion of the value of the subject of the action up to 10,000,000 riel, 1,000 riel for each 100,000 riel;
 - (b) for the portion of the value of the subject of the action exceeding 10,000,000 riel and up to 100,000,000 riel, 700 riel for each 100,000 riel;
 - (c) for the portion of the value of the subject of the action exceeding 100,000,000 riel and up to 1,000,000,000 riel, 300 riel for each 100,000 riel;
 - (d) for the portion of the value of the subject of the action exceeding 1,000,000,000 riel, 100 riel for each 100,000 riel.
2. The value of the subject of an action, on which the calculation of

² "Litigation costs" as used in this translation include both: (i) "court costs" which are comprised of "filing fee" (Art. 61) and "advance" (Art. 62) and (ii) "party's costs" (Art. 63).

³ Costs to be borne by "other persons" are only the ones set forth in Paragraph 4 of Article 64.

- the amount of the filing fee is based in Paragraph 1, shall be computed in accordance with the provisions of **Article 60** Computation of value of subject of action, computation of value of joint claims.
3. When an *Uttor* appeal is filed, a fee equal to 1.5 times the fee calculated in accordance with Paragraph 1 and 2 shall be paid to the court. When a *Satuk* appeal is filed, a fee equal to twice such fee shall be paid to the court.
 4. When a motion for retrial is filed, a fee equal to 10,000 riel shall be paid to the court.
 5. When a motion for issuing a demand ruling is filed [in accordance with the demand procedure set forth in BOOK V of this Code], a fee equal to one half of the fee calculated by paragraph 1 in accordance with the value of the subject of the action shall be paid to the court. If the motion is deemed as filing an action pursuant to Paragraph 2 of **Article 327 Effect of objection to demand ruling made prior to declaration of provisional execution** or **Article 331 Transfer to an action upon objection to demand ruling filed after declaration of provisional execution**, the person who filing the motion for issuing a demand ruling shall pay a fee calculated by extracting the fee paid for the motion for issuing a demand ruling from the fee calculated pursuant to Paragraph 1.
 6. When a motion for the court's decision is filed over any matter other than those matters set forth in Paragraph 1 and Paragraphs 3 through 5, a fee equal to 5,000 riel shall be paid to the court.
 7. Fees shall be paid by cash at the reception area of the court. A motion, where the required fee is not paid, shall be deemed an unlawful motion.
 8. In the following cases, the amount of fee set forth in each Item below shall be returned on the motion of the person who paid the fee:
 - (1) where the fee was paid in excess:
 - the portion of the fee paid in excess;
 - (2) where a settlement has been reached between the parties before the commencement of oral arguments, where an action has been discontinued prior to the end of the first hearing date for oral arguments, or where a decision dismissing [without prejudice] the action prior to oral arguments has become final and binding:
 - One half of the fee paid.

62. Court costs other than filing fees

1. Amounts determined by the court as set forth below shall be paid as court costs by the parties or by persons interested in the case:
 - (a) an amount which is necessary for the court to investigate evidence, serve documents, or conduct any other procedural act during civil action;
 - (b) an amount equivalent to necessary travel and lodging costs for a judge and a court clerk, where investigation of evidence, investigation of facts, or other act is to be carried out outside the courtroom.
2. The party or the interested person who is required to make payment pursuant to Paragraph 1 shall be: [1] with regard to costs incurred in conducting acts upon a motion, the moving party; and [2] with regard to costs incurred in conducting acts upon the court's authority, the person designated by the court.
3. With regard to acts incurring the costs pursuant to Paragraph 1, the court shall require a party or interested person to pay such costs in advance.

4. Where advance payment is ordered in accordance with the provisions of Paragraph 3 but the party or interested person does not make said payment, the court may refrain from conducting the acts incurring such costs.
5. The amount of costs prescribed in Paragraph 1 and unpaid in advance may, upon the ruling of the court, be collected from the person who is to bear such costs pursuant to **Article 64** Apportionment of burden and compensation for costs.

63. Party's Costs

In addition to those costs set forth in **Article 61** Filing fee and **Article 62** Court costs other than filing fees, the amount of costs prescribed in each Item below, which the court determines as reasonable by considering the nature of the case, the financial ability of the parties and so forth, shall be deemed as litigation costs:

- (a) costs incurred in producing documents such as complaints or other motions, preparatory documents for oral arguments, and costs incurred in submitting such documents to the court;
- (b) travel costs, per diem allowances and lodging costs incurred for a party or his/her representative to appear at court; and
- (c) other costs approved by the court as necessary for proceeding the action.

Section II. Burden of Litigation Costs

64. Apportionment of burden and compensation for costs

1. Litigation costs shall be borne by the losing party. The burden of litigation costs on each party in case of a partial defeat, shall be determined by the court at its discretion.
2. Notwithstanding the provisions of Paragraph 1, the court may, depending on the circumstances, impose all or part of litigation costs on the prevailing party who has performed acts concerning the action which are unnecessary to assert or defend the case or who has delayed the proceedings of the action.
3. Co-parties shall bear litigation costs equally. However, the court may, depending on the circumstances, impose litigation costs on co-parties jointly and severally, or impose a greater burden of litigation costs on a party who has performed acts concerning the action that are unnecessary to assert or defend the case.
4. Where a statutory agent, appointed representative or court clerk, intentionally or by gross negligence, has incurred unnecessary litigation costs, the court in charge of the case may, upon motion or on its own authority, issue a ruling which orders such person to reimburse the amount of such costs.
5. A *Chamtoah* appeal may be filed against a ruling issued under Paragraph 4.

65. Decision on burden of litigation costs

1. When rendering a decision that concludes a case, the court shall, on its own authority, decide on the burden of all litigation costs incurred in the instance thereof.
2. Where a first instance court modifies a decision on the merits, it shall decide on the burden of the total litigation costs incurred in the action. This shall also apply where the court to which a case

has been remanded or transferred renders a decision that concludes said case.

3. Where an action is concluded other than by a decision, the court of first instance shall, upon motion, issue a ruling imposing litigation costs. However, where an action is concluded by settlement, litigation costs shall be imposed in accordance with the parties' agreement; if they have not agreed on the burden of the costs, each party shall bear his/her own costs.

66. Procedures to fix amount of litigation costs

1. A court clerk of the court of first instance shall, upon motion, fix the amount of litigation costs after a decision on the burden of litigation costs has become enforceable.
2. In cases referred to in Paragraph 1, where both parties are to bear the litigation costs, it shall be deemed that the costs to be borne by the parties are set off against each other at the corresponding amount.
3. A disposition on the motion set forth in Paragraph 1 shall take effect when a notice thereof is given in a manner deemed proper.
4. A motion to object to the disposition set forth in Paragraph 3 shall be filed within one week from the date on which the notice of the disposition is received. Where the court finds that the motion to object to the disposition is well-grounded, the court shall fix the amount of litigation costs at its own discretion.
5. The period described in Paragraph 4 may not be extended.

Section III. Security for Litigation Costs

67. Ruling to provide security

1. Where a plaintiff does not have a domicile, business office or other office in Cambodia, the court shall, on a defendant's motion, issue a ruling that orders the plaintiff to provide security for litigation costs. This shall also apply where the amount of security becomes insufficient.
2. A defendant may not file the motion described in Paragraph 1 where the defendant has made statements on the merits on the date for preparatory proceedings or has presented arguments on the merits on the date for oral arguments after he/she became aware of any grounds for providing security.
3. The defendant who has filed a motion described in Paragraph 1 may refuse to appear until the plaintiff provides such security.
4. The court shall, in its ruling described in Paragraph 1, specify the amount of security and a period for providing security.
5. The amount of security shall be specified on the basis of the total amount of litigation costs to be paid by the defendant in all instances.
6. A *Chamtoah* appeal may be filed against a ruling described in Paragraph 1.

68. Effect of failure to provide security

Where a plaintiff fails to provide security within the period for which security is to be provided, the court may render a judgment dismissing, without prejudice, the action without oral arguments. However, this shall not apply where security is provided before rendering such judgment.

Section IV. Judicial Aid

69. Grant of aid

1. The court may, upon motion, issue a ruling to grant judicial aid for a person who lacks financial resources to pay costs necessary for preparing for and proceeding with an action, or for a person who will suffer substantial detriment in his/her life by paying such costs. However, this shall not apply where it is clear that such person is unlikely to prevail in the case.
2. A ruling to grant judicial aid shall be issued in each instance.
3. Grounds for judicial aid shall be established by a *prima facie* showing.

70. Contents of judicial aid

1. A ruling to grant judicial aid, as provided for therein, shall have the following effects:
 - (a) relieve of payment of court costs; or
 - (b) exemption from payment of court costs; however, this shall be limited to cases where, after the relieve of payment has expired, the court determines such exemption to be proper by taking into account the party's financial resources and other circumstances.
2. A ruling to grant judicial aid shall be effective only to the person who received it.
3. Where a person who has received a ruling to grant judicial aid is found not to meet the requirements set forth in **Article 69** Grant of aid, or where he/she no longer meets such requirements, the court in which the case record is kept may, at any time, upon motion of an interested person or on its own authority, revoke the ruling to grant judicial aid, and order payment of the costs for which relief or exemption is given.
4. A *Chamtoah* appeal may be filed against a ruling set forth in **Article 69** Grant of aid and in this Article.

Chapter Five SECURITY IN LITIGATION

71. Method of providing security and substitution of security

1. Security shall be provided by making a deposit of money or negotiable instruments which the court deems appropriate, at a depository office, or by making a court deposit of money or negotiable instruments which the court deems appropriate, at the court, or by other methods provided by law.
2. The court may, upon motion of the person who provided security, issue a ruling to order substitution of such security. However, this shall not preclude substituting another security for such security via contract.

72. Rights of person receiving provision of security

The person for whose interest security was been provided shall, in order to receive the secured claim paid, have a right to receive payment in preference to other creditors from money or securities deposited or court-deposited in accordance with the provisions of **Article 71** Method of providing security and substitution of security.

73. Cancellation of security

1. A 'person entitled to security' as used in this Article means the person for whose interest security was provided.
2. Where the person who provided security has proven that the grounds for providing security no longer exist, the court shall, upon motion, order by a ruling that such security be cancelled.
3. The provisions of Paragraph 2 shall also apply where the person who provided security has proven that he/she obtained the consent to cancellation of such security from the person entitled to said security.
4. Where the court, after the ground occurs for the person entitled to security to exercise his/her right, demands upon motion of the person who provided the security that the person entitled to said security exercise such right within two weeks, and the person entitled to the security fails to exercise such right within such period, the person entitled to the security shall be deemed to have consented to the cancellation of the security.
5. A *Chamtoah* appeal may be filed against a ruling described in Paragraphs 2 and 3.

BOOK TWO PROCEEDINGS AT THE COURT OF FIRST INSTANCE

Chapter One ACTION

74. Benefit of action

An action may be filed where such action shall adjudicate a concrete legal dispute, and where the dispute can be resolved by means of a judgment.

75. Method of filing action; matters written in complaint

1. An action shall be filed by submitting a complaint to the court.
2. A complaint shall state the following matters:
 - (a) the names and addresses of the parties, and the names and addresses of their statutory agents; and
 - (b) the contents of the judgment sought and the facts necessary to identify the claim.
3. In addition to the matters set forth in Item (b) of Paragraph 2, the plaintiff shall make efforts to describe in the complaint the concrete facts necessary to support the claims, and shall set forth, for each matter required to be proved, material facts and evidence relating to such facts.
4. A complaint that advances allegations or evidence shall also serve as a preparatory document for oral arguments.

76. Action for future performance

An action to seek future performance may be filed only where it is necessary to make a claim therefor in advance.

77. Joinder of claims

Two or more claims, only where they shall be made through the same manner of court proceedings, may be made by filing a single action.

78. Examination of complaint

1. Where a complaint violates the provisions of Paragraph 2 of **Article 75** Method of filing action; matters written in complaint, the court shall specify a reasonable period of time and order that such defect be corrected within said period. This shall also apply where the fee for filing an action required by **Article 61** Filing fee is not paid.
2. In the cases set forth in Paragraph 1, if the plaintiff fails to correct the defect, the court shall, by a ruling, dismiss the complaint without prejudice.
3. A *Chamtoah* appeal may be filed against a ruling described in Paragraph 2.

79. Service of complaint

1. The complaint shall be served on the defendant.
2. The provisions of **Article 78** Examination of complaint shall apply *mutatis mutandis* to cases in which the complaint cannot be served. The same shall apply to cases in which the costs necessary to serve the complaint are not paid in advance by the plaintiff.

80. Designation of initial date of preparatory proceedings for oral

arguments

1. When an action is filed, the court shall promptly designate the date for preparatory proceedings for oral arguments and summon the parties to appear.
2. Except where any special circumstances exist, the date designated pursuant to Paragraph 1 shall be a date within thirty days from the day on which the action was filed.

81. Dismissal of action without oral argument

Where an action is unlawful and such defect cannot be corrected, the court may, by a judgment, dismiss the action without oral arguments.

82. Dismissal of action for failure to prepay summons expenses

1. Where the court has ordered the plaintiff to prepay, as required by the provisions of this Code, the expenses necessary for the summons on the parties to appear on a court date, within an appropriate period designated by the court, and such prepayment is not made; the court may, by a ruling, dismiss the action without prejudice if the defendant has no objection.
2. A *Chamtoah* appeal may be filed against a ruling described in Paragraph 1.

83. Prohibition of filing overlapping actions

With regard to a case pending before the court, neither party to the case may file another action.

84. Amendment of action

1. The plaintiff, unless there is any change to the basis for the action, may amend such action until oral arguments is concluded. However, this shall not apply where such amendment would substantially delay the court proceedings.
2. An amendment of the action shall be made in writing.
3. The writing set forth in Paragraph 2 shall be served on the counter-party.
4. Should the court finds that an amendment of the action is improper, it shall, upon motion or on its own authority, issue a ruling stating that such amendment shall not be permitted.

85. Action for interlocutory declaration

1. Where a decision sought in an action depends on the existence or non-existence of the legal relationship which is in dispute during the action, the plaintiff may expand his/her claim or the defendant may file a cross-action in order to seek a judgment to declare whether or not such legal relationship exists. However, this shall not apply where the claim seeking such declaration is, under law, subject to the exclusive jurisdiction of another court.
2. The provisions of paragraphs 2 and 3 of **Article 84** Amendment of action shall apply *mutatis mutandis* to the expansion of a claim described in Paragraph 1.

86. Cross-action

1. The defendant, only for the purpose of making a claim relevant to the claim that is the subject of the principal action or to the allegations and evidence for defense, may file, at any time prior to the conclusion of oral arguments, a cross-action with the court

in which the principal action is pending. However, this shall not apply to the cases where the claim that is the subject of the cross-action is, under law, subject to the exclusive jurisdiction of another court or where the filing of the cross-action would substantially delay the court proceedings.

2. The provisions relating to actions shall apply to a cross-action.

87. Time of effecting interruption of prescription

A judicial claim necessary for interruption of prescription or for observance of a period established by law, shall take effect when an action is filed, or when a document set forth in Paragraph 2 of **Article 84** Amendment of action or in such Paragraph 2 of **Article 84** Amendment of action which applies *mutatis mutandis* pursuant to Paragraph 2 of Article 85 Action for interlocutory declaration, is submitted to the court.

88. Transfer of disputed object

1. While an action is pending, a party shall not be prohibited from assigning or transferring the object in dispute, or the right or obligation that is the subject of the action.
2. An assignment or transfer described in Paragraph 1 shall have no effect on the action. A party who has made such assignment or transfer shall not lose the status as the party to the action.
3. Where a person to whom an assignment or transfer described in Paragraph 1 was made becomes a supportive intervener, the provisions of **Article 48** Special type of supportive intervention similar to joint suit shall apply.

Chapter Two ORAL ARGUMENTS AND PREPARATION THEREFOR

Section I. General Provisions

89. Control of litigation by presiding judge

1. Preparatory proceedings and oral arguments shall be directed by the presiding judge.
2. The presiding judge may permit a person to speak or prohibit a person failing to follow his/her direction from speaking.

90. Authority to request explanation

1. In order to clarify factual or legal matters related to the action, the court may, on a date for preparatory proceedings or a date for oral arguments, ask the parties questions on such matters, or prompt them to present allegations or evidence on such matters.
2. A party may, on a date for preparatory proceedings or a date for oral arguments, request the court to ask any necessary questions to the other party.
3. The court may, on any date other than court dates, instruct a matter for which an explanation is required, and order a party to prepare to provide such an explanation at the next scheduled court date.

91. Objection to direction on court proceedings

Where a party has made an objection to the court's direction with regard to preparatory proceedings or oral arguments, or to the measures taken by the court pursuant to the provision of Paragraph 1 of **Article 90**

Authority to request explanation, the court shall, by a ruling, make a decision on such objection.

92. Parties' duty of research

A party shall, in order to make allegations and show evidence thoroughly in the action, conduct research, in advance, in relation to the factual relevance of witnesses and other evidence.

93. Time for advancing allegations and evidence

Allegations and evidence shall be advanced at an appropriate time in accordance with the progress of the action.

94. Dismissal of allegations or evidence for late advancement

1. With regard to allegations or evidence that a party has advanced later than a proper time intentionally or by gross negligence, the court may, upon motion or on its own authority, issue a ruling dismissing such allegations or evidence when it finds that such allegations or evidence would delay the conclusion of the action.
2. Paragraph 1 shall also apply where a party does not provide a necessary explanation with regard to his/her allegations or evidence whose aim is unclear, or does not appear on the date when such explanation is to be provided.

95. Facts on which a judgment may rest

The court may not base its judgment on any fact that has not been alleged by either party.

96. Constructive Admission

1. Where a party, at preparatory proceedings or during oral arguments, does not make it clear that he/she denies the facts alleged by the counter-party, he/she shall be deemed to have admitted such facts. However, this shall not apply where the court finds, based on the progress and content of the trial, that the party has denied such fact.
2. Where a party states that he/she has no knowledge of the fact alleged by the counter-party, he/she shall be presumed to have denied such fact.

97. Attempt at settlement

The court may attempt to settle the case at any stage of the action.

98. Loss of right of objection regarding court proceedings

1. Where a counter-party or the court conducts an act concerning the action in violation of provisions of court proceedings, a party may raise an objection thereto with the court and assert the nullity of such act.
2. Where a party knows or is able to know of the violation described in Paragraph 1 and fails to raise an objection without delay, such party loses the right of objection. However, this shall not apply in cases where such right cannot be waived.

99. Separation and consolidation of cases

1. The court may order the separation or consolidation of cases via the issuance of a ruling, and may also revoke such ruling.
2. Where the court has ordered, in oral arguments, the consolidation

of cases involving different parties, if a party requests examination of a witness who has already been examined before the consolidation and whom the party had no chance to examine, the court shall re-examine such witness.

100. Attendance of interpreters

1. Where a person who participates in the proceedings of a civil action is unable to communicate in Khmer, or unable to hear or speak, the court shall ensure the attendance of a qualified interpreter. However, the court may permit to ask questions in writing to those who cannot hear or speak, or allow them to make statements in writing.
2. The provisions regarding expert witnesses shall apply *mutatis mutandis* to interpreters so long as such provisions are not inconsistent with the nature of interpreters.

Section II. Preparatory Documents for Oral Argument

101. Preparatory documents for oral argument

1. The court may require parties to submit preparatory documents for oral arguments at the preparatory proceedings or oral arguments.
2. Preparatory documents for oral arguments shall state allegations and evidence as well as statements on the counter-party's allegations and evidence.
3. The preparatory document for oral arguments initially submitted by the defendant shall state answers to the plaintiff's request for judgment set forth in the complaint, as well as an admission or denial of the facts alleged therein, facts that constitute affirmative defense, and any other matters.

102. Period for submission of preparatory documents

The court may designate a period for the submitting of the defendant's initial preparatory document for oral arguments, or a preparatory document for oral arguments containing allegations regarding a particular matter, or a period for offering evidence regarding a particular matter.

Section III. Preparatory Proceedings

103. Purpose of preparatory proceedings

At preparatory proceedings, the court shall array the allegations of the parties, and clarify points of issue in the case, and shall also array the evidence pertaining to the points at issue in order to make sure that a concentrated trial takes place during oral arguments.

104. Attempt of settlement at preparatory proceedings

At preparatory proceedings, the court shall first attempt to settle the case unless the court determines that such attempt would be improper.

105. Date for preparatory proceedings

1. Preparatory proceedings shall be conducted on a date on which both parties can attend.
2. Preparatory proceedings need not be open to the public. However, the court may permit observation by a person whom the court considers to be appropriate.

106. Acts concerning the action at preparatory proceedings

The court, on a date for preparatory proceedings, may issue a ruling on an submitting evidence or any other ruling that may be issued on a date other than the date for oral arguments, and may examine documentary evidence to the extent necessary to array points of issues and evidence.

107. Confirmation on facts to be proven

Once the court has completed arraying points of issues and evidence and concluded the preparatory proceedings, the court shall confirm with the parties the facts to be proven through the subsequent examination of evidence.

108. Effect of conclusion of preparatory proceedings

New allegations or evidence cannot be advanced after the conclusion of preparatory proceedings. However, this shall not apply where such allegations or evidence relate to matters to be examined on the court's authority, where advancing such allegations or evidence would not cause a considerable delay in the court proceedings or where the party has established *prima facie* showing that he was unable to advance such allegations or evidence prior to the conclusion of the proceedings not due to his/her own gross negligence.

109. Protocol for preparatory proceedings

The court shall have the court clerk prepare a protocol for preparatory proceedings for each date therefor.

110. Formal matters to be stated in protocol for preparatory proceedings

1. The following matters shall be stated in a protocol for preparatory proceedings:
 - (a) indication of the case;
 - (b) names of the judge(s) and the court clerk;
 - (c) names of the parties, agents, assistants in court, and interpreters who appeared; and
 - (d) date, time and place of the proceedings.
2. The presiding judge and the court clerk shall sign the protocol described in Paragraph 1.

111. Substantial matters to be stated in protocol for preparatory proceedings

A protocol for preparatory proceedings shall contain a summary statement of matters that occurred on the date for the proceedings, and also shall, in particular, clarify the following matters:

- (a) the plaintiff's request for judgment and the defendant's answers thereto;
- (b) the summary of the alleged facts and the submitting evidence;
- (c) the admission or denial of the facts alleged by the counter-party(ies), and the admission or denial of the authenticity of documentary evidence;
- (d) discontinuance of the action, settlement, waiver of claims, or acknowledgement of claims;
- (e) matters which the court directed to be stated, and matters which the court permitted to be stated upon request by a party; and

- (f) decisions rendered not in writing on the date for the proceedings.

112. Objections to the statement in protocol for preparatory proceedings

1. Where a party or any other concerned person objects to the content of the statement in the protocol for preparatory proceedings, such objection shall be stated in the protocol.
2. Compliance with provisions pertaining to the formalities of the preparatory proceedings may be proven only by means of the protocol. However, this shall not apply where the protocol has been lost or destroyed.

Section IV. Oral Argument

113. Designation of date for oral argument

Once the court concludes preparatory proceedings, the court shall designate a date for oral arguments and summon the parties to appear on such date.

114. Necessity of oral argument

1. The court must convene oral arguments before rendering a judgment on the action. However, with regard to cases or matters to be decided via the issuance of a ruling, the court shall determine whether or not oral arguments should be convened.
2. Where oral arguments are not convened pursuant to the provisions of the second sentence of Paragraph 1, the court may interrogate the parties.
3. The provisions of Paragraph 1 and Paragraph 2 shall not apply where special provisions of law exist.

115. Oral argument

1. Oral arguments shall be held on a date on which both parties are able to attend.
2. Oral arguments shall be held in a court open to the public. However, this shall not apply in cases where opening oral arguments to the public would present a threat to public order or where special provisions of law exist.

116. Statement of outcome of preparatory proceedings, and argument

1. The parties shall, during oral arguments, state the outcome of preparatory proceedings.
2. The statement described in Paragraph 1 shall clarify the facts to be proven through the subsequent examination of evidence during oral arguments.
3. The parties may further allege facts and submit evidence during oral arguments. However, this shall not apply in the event of violation of **Article 108** Effect of conclusion of preparatory proceedings.
4. The court may decide, via the issuance of a ruling, to resume preparatory proceedings when the court deems such proceedings especially necessary in consideration of the outcome of examination of evidence and the rest on the date for oral arguments.
5. The court may allow the parties to present final arguments before the conclusion of oral arguments.

117. Protocol of oral argument

1. The court shall have the court clerk prepare a protocol of oral arguments for each date therefor.
2. The provisions of **Article 112** Objections to the statement in protocol for preparatory proceedings shall apply *mutatis mutandis* to a protocol for oral arguments.

118. Formal matters to be stated in protocol of oral argument

1. The following matters shall be stated in the protocol for oral arguments:
 - (a) indication of the case;
 - (b) names of the judge(s) and the court clerk;
 - (c) name of the public prosecutor in attendance;
 - (d) names of the parties, agents, assistants in court, and interpreters who have appeared;
 - (e) date, time and place of the oral argument; and
 - (f) the fact that the oral arguments was held open to the public or, if it was not held open to the public, such fact and the reasons therefor.
2. The presiding judge and the court clerk shall sign the protocol described in Paragraph 1.

119. Substantial matters to be stated in protocol of oral argument

1. A protocol of oral arguments shall contain a summary statement of the arguments, and also shall, in particular, clarify the following matters:
 - (a) discontinuance of the action, settlement, waiver of claims, acknowledgement of claims, or admission;
 - (b) statements of witnesses, the parties themselves and expert witnesses;
 - (c) whether or not witnesses, parties themselves and expert witnesses swore under oath, and the reasons for not having witnesses or expert witnesses swear under oath;
 - (d) results of observation;
 - (e) matters which the court directed to be stated, and matters which the court permitted to be stated upon the request by a party;
 - (f) decisions not rendered in writing; and
 - (g) Rendering of decisions.
2. Notwithstanding the provisions of Paragraph 1, where an action has concluded by means other than a decision; statements of witnesses, parties themselves and expert witnesses, and results of observation may be omitted from the protocol of oral arguments with the permission of the court. However, this shall not apply where a party requests, within one week after the date the party has become aware of the conclusion of the action, that such statements or results be stated in the protocol.

120. Recording on audio tape; in lieu of statements in protocol

1. Notwithstanding the provisions of Paragraph 1 of **Article 119** Substantial matters to be stated in protocol of oral argument, the court clerk may, with the court's permission, record statements of witnesses, parties themselves or expert witnesses on audio tape or video tape in lieu of the stating them in the protocol. In such case, the parties may state their opinions when the court gives such

permission.

2. In the cases set forth in Paragraph 1, a document containing the statements of witnesses, parties themselves or expert witnesses shall be prepared if a party so requests such prior to the conclusion of the action. The same shall apply where the action is pending before a higher court and the higher court finds such document necessary.

121. Citation and attachment of documents

Documents, photographs, audio tapes, video tapes, or any other object that the court finds appropriate, may be cited in the protocol of oral arguments, and be attached to the case record as a part of such protocol.

122. Restrictions on taking photographs in the courtroom

Taking of photographs, stenography, audio recording, video recording, or broadcasting within the courtroom shall not be allowed without obtaining the court's permission.

Chapter Three EVIDENCE

Section I. General Provisions

123. Principle of decision based on evidence

1. The court shall determine facts based on evidence; however, the court may consider all matters and circumstances that are revealed during oral arguments.
2. Facts admitted by a party in the court, and facts the existence of which is obvious to the court, need not be proven by evidence.
3. A party may retract an admission in the following circumstances:
 - (a) where the counter-party does not make objection;
 - (b) where the admission is contrary to the truth and also made based on a mistake; or
 - (c) where the admission was made due to a criminal act of another.

124. Examination of evidence

1. Examination of evidence shall be carried out upon the Submitting of evidence by the parties.
2. The court may conduct examination of evidence on its own authority in case where it finds that it cannot reach a conclusion on whether or not the factual allegation made by a party is true on the basis of the evidence offered by the parties or in any other case where the court finds such examination necessary.

125. Submitting of evidence

1. The party who offers evidence shall specify the facts to be proven thereby.
2. The party who offers evidence shall make efforts to specifically and clearly indicate the facts to be proven thereby and the relationship between such fact and the evidence.
3. Evidence may be offered prior to the date for preparatory proceedings or the date of oral arguments.
4. Requests to examine witnesses or parties shall be made collectively and concurrently to the greatest extent possible.

126. Permission of evidence

The court shall examine the evidence offered by the parties. However, this shall not apply to the evidence that has no relevance to the facts to be proven thereby, or any other evidence that the court finds unnecessary.

127. Intensive examination of evidence

1. The court shall ensure that it can immediately conduct examination of evidence on the first day of oral arguments after the completion of varying points of issue and evidence.
2. Examination of witnesses and the parties shall be conducted as intensively as possible.
3. Documents planned to be used in examination of witnesses shall be submitted to the court within a reasonable period prior to the commencement of such examination, except for any documents that are to be used as evidence to challenge the credibility of statements of a witness

128. Parties' Right to attend

1. The court shall guarantee the parties an opportunity to attend examination of evidence.
2. Examination of evidence may be conducted even where a party fails to appear on the scheduled date for the examination.

129. Examination of evidence in a foreign country

1. Examination of evidence to be conducted in a foreign country shall be entrusted by the court to the competent government agency of such state or to an ambassador, minister or consul of the Kingdom of Cambodia stationed in such state.
2. Examination of evidence conducted in a foreign country, even where it contravenes the laws of such country, shall be effective if it does not contravene this Code.

130. Entrustment of examination

The court may entrust a government agency or a foreign government agency to conduct a necessary examination.

131. Prima facie showing

A *prima facie* showing shall be made for evidence that can be examined immediately.

Section II. Examination of Witnesses

132. Duty of witness

1. The court, except as otherwise provided in this Code or other laws, may examine any person as a witness.
2. The court may, via a ruling, order the subpoena of a witness who fails to appear without justifiable grounds.
3. Should a witness not appear without justifiable grounds, the court may, via a ruling, punish such witness by a civil fine of not more than 1,000,000 riel.
4. A *Chomtoah Appeal* may be filed against the ruling described in Paragraph 2 and 3.

133. Examination of public officers

1. When examining, as a witness, a public officer or a person who was a public officer with regard to any secret in relation to his/her duties, the court shall obtain approval of his/her supervisory government agency concerned in such matter.
2. The supervisory government agency referred to in Paragraph 1 shall, with regard to a current or former senator, be the Senate, with regard to a current or former member of the National Assembly, be the National Assembly, and with regard to a current or former member of the government, be the Cabinet.
3. The supervisory government agency may not refuse to give approval referred to in Paragraph 1 except where such approval is likely to harm the public interest or significantly hinder the performance of public duties.

134. Right of refusal to testify

1. A witness may refuse to testify in cases where the witness's testimony relates to matters for which the witness him/herself or the spouse or other relative of the witness is likely to be subject to criminal prosecution or conviction. The same shall apply where his/her testimony relates to matters that harm the reputation of such persons or cause significant harm to their domestic relationship.
2. A witness may refuse to testify in the following cases:
 - (a) cases described in Paragraph 1 of **Article 133** Examination of public officers;
 - (b) cases where a doctor, dentist, birthing assistant, nurse, pharmacist, attorney at law, clergyman, or a person who was any of these professionals is examined with regard to any fact that such person has learned in the course of his/her professional duties and that should be kept confidential; or
 - (c) cases where the witness is examined with regard to matters concerning technological or professional secrets.
3. The provision of Paragraph 2 shall not apply where the witness has been released from the duty of confidentiality.

135. Ruling on refusal to testify

1. A witness shall make a prima facie showing of the reasons for his/her refusal to testify.
2. Except for the cases described in Paragraph 2, Item (a) of **Article 134** Right of refusal to testify, with regard to whether or not a witness's refusal to testify is appropriate, the court managing the case shall make a decision via the issuance of a ruling after interrogating the party(ies).
3. The parties and the witness may file a *Chamtoah* appeal against the ruling referred to in Paragraph 2.
4. The provision of Paragraph 3 of **Article 132** Duty of witness shall apply *mutatis mutandis* where a witness, after a ruling finding that his/her refusal to testify is groundless has become final and binding, still refuses to testify without justifiable grounds.

136. Examination of witnesses outside courthouse

1. The court may examine witnesses outside the courthouse only in the following cases:
 - (a) where the witness has no duty to appear before the court in

- charged with the case, or where the witness is unable to appear before the court for justifiable grounds;
- (b) where the witness would be required to spend undue expenses or time to appear before the court in charge of said case; or
 - (c) where neither party has any objection.
2. In any of the cases referred to in Paragraph 1, the court may have an authorized judge or commissioned judge examine a witness outside the courthouse.
 3. Where an authorized judge or commissioned judge examines a witness, such judge shall carry out the duties of the court and the presiding judge.

137. Oath

1. The court, except as otherwise provided, shall have a witness swear under an oath.
2. When examining, as a witness, a person under sixteen years of age or person who is unable to understand the purpose of an oath, the court may not have him/her swear under oath.
3. When examining a witness who falls under the provision of **Article 134** Right of refusal to testify and does not exercise his/her right of refusal to testify, the court may choose not to have him/her swear under oath.
4. The court shall have a witness swear under oath before examination. However, the court may have a witness swear under oath after examination where any special circumstances exist.
5. The formality of swearing under oath shall be provided for in the Annex to this Code.
6. Prior to swearing under oath, the presiding judge shall explain the purpose of an oath and notify the swearer of the penalties for perjury.

138. Method of examination of witnesses

1. An offer to examine a witness shall be made by clearly designating such witness.
2. When an offer to examine a witness is made, a document stating the matters to be examined shall be submitted at the same time.
3. A witness shall receive a writ of summons two weeks prior to the examination.
4. A writ of summons for a witness shall contain statements of the following composition and shall have attached to it the document stating the matters to be examined:
 - (a) the names and addresses of the parties;
 - (b) the date, time and location for appearance; and
 - (c) the legal sanctions imposed against failure to appear.
5. A witness shall be examined by the presiding judge, the party offering the witness examination, and the other party in that order. An associate judge may examine a witness upon notifying the presiding judge.
6. The court may, where the court finds it appropriate, change the order set forth in Paragraph 5.
7. A witness may not make testimony based on documents. However, this shall not apply where the court permits such testimony.
8. The court may, where the court finds it necessary, permit a witness who has already testified or a witness who is to testify to be present

in the courtroom.

9. Where the court finds that a witness will be intimidated and be unable to make sufficient testimony in front of a specific observer, the court may have such observer leave the courtroom during the testimony of the witness.
10. The court may, where the court finds it necessary, order a witness and another witness to be examined at the same time.

139. Restrictions on questions

1. Questions shall be asked individually and specifically to the greatest extent possible.
2. The following questions shall not be asked unless reasonable grounds exist:
 - (a) questions that insult or embarrass the witness;
 - (b) leading questions;
 - (c) questions that have already been asked;
 - (d) questions irrelevant to the issues at hand;
 - (e) questions that seek for an opinion of the witness; and
 - (f) questions that seek for testimony on facts for which the witness has no direct experience.
3. Where the court finds that a party's question violates the provision of Paragraph 2, the court may, upon motion or on the court's own authority, limit such questions.
4. A party may make an objection to any limitations made by the court pursuant to the provision of Paragraph 3.

Section III. Examination of Parties

140. Examination of party

1. The court may examine a party. In such case, the court may have the party swear under oath.
2. Where a party is to be examined, if the party does not appear, or refuses to swear under oath or testify without justifiable grounds, the court may deem that the counter-party's allegations regarding the matters to be examined are true.
3. Where a party who has sworn under oath has made a false statement, the court may, via the issuance of a ruling, impose a civil fine of not more than 2,000,000 riel.
4. A *Chamtoah* appeal may be filed against the ruling described in Paragraph 3.

141. *Mutatis mutandis* application of provisions regarding examination of witnesses

1. The provisions of **Article 136** Examination of witnesses outside courthouse, **137** Oath (except for Paragraphs 1 and 3), **Article 138** Method of examination of witnesses (except for Paragraphs 8 and 10) and **Article 139** Restrictions on questions shall apply *mutatis mutandis* to the examination of a party.
2. The court may, where the court finds it necessary, order a party and another party or a witness to be examined at the same time.

142. Examination of statutory agent

The provisions of this Code regarding the examination of a party shall apply *mutatis mutandis* to a statutory agent who represents the party in the action. However, this shall not preclude the examination of the

party him/herself.

Section IV. Expert Testimony

143. Offer and matters of expert testimony

1. The court may order expert testimony based on an offer thereof from a party.
2. When offering expert testimony, a party who has made such offer shall submit a document stating the matters on which the expert testimony is sought. However, it shall be sufficient to submit such document within a period specified by the court if there are unavoidable grounds therefor.
3. The court shall hear the opinions of the counter-party regarding the offer described in Paragraph 2.
4. The court shall determine the matters for expert testimony based on the document described in Paragraph 2 while also giving consideration to the opinions described in Paragraph 3. In such case, a document stating the matters for the expert testimony shall be sent to the expert witness.

144. Designation of expert witness; duty to give expert testimony

1. Any expert witness shall be designated by the court.
2. A person having the knowledge and experience necessary to give expert testimony shall have a duty to give expert testimony.
3. A person may not serve as an expert witness in the following situations:
 - (a) when giving expert testimony, the expert witness him/herself or the spouse or other relative of the expert witness is likely to be subject to criminal prosecution or conviction. The same shall apply where his/her expert testimony could harm the reputation of such persons or cause significant harm to their domestic relationship;
 - (b) the matters for expert testimony are related to any secret with regard to the duties of a public officer or a person who was a public officer. However, this shall not apply where the approval of his/her supervisory government agency concerned is obtained. The supervisory government agency may not refuse to give the approval, except where such approval is likely to harm the public interest or significantly hinder the performance of public duties;
 - (c) where a doctor, dentist, birthing assistant, nurse, pharmacist, attorney at law, clergyman or a person who was any of these professionals is examined, the matters for expert testimony are related to any fact that such person has learned in the course of his/her professional duties and that should be kept confidential; or
 - (d) the matters for expert testimony are related to matters concerning technological or professional secrets.
4. The supervisory government agency referred to in subparagraph (b) of Paragraph 3 shall, with regard to a current or former senator, be the Senate, with regard to a current or former member of the National Assembly, be the National Assembly, and with regard to a current or former member of the government, be the Cabinet.
5. The provisions of subparagraphs (b), (c) and (d) of Paragraph 3 shall not apply where the expert witness has been released from the duty

of confidentiality.

145. Challenge of expert witness

1. Should there be circumstances with regard to an expert witness that would inhibit him/her from giving a sincere expert testimony, a party may challenge such expert witness before such expert witness makes statements on the matters for expert testimony. The same shall apply where, after an expert witness has made statements, any grounds for challenge occur, or a party becomes aware of the existence of any grounds for challenge.
2. A motion to challenge shall be made in writing, except in the case where it is made on a date for preparatory proceedings or oral arguments.
3. The party who files a motion to challenge shall make a *prima facie* showing of grounds for challenge.
4. No appeal may be filed against a ruling finding that the challenge is well-grounded.
5. A *Chamtoah* appeal may be filed against a ruling finding that the challenge is groundless.

146. Methods for expert witnesses to make statements; questioning by expert witnesses

1. The court may have an expert witness state his/her opinions in writing or orally.
2. Where necessary for giving expert testimony, an expert witness may attend the trial, make a request for examination of a witness or a party to the court, or with the court's permission, ask questions to such persons directly.

147. *Mutatis mutandis* application of provisions regarding examination of witnesses; method of taking oath

Except as otherwise provided, the provisions of BOOK II, Chapter III, Section II (Examination of witnesses) of this Code shall apply *mutatis mutandis* to expert testimony. However, this shall not apply to the provisions of **Article 132** Duty of witness, Paragraph 2.

Section V. Documentary Evidence

148. Offer of documentary evidence

1. Documentary evidence shall be offered by submitting a document in the possession of a party or by requesting the court to order the holder of a document to submit such document.
2. Notwithstanding the provisions of Paragraph 1, documentary evidence may be offered by requesting the court to entrust the holder of a document to send such document.
3. The court may, where the court finds it necessary, retain a document submitted or sent thereto.

149. Attachment of translation

1. When documentary evidence is offered via the submitting of a document written in a foreign language, the party who makes such submission shall attach a translation of the part of the document for which examination is sought.
2. Where the counter-party has opinions on the accuracy of the translation referred to in Paragraph 1, he/she shall submit in

writing a submission that states such opinions to the court.

150. Duty to submit document

1. Except as otherwise provided in this Code or other laws, submission of a document may not be refused by the holder thereof.
2. The holder of a document may refuse the submission thereof if the document falls under any of the following categories:
 - (a) a document that contains matters that would give rise to the possibility that the holder of the documents or the spouse or other relative thereof could be prosecuted for or found guilty of a crime, or that would bring humiliation or disgrace on such person or cause significant harm to his/her domestic relationships;
 - (b) a document that involves the official secrets of a public official, where submission of such document would significantly hinder the exercise of public duties; or
 - (c) a document involving facts learned by a current or former doctor, dentist, birthing assistant, nurse, pharmacist, attorney at law or clergyman in the course of his/her professional duties, or technological or business secrets, and the holder of the facts or secrets has not been exempted from the duty of confidentiality.

151. Motion for order to submit documents

1. A motion for a ruling to submit documents must specify the following matters in detail:
 - (a) the title of the document and a basic description of its contents;
 - (b) the holder of the document; and
 - (c) the facts to be proven thereby.
2. A motion for a ruling to submit documents must be made in writing.
3. Where the counter-party has opinions regarding the motion described in Paragraph 2, such opinions shall be submitted in writing to the court.

152. Ruling to submit documents

1. Where the court finds that sufficient grounds for a ruling to submit documents exist, the court shall issue a ruling ordering the holder of the documents to submit such documents. In such case, where the documents contain parts that are deemed outside the scope of examination, or as to which no duty to submit is deemed to exist, the court may order that such parts be omitted from the documents submitted.
2. Where the court intends to order a third party to submit documents, the court shall examine of said third party.
3. A *Chamtoah* appeal may be filed against a ruling on a motion to submit documents.

153. Effect of party's failure to comply with ruling to submit documents

1. When a party fails to comply with a ruling to submit documents, the court may deem the counter-party's allegations regarding the contents of such documents to be true.
2. The provision set forth in Paragraph 1 shall also apply to cases where, in order to prevent its use by the counter-party, a party

causes a document that the party was required to submit to be lost, or otherwise makes it impossible for the counter-party to use the document.

3. In the cases described in Paragraphs 1 and 2, where the counter-party has substantial difficulty in making specific allegations regarding the contents of a document and in proving by other means a fact that was to be proven by such document, the court may deem the counter-party's allegations regarding such fact to be true.

154. Civil fine for failure of third party to comply with ruling to submit documents

1. Where a third party fails to comply with a ruling to submit documents, the court may issue a ruling imposing on said third party for a civil fine of not more than 2,000,000 riel.
2. A *Chamtoah* appeal may be filed against a ruling issued pursuant to Paragraph 1.

155. Creation of document

1. A party offering documentary evidence shall prove that the document was authentic.
2. A document that is determined, based on its form and content, to be created by a public official in the course of official duties, shall be presumed to be an authentically created official document.
3. Where doubt exists regarding the authenticity of an official document's creation, the court may, on its own authority, inquire of the relevant government agency.
4. A private document signed by the principal or the principal's representative shall be presumed to have been authentically created.
5. The provisions of Paragraphs 2 and 3 shall apply *mutatis mutandis* to documents deemed to have been created by a foreign government agency.

156. Proof by handwriting comparison

1. The authenticity of a document's creation may be proven through a handwriting analysis.
2. The provisions of **Article 148** Offer of documentary evidence, **Article 152** Ruling to submit documents and Paragraphs 1 and 2 of **Article 153** Effect of party's failure to comply with ruling to submit documents shall apply *mutatis mutandis* to the submission or sending of documents and other items necessary in order to perform handwriting comparison.
3. Should there be no suitable sample of the counter-party's handwriting for the purposes of comparison, the court may order the counter-party to write text to be used for the purposes of a comparison.
4. Should a party fail without reasonable cause to comply with a ruling issued pursuant to Paragraph 3, the court may deem to be true the allegations of the person offering the document in evidence as to the authenticity of the document's creation. This shall also apply where the writing has been altered or disguised.
5. Should, without reasonable cause, a third party fail to comply with an order to submit documents issued pursuant to the provisions of Paragraph 1 of **Article 153** Effect of party's failure to comply with ruling to submit documents, which apply *mutatis mutandis* under

Paragraph 2, the court may issue a ruling imposing on the third party a civil fine of no more than 2,000,000 riel.

6. A *Chamtoah* appeal may be filed against a ruling made pursuant to Paragraph 5.

157. Civil fine against person disputing authenticity of creation of document

1. Where a party or the party's representative intentionally or through gross negligence falsely disputes the authenticity of a document's creation, the court may issue a ruling imposing a civil fine of not more than 1,000,000 riel against the party or representative.
2. A *Chamtoah* appeal may be filed against a ruling made pursuant to Paragraph 1.
3. For the cases referred to in Paragraph 1, where the party or representative that disputed the authenticity of the creation of a document thereafter recognizes the document's authenticity while the suit is still pending, the court may, depending on the circumstances, rescind its ruling referred to in that Paragraph.

158. Application *mutatis mutandis* to objects equivalent to documents

The provisions of this Section shall apply *mutatis mutandis* to objects such as drawings, photographs, audio and video tapes, and other items that are not documents but were created in order to express information.

159. Offer of documentary evidence comprising transcription of audio tapes

A party that offers documentary evidence comprising a transcription of an audio tape, video tape or other objects on which certain matters can be recorded using corresponding methods shall, in cases where the counter-party has requested delivery of a copy of such object, deliver a copy thereof to the counter-party.

160. Submission of document explaining contents of recording tape

1. A party offering examination of evidence on an audio tape or any other objects described in **Article 159** Offer of documentary evidence comprising transcription of audio tapes shall, when so requested by the court or the counter-party, submit a written transcription of those recorded in the object or a document that explains the contents thereof.
2. Where the counter-party has opinions regarding the contents of the explanation provided for in the document mentioned in Paragraph 1, such opinions shall be submitted in writing to the court.

Section VI. Observation

161. Offer of observation

An offer of observation shall indicate the object to be observed.

162. Presentation of object to be observed

1. The provisions of **Articles 148** Offer of documentary evidence, **Article 152** Ruling to submit documents and **Article 153** Effect of party's failure to comply with ruling to submit documents shall apply *mutatis mutandis* to the presentation or sending of the object to be observed.
2. Should a third party fail, without reasonable cause, to comply with

a ruling for presentation made pursuant to Paragraph 1 of **Article 152** Ruling to submit documents, which applies *mutatis mutandis* under Paragraph 1, the court may issue a ruling imposing a civil fine on the third party of not more than 2,000,000 riel.

3. A *Chamtoah* appeal may be filed against a ruling made pursuant to Paragraph 2.

Section VII. Preservation of Evidence

163. Preservation of evidence

1. Where the court finds that circumstances exist that make it difficult to use evidence unless the evidence is examined beforehand, the court may, upon a motion, examine the evidence in accordance with the provisions of this Section.
2. The results of an examination of evidence made pursuant to Paragraph 1 shall have effect in an action on the merits of a case.
3. The parties shall state, within oral arguments of the action on the merits of a case, the results of the examination of evidence that took place pursuant to Paragraph 1.

164. Court with jurisdiction

1. A motion for preservation of evidence after an action has been filed shall be made to the court before which the evidence is to be used.
2. A motion for preservation of evidence before an action has been filed shall be made to the court of first instance having jurisdiction over either the residence of the person to be examined or the holder of the documents to be examined or the location of the object of the observation.
3. A motion for preservation of evidence may be filed to the court of first instance referred to in Paragraph 2 even after an action has been filed where urgent circumstances exist.

165. Method of filing motion for preservation of evidence

1. A motion for preservation of evidence shall be submitted in writing.
2. The writing referred to in Paragraph 1 shall include the following contents:
 - (a) the name and address of the counter-party;
 - (b) the facts to be proven;
 - (c) the evidence to be preserved; and
 - (d) the grounds for preservation of the evidence.
3. The existence of the grounds for preservation of the evidence shall be established by a *prima facie* showing.

166. Inability to specify the counter-party

A motion for preservation of evidence may be filed even if the counter-party cannot be specified. In such case, the court may appoint a special representative to represent the person(s) to be the counter-party.

167. Preservation of evidence on court's authority

The court may, where it is deemed necessary, issue a ruling ordering the preservation of evidence while an action is pending.

168. Appeal

The moving party may file a *Chamtoah* appeal against a ruling dismissing

a motion for preservation of evidence.

169. Summons for appearance date

On the date for examination of evidence, the moving party and the counter-party shall be summoned. However, this shall not apply in case of urgency.

170. Costs of preservation of evidence

Costs incurred in connection with the preservation of evidence shall be deemed a part of the litigation costs.

171. Re-examination during oral argument

Where a party, during oral arguments, requests the examination of a witness that was already examined at the proceedings for preservation of evidence, the court shall examine such witness.

172. Delivery of record of preservation of evidence

Where an examination of evidence for purposes of preservation thereof has been conducted, the court that conducted the examination shall deliver a record of such examination to the court in which the case record for the action on the merits exists.

Chapter Four INTERRUPTION AND SUSPENSION OF LITIGATION

173. Interruption of and succession to litigation

1. Where any of the following grounds exist, litigation shall be interrupted:
 - (a) the death of a party;
 - (b) the extinction of a party through merger of juristic persons;
 - (c) loss of a party's capacity to litigate, death of a statutory agent or extinction of the representative authority;
 - (d) loss of qualification that has enabled a person to carry out a litigation under his/her name on behalf of others due to his/her death or any other reasons; or
 - (e) loss of qualification due to the death of all parties appointed pursuant to the provisions of **Article 42** Appointed party, or loss of qualification of such parties for any other reason.
2. Where a case mentioned in paragraph 1 exists, the person identified in the following subparagraphs shall succeed to the litigation:
 - (a) where the death of a party, the heir of the decedent party, or the person bound by law to maintain the action;
 - (b) where the extinction of a party through merger of juristic persons, the juristic person that has succeeded the rights and duties of the merged entity;
 - (c) where loss of a party's capacity to litigate, death of a statutory agent or extinction of the representative authority, the statutory agent or the party him/herself after obtaining the capacity to litigate;
 - (d) where loss of qualification, which has enabled a person to carry out a litigation under his/her name on behalf of others, due to his/her death or any other reasons, a person having the same qualifications; and/or
 - (e) where loss of qualification due to the death of all parties

appointed pursuant to the provisions of **Article 42** Appointed party, or loss of qualification of such parties due to any other reason, all of the appointers under such provisions or persons newly appointed pursuant to such provisions.

3. The provisions of Paragraph 1 shall not apply while an appointed representative exists; however, the appointed representative shall inform the court of the occurrence of any events provided in the Paragraph 1.
4. Even when the grounds specified in subparagraph (a) of Paragraph 1 exists, an heir may not succeed to litigation during the period of time that such heir is entitled to renounce his/her succession.

174. Natural termination of court proceedings

Where a party's existence is terminated through death or merger, if there is no person that succeeds to the right or duty comprising the subject of the action, or if such right or duty devolves to the same person, the court proceedings shall be terminated. In such case, the court shall render a judgment declaring the action terminated.

175. Succession procedure

1. A motion for succession to court proceedings may be filed by the potential successor or by a counter-party.
2. Where a motion for succession of court proceedings is filed, the court shall notify the counter-party to the motion for succession.
3. Where a motion for succession of court proceedings is filed, if the court, after conducting an investigation on its own authority, finds that sufficient grounds for the motion do not exist, the court shall dismiss the motion via the issuance of a ruling. A *Chamtoah* appeal may be filed against such ruling.
4. In the case described in Paragraph 3, if the court finds that sufficient grounds exist for the motion, the court shall permit such succession via the issuance of a ruling.
5. Where a motion for succession to court proceedings is filed when such proceedings have been interrupted after the service of a judgment, the court that rendered the judgment shall rule on the motion.

176. Order to continue action on court's authority

Even where neither party files a motion for succession to court proceedings, the court may, on its own authority, order via the issuance of a ruling that the court proceedings be continued.

177. Suspension of court proceedings

1. Where the court is unable to perform its functions due to force majeure or any other reason, the court proceedings shall be suspended until such reason ceases to exist.
2. Where a party is unable to continue court proceedings due to an impediment of indefinite duration, the court may, via the issuance of a ruling, order the suspension of the proceedings. In such case, the court may rescind the ruling in the event that the impediment ceases to exist.
3. The court may, via the issuance of a ruling, order the suspension of court proceedings to a civil action during the pendency of a criminal action that involves a fact on which one of the claims in the civil action is based. In such case, the court may rescind said

ruling once the criminal action has ended.

178. Effect of interruption and suspension

1. Neither the parties nor the court may conduct an act concerning the action while the court proceedings are interrupted or suspended. However, judgment may be rendered even while the court proceedings have been interrupted.
2. Any and all periods cease to elaps when court proceedings are interrupted or suspended. In such cases, all periods will begin anew upon the notice of succession of court proceedings or continuation of the action.

Chapter Five DECISION

Section I. General Provisions Regarding Decisions⁴

179. Types of decision

1. Unless otherwise provided in this Code or by other provision of law, a judgment is a decision rendered by means of a written judgment issued by a court based on oral arguments and in compliance with the methods provided by law, and shall take effect pursuant to a Rendering based on such written judgment.
2. A ruling is a decision that may be issued by a court or judge without oral arguments and is not a judgment.

Section II. General Provisions Regarding Judgment

180. Final judgment

1. The court shall conclude oral arguments and issue a final judgment upon the court finding that the trial should be concluded based on the results of the arguments and examination of evidence.
2. Where the court finds that a trial as to one claim among several claims joined in an action should be concluded, the court may render a final judgment on such claim.
3. Where it is deemed necessary for the renderring of a final judgment, the court may order to reopen oral arguments that have already been concluded.

181. Interlocutory judgment

In an action involving a dispute regarding any of the following matters, the court may first conclude the trial on only said matter and render an interlocutory judgment thereon:

- (a) the existence of a claim, when both the existence of a claim and the amount of such claim are in dispute;
- (b) allegations and evidence that can be independently adjudicated;
- (c) the existence or absence of the prerequisites for an action;
or
- (d) matters pertaining to the conclusion of an action.

⁴ "Decision" as used in this translation originally means any form of decision issued by a court and includes both "ruling" and "judgment," although in many articles specifically means either "ruling" or "judgment" as the context requires.

182. Matters for judgment

1. The court shall adjudicate all of the claims raised by the parties.
2. The court shall not adjudicate matters that have not been raised by the parties.
3. The court shall adjudicate the apportionment of liability for litigation costs even without a motion by either party.

183. Omission in judgment

Where the court has omitted to adjudicate part of a claim, the action remains pending in that court with respect to the omitted part of the claim.

184. Principle of free determination

When rendering a judgment, the court shall decide, after considering the results of the examination of evidence and the progress and contents of oral arguments, on whether or not the allegations of fact are true based on its own, independent determination.

185. Principle of direct trial

1. A judgment shall be rendered only by the judge or judges that have participated in the oral arguments forming the basis for such judgment.
2. Where a judge has been replaced before the conclusion of oral arguments, the parties shall state the results of the previous oral arguments.
3. Where a single judge or a majority of judges on a panel of judges has been replaced, if a party requests reexamination of a witness who was previously examined, the court shall conduct such examination.

Section III. Rendering of Judgment

186. Effectiveness of judgment

A judgment shall become effective when it is rendered.

187. Date of Rendering of judgment

A rendering of judgment shall be made within one month of the date on which oral arguments are concluded. However, this shall not apply where the case is complex or where other special circumstances exist.

188. Method of rendering of judgment

1. A rendering of judgment shall be made in open court on the date of rendering, based on the original of a written judgment, and the main text of the judgment shall be read aloud by the presiding judge. However, if circumstances prevent the presiding judge from making a rendering by him/herself, an associate judge may do it on his/her behalf.
2. A rendering of judgment may be made even if the parties are not present in court.
3. Where deemed appropriate, the presiding judge may read the reasons for the judgment or verbally state the summary thereof.

189. Written judgment

1. A written judgment shall include the following contents:
 - (a) the court;

- (b) the date on which oral arguments were concluded;
 - (c) the names and addresses of the parties and of their statutory agents;
 - (d) the facts and the points at issue;
 - (e) the grounds for the judgment; and
 - (f) the main text of the judgment.
2. The description of the facts and the points of issue shall be based on the statements of the parties and include a summary of such statements.
 3. The written judgment shall be signed by the judge or judges that rendered the judgment.
 4. Should circumstances prevent a judge belonging to a panel of judges from signing the written judgment, other judges shall sign the judgment and indicate the reason why said judge was unable to sign.

190. Service of written judgment

1. A written judgment shall be served on the parties within two weeks of the date of the rendering of judgment.
2. The service described in Paragraph 1 shall be carried out using a true copy of the written judgment.

Section IV. Effectiveness of Judgment

191. Self-binding effect of judgment

A court that has rendered a judgment may not revoke or change such judgment, except in accordance with the provisions of **Article 192** Ruling of correction.

192. Ruling of correction

1. Where a judgment is found to contain a miscalculation, clerical error or any other similar obvious error, the court may, upon motion or in its own authority, render a ruling of correction at any time.
2. A *Chamtoah* appeal may be filed against a ruling of correction. However, this shall not apply where a lawful *Uttor* appeal has been filed against the judgment.
3. A ruling of correction shall be affixed to the original and authenticated copies of the written judgment. However, where it is deemed appropriate, the court may prepare a written ruling and serve authenticated copies thereof on the parties in lieu of affixing the ruling to the original and authenticated copies of the judgment.

193. Date on which judgment becomes final and binding

1. A judgment shall not become final and binding prior to the expiration of the period in which an appeal against such judgment or a motion to set aside such judgment may be filed.
2. The finality of a judgment is stayed by the filing of an appeal against the judgment or a motion to set it aside within the period referred to in Paragraph 1.

194. Finality of matters adjudicated in judgment

1. When a judgment is final and binding, it shall have conclusive finality.
2. The finality described in Paragraph 1 shall determine rights or legal relationships as of the date of the conclusion of oral arguments.
3. The scope of the finality referred to in Paragraph 1 shall be limited

to the matters determined in the main text of the judgment with regard to claims raised in the action or in any cross-action, and shall not extend to any finding contained in the grounds for the judgment.

4. Notwithstanding the provisions of Paragraph 3, where the defendant makes an argument of offset through a countervailing claim, a finding in the final and binding judgment that such countervailing claim was extinguished by offset has finality to the extent of the amount of such offset.

195. Date on which judgment is enforceable

A judgment may be enforced when it becomes final and binding in accordance with the provisions of **Article 194** Finality of matters adjudicated in judgment, except as otherwise provided by law.

196. Declaration of provisional execution

1. With regard to a judgment concerning a claim over monetary or property rights, the court may, when deemed necessary, upon motion or on its own authority, declare that a provisional execution of judgment may be carried out with or without making the prevailing plaintiff provide security.
2. The court may, upon motion or on its own authority, declare that a provisional execution of judgment may be avoided upon the provision of security
3. A declaration of provisional execution shall be set forth in the main text of the judgment. This shall also apply to the declaration described in Paragraph 2.
4. Where the court has not rendered a decision on a motion for declaration of provisional execution, or where the court failed to make such declaration in circumstances where the declaration should be made on the court's own authority, the court shall, upon motion or on its own authority, issue a supplemental ruling. This shall also apply where the court did not make a decision on the motion described in Paragraph 2.

197. Loss of effect of declaration of provisional execution and restitution

1. A declaration of provisional execution shall lose effect upon the rendering of a higher court's judgment changing either such declaration or the judgment on the merits of the action to the extent that such is changed by said higher court's judgment.
2. In a higher court's judgment that alters a judgment on the merits of the action, the higher court shall, upon motion by the defendant, order the plaintiff to return the object given by the defendant pursuant to the declaration of provisional execution and to make compensation for any damage sustained by the defendant either as a result of such execution or as a result of measures taken to avoid such execution.
3. Where only a declaration of provisional execution has been altered, the provisions of Paragraph 2 shall apply to the subsequent higher court's judgment changing the judgment on the merits of the action.

198. Scope of persons subject to effect of final and binding judgment

A final and binding judgment shall be effective on the following persons:

- (a) the parties;
- (b) where a party became a plaintiff or defendant on behalf of

- another person, such other person;
- (c) persons succeeding to the rights or duties held by the persons set forth in the preceding two subparagraphs after the action came to be pending before the court; and
- (d) persons who possess the subject-matter of the action for the benefit of any of the persons set forth in the preceding three subparagraphs.

199. Effect of final and binding judgment of foreign court

A final and binding judgment of a foreign court shall be effective only where all of the following requirements are fulfilled:

- (a) jurisdiction is properly conferred on the foreign court by law or by treaty which the Kingdom of Cambodia has concluded;
- (b) the losing party(ies) received service of summons or any other order necessary to commence the action, or responded without receiving such summons or order;
- (c) the contents of the judgment and the court proceedings in the action do not violate the public order or good morals of Cambodia; and
- (d) there is a guarantee of reciprocity between Cambodia and the foreign country in which the court is based.

Section V. Default Judgment

200. Default judgment against plaintiff

1. Where the plaintiff fails to appear on the first date set for preparatory proceedings, the court shall dismiss with prejudice the claims of the plaintiff via default judgment.
2. Where the plaintiff fails to appear on a date set for the continuation of preparatory proceedings, the court may immediately terminate such preparatory proceedings and set the first date for oral arguments.
3. Where the plaintiff fails to appear on the date set for oral arguments, the court shall dismiss with prejudice the claims of the plaintiff via default judgment.

201. Default judgment against defendant

1. Where the defendant fails to appear on the first date set for the preparatory proceedings, the court shall immediately terminate such preparatory proceedings and set the first day for oral arguments.
2. Where the defendant fails to appear on the date set for oral arguments, the court shall deem the defendant to have admitted to the plaintiff's allegations of fact, and if grounds to support the plaintiff's claims exist, the court shall recognize the plaintiff's claims via default judgment; if, however, grounds to support the plaintiff's claims do not exist, the court shall deny the plaintiff's claims. However, this shall not apply where the defendant has contested the allegations of the plaintiff on the preceding date set for the preparatory proceedings or oral arguments.

202. Where default judgment is disallowed

The court may not render a default judgment in any of the following circumstances:

- (a) where a party failing to appear did not duly receive a summons;
- (b) where there are sufficient circumstances to conclude that a

party that failed to appear could not appear due to force majeure or other circumstances beyond their control;

- (c) where the action itself is unlawful; or
- (d) where the contents of plaintiff's statements on the day of oral arguments on which the defendant failed to appear were not noticed to the defendant before such date.

203. Extension of date

1. Where the court finds that the summons period is of insufficient duration, or that a party was unable to appear without fault of his/her own, the court may postpone the date set for preparatory proceedings or for oral arguments.
2. Where the court postpones a date in accordance with Paragraph 1, the party who did not appear shall be summoned to appear on the new date.

204. Motion to set aside default judgment

1. Where a party failed to make a timely appearance on the court date due to an unforeseeable or unavoidable reason, and a default judgment has been rendered as a result, the party may file a motion to set aside such judgment.
2. The motion described in Paragraph 1 shall be made within two weeks from the date of receipt of service of the default judgment. This period may not be extended.
3. Where service of a default judgment is to be made by publication or in a foreign country, the court shall fix in the default judgment the period within which a motion for setting it aside may be filed.

205. Method for filing motion to set aside default judgment

1. A motion to set aside a default judgment shall be filed by submitting a written motion to the court that rendered the default judgment.
2. The written motion shall contain the following matters:
 - (a) the names and addresses of the parties and of their statutory agents;
 - (b) an indication of the default judgment comprising the subject-matter of the motion to set aside;
 - (c) a description stating that a motion to set aside a default judgment set forth in Item (b) has been filed; and
 - (d) the reason that the party was unable to appear in a timely manner on the court date.

206. Examination and service of written motion to set aside

1. Where a written motion to set aside a default judgement fails to comply with the provisions of **Article 205** Method for filing motion to set aside default judgment, the court shall order that any and all defects in the motion be corrected within a reasonable period of time specified by the court.
2. In the case described in Paragraph 1, if the party filing the motion fails to correct the defects, the court shall dismiss the written motion via the issuance of a ruling.
3. A *Chomtoah Appeal* may be filed against the ruling described in Paragraph 2.
4. Where there is no defect in a written motion to set aside a default judgement, the court shall serve the written motion on the counter-party, set a new date for trial on the motion, and summon

the parties to appear on such date.

207. Trial and decision on motion

1. The court shall, on its own authority, investigate whether the motion was filed in the manner provided by law and within the period of time provided by law, as well as whether reasonable grounds for the motion exist.
2. Where the court finds that the motion was filed unlawfully, it shall dismiss, without prejudice, the motion via the issuance of a ruling, and where the court finds that the motion lacks reasonable grounds, it shall deny the motion via the issuance of a ruling.

208. Effect of motion to set aside

1. Where a motion is granted, the status of the action shall be returned to the status prior to the time when the party failed to appear.
2. In the case set out in Paragraph 1, the court shall re-commence preparatory proceedings or oral arguments, set a new date therefor, and notify the parties of such date.

209. New judgment

1. Where a judgment to be rendered on the basis of the trial after the re-commencement is identical to the default judgment, the court shall render a judgment declaring the upholding of the default judgment.
2. Where the judgment to be rendered on basis of the trial after the re-commencement is not identical to the default judgment, the court shall reverse the default judgment through the newly rendered judgment.

210. Costs incurred from failure to appear

Where a default judgment is lawfully rendered, costs incurred as a result of the party's failure to appear shall be borne by the party failing to appear, even where the default judgment is reversed upon motion to set aside such judgment, unless such costs were incurred due to the counter-party's improper act concerning the action.

211. Rendering of the second default judgment

1. Where a party who has filed a motion to set aside a default judgment fails to appear on the first court date after the re-commencement, the court shall deny the motion via a second default judgment, except in as set out in **Article 202** Where default judgment is disallowed and in Paragraph 2 of **Article 203** Extension of date.
2. The second default judgment described in Paragraph 1 may not be challenged by a motion to set aside.

212. Mutatis mutandis application of provisions

1. The provisions regarding the discontinuance of *Uttor* appeal shall apply *mutatis mutandis* to the discontinuance of a motion to set aside.
2. The provisions of this Section shall apply *mutatis mutandis* to cross-actions.

Section VI. Rulings

213. Notice of rulings

1. A ruling shall take effect when notice thereof is given in a manner deemed proper.
2. Where a ruling is issued in writing, such written ruling shall be signed by the judge(s) that issued it.
3. When notice of a ruling is given, the court clerk shall clearly indicate in the case record the serving of notice and the manner of service for such notice.

214. Cancellation of ruling relating to court instruction

A ruling relating to court instruction may be cancelled at any time.

215. Objection to disposition taken by court clerk

With regard to any objection against dispositions received by the court clerk, the court to which such clerk belongs shall render a decision via the issuance of a ruling.

216. *Mutatis mutandis* application of provisions relating to judgments

The provisions relating to judgments shall apply *mutatis mutandis* to rulings so long as such application is not inconsistent with the nature of the rulings.

Chapter Six CONCLUSION OF ACTION NOT BASED ON JUDGMENT

217. Discontinuance of action

1. A plaintiff may discontinue all or part of an action until a judgment becomes final and binding.
2. Once the defendant has, on the merits of the action, submitted a preparatory document, made statements in preparatory proceedings or presented oral arguments, the discontinuance of the action shall be ineffective unless the defendant's agreement thereto is obtained. However, this shall not apply to the discontinuance of a cross-action where the principal action has been discontinued.
3. Discontinuance of an action shall be made in writing. However, it may be made orally on a date set for preparatory proceedings, oral arguments or settlement.
4. In the cases described in the first sentence of Paragraph 2, if the discontinuance of the action is made in writing, such writing shall be served on the defendant, while if the discontinuance of the action is made orally on the date set for preparatory proceedings, oral arguments or settlement; a certified copy of the protocol for that day shall be served on the defendant. However, this shall not apply to cases where the discontinuance of the action was made orally on a date set for preparatory proceedings, oral arguments or settlement, and the defendant appeared on such day.
5. Where the defendant does not make an objection within two weeks from the date of service of a written discontinuance of the action, the defendant shall be deemed to have consented thereto. The same shall apply to cases where the discontinuance of the action was made orally on a date set for preparatory proceedings, oral arguments or settlement; should the defendant does not make an objection within two weeks from the day on which the action was discontinued and on which the defendant appeared or if the defendant did not appear on

such date, from the date on which the certified copy of the protocol referred to in Paragraph 4 was served.

218. Effect of discontinuance of action

1. A discontinued action or part thereof shall be deemed to have never been pending before the court.
2. A party who discontinues an action after a final judgment is rendered on the merits may not thereafter file the same action.

219. Formation of discontinuance of action

Where both parties fail to appear on a date set for preparatory proceedings or oral arguments and do not, within one month, file a motion to set a subsequent date therefor, the action shall be deemed to have been discontinued. The same shall apply to cases where both parties fail to appear on two consecutive dates set for preparatory proceedings or oral arguments.

220. Settlement of action in court

1. The parties may settle the action on a date set for preparatory proceedings, oral arguments or settlement.
2. The settlement referred to in Paragraph 1 may be entered into outside the courtroom if the court finds such to be proper.

221. Abandonment or acknowledgment of claim

Abandonment of a claim or acknowledgment of a claim shall be made on the date set for preparatory proceedings, oral arguments or settlement.

222. Effect of settlement protocol

Where a settlement, abandonment of a claim or acknowledgment of a claim has been entered in the protocol of the case, such entry shall have the same effect as a final and binding judgment.

Chapter Seven SPECIAL PROVISIONS REGARDING SMALL CLAIMS CASES

223. Purpose of procedures

The purpose of procedures for small claims cases is to promptly resolve a dispute via summary procedures.

224. Requirements for small claims cases

1. A plaintiff is entitled to seek trial and a decision based on a small claims action where the subject of the action is a claims for the payment of money in an amount no greater than 1 million riel.
2. A statement requesting the trial and decision based on a small claimss action shall be made when the action is filed.

225. Oral filing of action; matters to be clarified when action filed

1. A small claims action may be filed orally.
2. When a small claims action is filed, it is sufficient to clearly indicate the summary of the dispute, notwithstanding the provisions of Paragraph 2, Item (b) of **Article 75** Method of filing action; matters written in complaint.
3. When a plaintiff files an action orally, the court clerk shall enter the statement of the plaintiff in the protocol. This protocol shall

be deemed to be a complaint.

226. Instruction regarding procedures

1. At the time of summons to appear on the initial date for oral arguments in a small claims action, the court clerk shall deliver to the parties a document that explains the procedures regarding trial and decision in small claims actions.
2. On the date referred to in Paragraph 1, the court shall at first explain to the parties the following matters:
 - (a) in the absence of special circumstances, the court must conclude the trial on the initial date set for oral arguments;
 - (b) except for a motion to set aside default judgment, no appeal may be filed against a final judgment in a small claims action;
 - (c) the examination of evidence can be conducted only with regard to evidence that can be examined immediately; and
 - (d) the defendant may make a statement that the action is to be transferred to ordinary procedures, but this shall not apply after the defendant has presented arguments on the initial date set for oral arguments nor following such date.

227. Prohibition of cross-action

A cross-action may not be filed in a small claims action.

228. Designation of date for oral argument

1. When an action is filed, the court shall promptly designate a date for oral arguments and summon the parties thereto.
2. In the absence of special circumstances, the date described in Paragraph 1 shall fall within thirty (30) days of the date on which the action was filed.

229. Principle of one-day trial

1. In a small claims action, in the absence of special circumstances, the court shall conclude the trial on the initial date set for oral arguments.
2. The parties shall present all arguments and evidence before or on the date described in Paragraph 1. However, this shall not apply where oral arguments have been continued.

230. Order that parties appear in person

The court may order that a party or his/her statutory agent appear in person even where a representative has been appointed.

231. Restriction on examination of evidence

An examination of evidence shall be conducted only with regard to evidence that can be examined immediately.

232. Offer for examination of witnesses and examination of witnesses

1. When offering to examine a witness, a party need not submit a written description of the matters to be examined.
2. The court may examine a witness without such witness swearing under oath.

233. Transfer to ordinary procedures pursuant to defendant's statement

1. The defendant may make a statement indicating that the action be

transferred to ordinary procedures. However, this shall not apply once the defendant has presented arguments on the initial date set for oral arguments.

2. The statement referred to in Paragraph 1 shall be in writing unless it is made on the date of court appearance.
3. Where the statement referred to in Paragraph 1 is made, the court clerk shall, without delay, notify the plaintiff that the action has been transferred to ordinary procedures based on the defendant's statement. However, this shall not apply where the statement was made on the date on which the plaintiff appeared in court.

234. Transfer to ordinary procedures pursuant to court ruling

1. In the following cases, the court shall issue a ruling that the trial and decision of the action be conducted by ordinary procedures:
 - (a) where the trial and decision based on a small claims action has been sought in contravention of the provisions of Paragraph 1 of **Article 224** Requirements for small claims cases;
 - (b) where summons to appear on the initial date set for oral arguments cannot be made on the defendant by means other than service by publication; or
 - (c) where the court finds it improper to conduct the trial and ruling based on a small claims action.
2. Where a ruling is issued pursuant to Paragraph 1, the court clerk shall promptly notify the parties of such ruling.

235. Timing of transfer to ordinary procedures

1. An action shall be transferred to ordinary procedures when the statement described in **Article 233** Transfer to ordinary procedures pursuant to defendant's statement, Paragraph 1 is made or when the ruling described in **Article 234** Transfer to ordinary procedures pursuant to court ruling, Paragraph 1 is issued.
2. Where an action is transferred to ordinary procedures, the date already set for the small claims action shall be deemed the date set for preparatory proceedings of ordinary procedures.

236. Judgment and rendering thereof

1. Except where the court finds it improper, the court shall render a judgment immediately after the conclusion of oral arguments.
2. In the case described in Paragraph 1, the rendering of judgment need not be based on the original written judgment. In such case, the court shall pronounce the main text of the judgment and a summary of the grounds therefor.
3. Where the court has rendered a judgment pursuant to the provisions of Paragraph 2, the court shall instruct the court clerk to enter the matters set forth below in the protocol of the date for oral arguments on which such judgment was rendered, in lieu of preparing a written judgment:
 - (a) the names and addresses of the parties and their statutory agents;
 - (b) a judgment sought by the plaintiff; and
 - (c) the main text of the judgment.
4. A written judgment or a protocol in lieu of a written judgment in a small claims action shall be described as a judgment in the small claims action.

237. Deferment of payment by judgment

1. Where the court renders a judgment that grants a claim, with regard to the payment of money in connection to such granted claim the court may, upon finding it especially necessary in light of the defendant's financial state or other circumstances, order either of the provisions specified in Item (a) or (b) below, or the provisions specified in either of these items together with Item (c), within a period not to exceed three years from the date of rendering of the judgment:
 - (a) a provision of a time for payment;
 - (b) a provision of installment payments; or
 - (c) where payment has been made in accordance with Item (a), or where payment has been made in accordance with Item (b) without losing the benefit of time pursuant to Paragraph 2, a provision of an exemption from the duty to pay damages for delays incurred after the action was filed.
2. In case of the provision of installment payments as described in Paragraph 1, Item (b), the court shall make a provision regarding the loss of benefit at the time where the defendant defaults on any payment.

238. Prohibition of appeal

No appeal may be filed to a final judgment in a small claims action. However, this shall not apply to a motion to set aside a default judgment.

239. Exceptions from application

The provisions of **Articles 103** Purpose of preparatory proceedings through **Articles 112** Objections to the statement in protocol for preparatory proceedings shall not apply to small claims procedures as defined in this Chapter VII.

Chapter Eight
Chapter Nine DATES, PERIODS, SERVICE

Section I. Dates, Periods

240. Setting court dates

1. The court shall set court dates upon motion or on its own authority. However, dates for procedures to be carried out by an authorized judge or a commissioned judge shall be set by said judge.
2. Court dates may be set on Saturdays, Sundays and other holidays designated by law and regulation, only in the event of unavoidable circumstances.

241. Changing date

1. When a party files a motion to change a court date, the moving party shall clearly state the grounds on which the change in date is sought.
2. The date set for preparatory proceedings or oral arguments may not be changed except in unavoidable circumstances.
3. An initial date set for preparatory proceedings may be changed based on the agreement of the parties.

242. Summons regarding date

A summons regarding a court date shall be made by service of a writ of summons or by notifying the person who has appeared before the court for the case.

243. Calculation of periods

1. Periods shall be calculated in accordance with the provisions pertaining to periods under the Civil Code of the Kingdom of Cambodia.
2. Where the first day is not designated in a decision in which a period is set, the period shall be deemed to run from the date on which the decision came into effect.
3. Where the last day of a period falls on a Saturday, Sunday or other holidays designated by law and regulation, the period shall be deemed to expire on the subsequent day.

244. Extension of period

1. The court may extend a period fixed by law or a period fixed by the court itself only in the case of unavoidable circumstances. However, this shall not apply where otherwise provided for by law.
2. An authorized judge or a commissioned judge may extend a period fixed by said judge only in case of unavoidable circumstances.

245. Subsequent completion of act concerning the action

1. Where a party is unable to comply with the period fixed pursuant to the second sentence of Paragraph 1 of **Article 244** Extension of period for reasons not the fault of such party, the act concerning the action that was to have been completed within such period may be completed within a grace period of one week after such reason has ceased to exist. However, for a party located overseas, such grace period shall be two months.
2. The grace period referred to in Paragraph 1 may not be extended.

Section II. Service

246. Principle of service on court's authority

1. Except where otherwise provided by law, service shall be effected on the court's authority.
2. The tasks related to service shall be handled by a court clerk.
3. Service shall be carried out by a post office clerk, a bailiff or a court clerk.

247. Principle of service by delivery

1. Except as otherwise provided by law, service shall be effected through delivery of the document to be served to the person who is to receive service.
2. Except as otherwise provided by law, the document to be served shall comprise a certified copy thereof.
3. Where the person to receive such service is illiterate, the person responsible for effecting service shall make efforts to notify the recipient of the summary of the document when such document is delivered.

248. Service on persons lacking capacity to litigate

1. Service on a person lacking the capacity to litigate shall be made

- on such person's statutory agent.
2. Where multiple persons have a joint right of representation, service need only be made on one of them.
 3. Service on a person detained in an institution shall be made on the warden of such institution.

249. Location of service

Service shall be effected at the domicile, residence, place of business or office of the person or entity to be served. However, service on a statutory agent may also be effected at the place of business or office of said agent.

250. Notice of location of service

1. The party, statutory agent or appointed representative may notify the court in charge of the case of the location within Cambodia where service is to be received or may give notice to the court regarding the person to receive service.
2. The party, statutory agent or appointed representative may give notice to change the location at which service is to be received, or the person to receive service, with previous notification.
3. The notice described in Paragraphs 1 and 2 shall be given in writing.
4. Where a notice regarding the location at which service is to be received is given pursuant to Paragraph 1, the service shall be made at the notified location, notwithstanding the provisions of **Article 249** Location of service.

251. Service at location encountered

Notwithstanding the provisions of **Articles 249** Location of service, service on a recipient whose domicile, residence, place of business or office is not clearly identified within Cambodia, may be made where such person is encountered, except for persons who have given a notice pursuant to the provisions of Paragraph 1 of **Article 250** Notice of location of service. This shall also apply where a person whose domicile, residence, place of business or office is clearly identified within Cambodia, or a person who has given a notice pursuant to the provisions of such Paragraph, and does not refuse to receive the service.

252. Supplemental service and service of leaving at the location

1. Where the person to receive service is not encountered at the location where service is to be made, the person responsible for effecting service may deliver the document to a domestic servant or other employee, or a co-resident, provided such person possesses proper understanding regarding the receipt of documents.
2. Where the person to receive service or the person to receive delivery pursuant to the provisions of Paragraph 1 unreasonably refuses to receive it, the document may be left at the location where service is to be made.

253. Service in foreign state

1. Service that is to be made in a foreign state shall be entrusted by the court to the competent government agency of such state or to an ambassador, minister or consul of the Kingdom of Cambodia stationed in such state.
2. Where service is to be made in a foreign state in connection with proceedings carried out by an authorized judge or a commissioned

judge, such judge may also make the entrustment described in Paragraph 1.

254. Report of service

1. The person responsible for effecting service shall, after service is made, prepare a report of said service and deliver it to the court.
2. The report described in Paragraph 1 shall contain the following contents:
 - (a) an indication of the case and of the document(s) served;
 - (b) the person on whom service is to be made;
 - (c) the date and location of service;
 - (d) the method of service;
 - (e) should the person to receive service is illiterate, a description that relevant actions where undertaken pursuant to Paragraph 3 of **Article 247** Principle of service by delivery;
 - (f) the signature or fingerprint of the person receiving a document;
 - (g) where receipt of a document has been refused by the person on whom service is to be made or a person to receive delivery thereof pursuant to Paragraph 1 of Article 252 Supplemental service and service of leaving at the location, the facts regarding such refusal;
 - (h) where service is made pursuant to Article 252 Supplemental service and service of leaving at the location, the facts regarding such service; and
 - (i) the signature of the person effecting service.
3. Where the person responsible for effecting service made an attempt to effect service but was unable to do so, such person shall prepare and submit to the court a report of this fact together with the matters described in Items (a) through (d) and Item (i) of Paragraph 2.

255. Requirements for service by publication

1. Upon motion and with the court's approval, a court clerk may effect service by publication in any of the following situations:
 - (a) where the domicile, residence or other location to be served is unknown even after a reasonable attempt to investigate;
 - (b) where service could not be made pursuant to the provisions of **Article 252** Supplemental service and service of leaving at the location;
 - (c) where service in a foreign state could not be made pursuant to the provisions of **Article 253** Service in foreign state, or where service is found to be impossible even pursuant to such provisions; or
 - (d) where six months have elapsed since service was entrusted to the competent government agency of a foreign state pursuant to the provisions of **Article 253** Service in foreign state and the document establishing proof of service has yet to be delivered.
2. In the cases described in Paragraph 1, where the court finds service by publication to be necessary in order to avoid delay in the action, the court may order a court clerk to effect service by publication even in the absence of a motion.
3. In the cases described in Item (b) of Paragraph 1, the court clerk shall make efforts via an appropriate method to notify the party to be served that service by publication has been effected.

4. Following the initial service by publication on a party, subsequent services by publication on the same party shall be conducted on the court's own authority. However, this shall not apply to cases described in Item (c) of Paragraph 1.

256. Method of effecting service by publication

1. Service by publication shall be made by posting on the notice board of the court a notice stating that the court clerk has custody of the document to be served and is ready to deliver such document at any time to the person on whom service is to be made. However, service of a writ of summons by publication shall be made by posting the writ of summons on the notice board of the court.
2. Where service by publication is made pursuant to the provisions of Item (b) of Paragraph 1 of **Article 255 Requirements for service by publication**, the posting described in Paragraph 1 may be performed at either the location described in Paragraph 1 or a location deemed proper by the court.
3. The court may publish in the Official Gazette or in newspapers the fact that service by publication has been carried out. Where service is to be made in a foreign country, the court clerk may, in lieu of publication in the Official Gazette or newspapers, give notice of the fact that service by publication has been made.

257. Effective date of service by publication

1. Service by publication shall take effect two (2) weeks after the first day of the posting of notice pursuant to the provisions of **Article 256 Method of effecting service by publication**. However, service by publication made pursuant to the provisions of Paragraph 4 of **Article 255 Requirements for service by publication** shall take effect on the following day of the posting date.
2. Where service is to be made in a foreign state, the period described in Paragraph 1 for service by publication shall be six (6) weeks.

Chapter Nine VIEWING OF CASE RECORDS

258. Request for viewing of case records

1. A party or a third party who has established via a *prima facie* showing his/her interest in the case may request the court for viewing or copying the case records, or may request the delivery of authenticated copies, certified copies or excerpts thereof; or delivery of a certificate of matters related to the action with the payment of fees in such cases. Authenticated copies, certified copies or excerpts of case records shall indicate thereon that they comprise authenticated copies, certified copies or excerpts, and shall be signed by the court clerk.
2. The provisions of Paragraph 1 shall not apply to audio tapes, videotapes or other objects on which matters are recorded using an equivalent method, which are contained in the case record. Where a party or a third party who has established via a *prima facie* showing his/her interest in the case makes a request with regard to those objects, the court shall permit duplication thereof.
3. Where a request for viewing, copying or duplication would hinder maintenance of the case records or the court performance of its role,

such request shall not be allowed.

BOOK THREE APPEAL

Chapter One GENERAL PROVISIONS

259. Types of appeals

1. A decision that has yet to become final and binding may be appealed to a higher court based on the following categories:
 - (a) *Uttor* appeal against a judgment rendered by a court of first instance, or *Satuk* appeal if the parties have agreed as mentioned in Item (a), Paragraph 1 of **Article 260 Judgments subject to Uttor appeal**;
 - (b) *Satuk* appeal against a judgment rendered by an *Uttor* appellate court; or
 - (c) *Chomtoah Appeal* against a ruling.
2. A *Chomtoah Appeal* may be filed only where it is allowed by law.
3. A *Chomtoah Appeal* may not be brought against a ruling adjudicating a *Chomtoah Appeal*.

Chapter Two *UTTOR* APPEAL

260. Judgments subject to *Uttor* appeal

1. An *Uttor* appeal may be filed against a final judgment rendered by a court of the first instance, except in the following situations:
 - (a) where, following the rendering of final judgment, the parties have agreed not to make an *Uttor* appeal and have agreed to reserve the right to file a *Satuk* appeal; or
 - (b) where a final judgment has been rendered in a civil or commercial case and the value of the subject of the action does not exceed 5,000,000 riel.
2. The agreement described in Item (a), Paragraph 1 shall not be effective unless in writing.

261. Restrictions on *Uttor* appeal against a decision regarding imposition of litigation costs

An independent *Uttor* appeal may not be filed against a decision regarding the imposition of litigation costs.

262. Decisions subject to review by *Uttor* appellate court

Any and all decisions issued prior to a final judgment shall be subject to the review by the *Uttor* appellate court. However, this shall not apply to decisions against which no appeal may be filed, or to decisions against which a *Chomtoah Appeal* may be filed.

263. Waiver of right of *Uttor* appeal

1. The parties may waive their right to file an *Uttor* appeal.
2. The statement in accordance with Paragraph 1 that is made after the *Uttor* appeal has been filed, shall be made together with the discontinuance of the *Uttor* appeal.

264. Period for filing *Uttor* appeal

1. An *Uttor* appeal shall be filed within one month from the date that

service of the written judgment was received or the date that a ruling denying or dismissing, without prejudice, a motion to set aside the default judgment was notified. However, this shall not hinder the validity of an *Uttor* appeal filed before the commencement of such period.

2. The period described in Paragraph 1 shall not be extended.

265. Method of filing *Uttor* appeal

1. An *Uttor* appeal shall be filed by submitting a written *Uttor* appeal to the original court. In such case, the original court shall promptly send the written *Uttor* appeal and the record of the case for which the appeal was filed to the *Uttor* appellate court.
2. The written *Uttor* appeal shall have the following composition:
 - (a) the names and addresses of the parties and of their statutory agents; and
 - (b) an indication of the judgment of the court of first instance and a description stating that an *Uttor* appeal is being filed against such judgment.
3. If the written *Uttor* appeal does not include specific grounds for the reversal or amendment of the judgment of the court of first instance, the *Uttor* appellant must make efforts to submit to the *Uttor* appellate court a written document containing such grounds within thirty days of the filing of the *Uttor* appeal.

266. *Uttor* appellate court's right to examine written *Uttor* appeal

1. Where a written *Uttor* appeal contravenes the provisions of Paragraph 2 of **Article 265 Method of filing *Uttor* appeal**, the *Uttor* appellate court shall specify a reasonable period and order that such defect be corrected within said period. This shall also apply where the fee for filing an *Uttor* appeal required under Paragraph 4 of **Article 61 Filing fee** has not been paid.
2. In the case described in Paragraph 1, where the *Uttor* appellant fails to correct such defects, the court shall issue a ruling ordering that the written *Uttor* appeal be dismissed without prejudice.
3. A *Chomtoah Appeal* may be filed against the ruling described in Paragraph 2.

267. Service of *Uttor* appeal

1. A written *Uttor* appeal must be served on the *Uttor* appellee.
2. The provisions of **Article 266 *Uttor* appellate court's right to examine written *Uttor* appeal** shall apply *mutatis mutandis* to cases in which the written *Uttor* appeal cannot be served, including cases where costs necessary for the service of the written *Uttor* appeal were not paid in advance.

268. Dismissal of *Uttor* appeal without oral argument

Where an *Uttor* appeal is unlawful and the defects cannot be corrected, the *Uttor* appellate court may dismiss without prejudice the *Uttor* appeal via judgment in the absence of oral arguments.

269. Discontinuance of *Uttor* appeal

1. An *Uttor* appeal may be discontinued at any time prior to the Rendering of a final judgment by the *Uttor* appellate court.
2. The discontinuance of an *Uttor* appeal shall be made in writing or may be made orally on the date set for preparatory proceedings, oral

arguments or settlement.

3. A discontinued *Uttor* appeal or part thereof is deemed to have never been pending before the *Uttor* appellate court.
4. The provision of **Article 219 Formation of discontinuance of action** shall apply *mutatis mutandis* to the formation of the discontinuance of an *Uttor* appeal.

270. Incidental *Uttor* appeal

1. An *Uttor* appellee may file an incidental *Uttor* appeal at any time prior to the conclusion of oral arguments, even if his/her right to file an *Uttor* appeal is extinguished.
2. An incidental *Uttor* appeal shall lose its effect where the *Uttor* appeal is discontinued or dismissed without prejudice on the grounds that it is against the law. However, an incidental *Uttor* appeal that satisfies the requirements for an *Uttor* appeal shall be deemed an independent *Uttor* appeal.
3. Incidental *Uttor* appeals shall be governed by the provisions pertaining to *Uttor* appeals.

271. Declaration of provisional execution by the *Uttor* appellate court

1. The *Uttor* appellate court may, upon motion and via the issuance of a ruling, make a declaration of provisional execution with regard to only the part of the judgment of the court of first instance for which no appeal has been filed against.
2. No appeal may be filed against the *Uttor* appellate court's decision on provisional execution.

272. Scope of oral arguments

1. Oral arguments shall be conducted only to the extent that the parties demand to amend the judgment of the court of first instance.
2. The parties shall state the results of oral arguments made at the court of first instance.

273. *Mutatis mutandis* application of provisions regarding court proceedings at the court of first instance

Except where otherwise provided by law, the provisions of **BOOK II Proceedings at the Court of First Instance** shall apply *mutatis mutandis* to court proceedings in the *Uttor* appellate court. This shall not apply to the provisions of **Article 80 Designation of initial date of preparatory proceedings for oral arguments** and **Article 104 Attempt of settlement at preparatory proceedings** and of **Section V Default Judgment of Chapter V of BOOK II** and of **Chapter VII Special Provisions Regarding Small claims Cases of BOOK II**.

274. Effect of acts concerning the action at the court of first instance

1. Acts concerning the action conducted at the court of first instance shall be effective at the *Uttor* appellate court.
2. Preparatory proceedings conducted at the court of first instance shall be effective at the *Uttor* appellate court.

275. Restraint on assertion of lack of jurisdiction at the court of first instance

The parties shall not assert in the *Uttor* appellate court that the court of first instance lacked jurisdiction. This shall not apply to exclusive jurisdiction.

276. Filing a cross-action

1. A cross-action may be filed with an *Uttor* appeal court only when the counter-party consents thereto.
2. Where the counter-party presents argument on the merits of a cross-action without raising an objection, the counter-party shall be deemed to consent to the cross-action.

277. Denial of *Uttor* appeal

1. The *Uttor* appellate court shall deny the *Uttor* appeal when it finds that the judgment rendered by the court of first instance was appropriate.
2. Even where the reason stated in the judgment of the court of first instance is found inappropriate, the *Uttor* appellate court shall deny the *Uttor* appeal should it find that the main text of the judgment is appropriate on other grounds.

278. Scope of amendment of judgment of the court of first instance

The judgment of the court of first instance may be amended only to the extent sought by the *Uttor* appeal or the incidental *Uttor* appeal.

279. Reversal of judgment of court of first instance

1. The *Uttor* appellate court shall reverse the judgment of the court of first instance in the following cases:
 - (a) where the judgment was inappropriate; or
 - (b) where there is a serious violation of law in the proceedings of the court of first instance.
2. In the cases described in Paragraph 1, the *Uttor* appellate court shall adjudicate the action, except where the provisions of **Article 280 Remanding of case** and **Article 281 Transfer due to error involving exclusive jurisdiction in court of first instance** apply.

280. Remanding of case

1. The *Uttor* appellate court shall, in cases where it reverses the judgment of the court of first instance which dismissed without prejudice the action due to inconformity with law, remand the case to the court of first instance. This shall not apply to cases in which no further argument is required.
2. In addition to the cases described in the first sentence of Paragraph 1, the *Uttor* appellate court may, where it reverses the judgment of the court of first instance, remand the case to the court of first instance if further argument is required.
3. Where a case is remanded due to the court proceedings in the court of first instance violating the law, such court proceedings shall be deemed reversed.

281. Transfer due to error involving exclusive jurisdiction in court of first instance

Where the judgment of the court of first instance is reversed due to an error involving exclusive jurisdiction, the *Uttor* appellate court shall transfer, via a judgment, the case to the court having jurisdiction over the case.

282. Declaration of provisional execution on judgment of *Uttor* appeal

With regard to a judgment concerning a claim for the payment of money,

the *Uttor* appellate court shall, upon motion, declare that a provisional execution may be carried out without the provision of security, except where such a declaration is unnecessary. Should the *Uttor* appellate court find it appropriate, the court may require that security be provided as a condition for the provisional execution.

Chapter Three *SATUK* APPEAL

283. *Satuk* appellate court

1. A *Satuk* appeal may be filed with the Supreme Court against a final judgment of the *Uttor* appellate court. A *Satuk* appeal may also be filed against a final judgment of the *Uttor* appellate court acting as a court of first instance pursuant to the provisions of special law.
2. With regard to a final judgment of a court of first instance, should, after the rendering of judgment, both parties agree that the right to file a *Satuk* appeal will be reserved and that no *Uttor* appeal shall be filed, a *Satuk* appeal may be filed immediately with the Supreme Court.

284. General grounds for *Satuk* appeal

A *Satuk* appeal may be filed on the grounds of a violation of the Constitution, laws or regulations that influenced the judgment.

285. Absolute grounds for *Satuk* appeal

1. Grounds for a *Satuk* appeal shall be deemed to exist in the following circumstances:
 - (a) the adjudicating court was not composed according to law;
 - (b) a judge who was prohibited from taking part in the judgment by law, took part in the judgment;
 - (c) provisions pertaining to exclusive jurisdictions were violated;
 - (d) there is a lack of authority by the statutory agent or appointed representative, or a lack of an authority necessary for an agent to conduct an act concerning the action;
 - (e) provisions pertaining to public access to oral arguments were violated; or
 - (f) the judgment did not provide the grounds therefor, or the grounds provided are inconsistent.
2. The ground provided in Item (d) of Paragraph 1 shall not apply if ratification occurs in accordance with the provisions of Paragraph 2 of **Article 35 Measures for lack of capacity to sue or be sued** or Paragraph 3 of **Article 57 Measures for lack of authority of representation**.

286. *Mutatis mutandis* application of provisions regarding *Uttor* appeal

Except as otherwise provided by law, the provisions of **Chapter II of Book III** shall apply *mutatis mutandis* to *Satuk* appeals and the proceedings in the *Satuk* appellate court.

287. Method of filing *Satuk* appeal

A *Satuk* appeal shall be filed by submitting a written *Satuk* appeal to

the original court. In such case, the original court shall promptly send the written *Satuk* appeal and the case record to the *Satuk* appellate court.

288. Service of notification of receipt of *Satuk* appeal

1. Where a *Satuk* appeal is filed, the *Satuk* appellate court shall serve a notification of receipt of *Satuk* appeal on the parties, except where the *Satuk* appellate court will dismiss without prejudice the *Satuk* appeal.
2. The *Satuk* appellate court shall serve the written *Satuk* appeal on the *Satuk* appellee at the same time as the service of the notification of receipt of *Satuk* appeal pursuant to Paragraph 1.

289. Statement of grounds for *Satuk* appeal

1. Where the written *Satuk* appeal does not state the grounds for the *Satuk* appeal, the *Satuk* appellant shall submit a written statement of the grounds for *Satuk* appeal within 30 days after he/she received the service of notification of receipt of the *Satuk* appeal.
2. In cases where a *Satuk* appeal is filed on a ground set forth in **Article 284 General grounds for *Satuk* appeal**, the *Satuk* appellant shall state the ground for *Satuk* appeal indicating the provision of the Constitution, law or regulation claimed to be violated and the facts that give rise to the violation. In such case, if such grounds and facts are related to court proceedings, the facts involving the violation shall be described in the statement of grounds.
3. Where the *Satuk* appeal is filed on any of the grounds stated in **Article 285 Absolute grounds for *Satuk* appeal**, the *Satuk* appellant shall state the grounds of *Satuk* appeal by indicating the provision and relevant facts which fulfill the requirement.

290. Dismissal of *Satuk* appeal

In either of the cases below, the *Satuk* appellate court shall, via the issuance of a ruling, dismiss without prejudice the *Satuk* appeal:

- (a) where the *Satuk* appeal is in contravention of law and such defect cannot be corrected; or
- (b) where a written statement of grounds for *Satuk* appeal is not submitted in violation of the provisions of Paragraph 1 of **Article 289 Statement of grounds for *Satuk* appeal**, or the statement of grounds for *Satuk* appeal violates the provisions of Paragraphs 2 and 3 of **Article 289 Statement of grounds for *Satuk* appeal**.

291. Order to correct

1. Should the entire statement of grounds contained in a written *Satuk* appeal or in a written statement of the grounds for *Satuk* appeal submitted within the period of time set forth in Paragraph 1 of **Article 289 Statement of grounds for *Satuk* appeal** violate the provisions of Paragraphs 2 and 3 of **Article 289 Statement of grounds for *Satuk* appeal**; the *Satuk* appellate court shall, via the issuance of a ruling, specify a reasonable period and order that such defect be corrected within said period.
2. A ruling of dismissal of *Satuk* appeal pursuant to Item (b) of **Article 290 Dismissal of *Satuk* appeal** shall be issued where the *Satuk* appellant fails to correct such defect within the period established in accordance with Paragraph 1 of this Article.

292. Service of duplicate of statement of grounds for *Satuk* appeal

Where a *Satuk* appellate court does not issue a ruling dismissing a *Satuk* appeal pursuant to the provisions of **Article 290 Dismissal of *Satuk* appeal**, a duplicate of the written statement of grounds for *Satuk* appeal shall be served on the *Satuk* appellee. This shall not apply where the *Satuk* appellate court conducts trial and renders judgment without oral arguments and it finds such service unnecessary.

293. Order to submit a preparatory document

A *Satuk* appellate court may order the *Satuk* appellee to submit the initial preparatory document to the *Satuk* appeal within an appropriate period of time specified by the court.

294. Denial of *Satuk* appeal without oral argument

Where the *Satuk* appellate court finds from the written *Satuk* appeal, the written statement of grounds for *Satuk* appeal, the initial preparatory document submitted by the *Satuk* appellee or any other document that the *Satuk* appeal is groundless; it may deny the *Satuk* appeal via judgment without oral arguments.

295. Scope of review

The *Satuk* appellate court shall review a *Satuk* appeal only within the scope of the appeal, according to the grounds for the *Satuk* appeal.

296. Binding effect of facts determined in original judgment

1. The facts lawfully determined by the original judgment shall be binding on the *Satuk* appellate court.
2. Where a *Satuk* appeal is filed pursuant to Paragraph 2 of **Article 283 *Satuk* appellate court**, the *Satuk* appellate court shall not quash the original judgment on the grounds that the determination of facts in such judgment violated the Constitution, laws or regulations.

297. Exclusion from application with regard to matters to be reviewed on court's own authority

The provisions of **Article 295 Scope of review** and **Article 296 Binding effect of facts determined in original judgment** shall not apply to matters to be reviewed on the court's own authority.

298. Declaration of provisional execution

The *Satuk* appellate court may, upon motion, via the issuance of a ruling, make a declaration of provisional execution with regard to only the part of the original judgment for which no appeal has been filed against.

299. Quashing and remand

1. Where the grounds set forth in **Articles 284 General grounds for *Satuk* appeal** and **Article 285 Absolute grounds for *Satuk* appeal** exist, the *Satuk* appellate court shall quash the original judgment and, except in cases described in **Article 300 Quashing and de novo adjudication**, remand the case to the original court or transfer it to an equivalent court.
2. A court that receives the case via remand or transfer pursuant to Paragraph 1 shall make a decision based on the new oral arguments. In such case, factual and legal determinations on which the *Satuk* appellate court based its quashing shall be binding on the court to which the case is remanded or transferred.

3. Any judge that participated in the original judgment may not participate in the decision described in Paragraph 2.

300. Quashing and de novo adjudication

The *Satuk* appellate court shall adjudicate the case *de novo* in the following cases:

- (a) where the original judgment is quashed on the grounds that the Constitution, laws or regulation were incorrectly applied to the facts determined by the original court and the *Satuk* appellate court can adjudicate the case based on such facts; or
- (b) where the original judgment is quashed on the grounds that the case does not fall within the jurisdiction of the court.

Chapter Four *CHOMTOAH APPEAL*

301. Method for filing *Chomtoah Appeal*

1. A *Chomtoah Appeal* is filed through the submission of a written *Chomtoah Appeal* to the court of first instance. Upon such submission, the original court shall promptly send the written *Chomtoah Appeal* and case record to the *Chomtoah* appellate court.
2. Where a written *Chomtoah Appeal* does not provide specific grounds for reversal or amendment of the original ruling, the *Chomtoah* appellant shall attempt to submit a written document stating such grounds to the *Chomtoah* appellate court within two weeks of the filing of the *Chomtoah Appeal*.

302. Appeal against rulings issued by an authorized judge or commissioned judge

1. A party wishing to object to a ruling issued by an authorized judge or commissioned judge may file a motion for said objection with the court in which the case resides, provided that a *Chomtoah Appeal* against the ruling could be filed if such ruling were a ruling issued by said court. However, should the court of jurisdiction be the Supreme Court or an *Uttor* appellate Court, the objection may be filed with such court only if the filing of the *Chomtoah Appeal* for the ruling would have been possible if that ruling had been issued by a court of first instance.
2. A *Chomtoah Appeal* may be filed against a ruling on the motion described in Paragraph 1.

303. Period for *Chomtoah Appeal*

1. A *Chomtoah Appeal* must be filed within one week of the day of receipt of the notice of the ruling.
2. The period described in Paragraph 1 may not be extended.

304. *Mutatis mutandis* application of provisions pertaining to *Uttor* appeal or *Satuk* appeal

1. The provisions pertaining to *Uttor* appeals and the proceedings of the *Uttor* appellate court shall apply *mutatis mutandis* to a *Chomtoah Appeal* of a ruling issued by a court of first instance and to the proceedings of the *Chomtoah* appellate court to the extent that such provisions are consistent with the nature of such appeal or proceedings.

2. Provisions pertaining to *Satuk* appeals and the proceedings of the *Satuk* appellate court shall apply *mutatis mutandis* to a *Chomtoah Appeal* of a ruling issued by the *Uttor* appellate court acting as the court of first instance as well as to the proceedings in connection therewith to the extent that such provisions are consistent with nature of such appeal or proceedings.

305. Stay of effect of original ruling

1. A *Chomtoah Appeal* shall stay the effect of the original ruling.
2. The *Chomtoah* appellate court, or the court of issuance for the original ruling, may order a temporary stay on the compulsory execution of the original ruling, or otherwise order any other necessary disposition up until the issuance of the ruling on the *Chomtoah Appeal*.

306. Optional oral arguments; interrogation in lieu of oral arguments

1. A decision on a *Chomtoah Appeal* may be issued without oral arguments.
2. In cases where no oral arguments are to be conducted, the *Chomtoah* appellate court may question the *Chomtoah* appellant or any other person of interest.

BOOK FOUR RETRIAL

Chapter One retrial

307. Grounds for retrial (1)

1. Should any of the following grounds exist, an action for retrial may be filed against a final and binding judgement. This shall not apply where the party has already asserted such grounds in the course of an *Uttor* or *Satuk* appeal, or where the party was aware of such grounds and did not assert them:
 - (a) the adjudicating court was not composed in a manner in accordance with the law;
 - (b) a judge prohibited from taking part in the judgment by law took part in the judgment;
 - (c) the statutory agent lacked authority or lacked any other authority necessary to conduct an act concerning the action, or the appointed representative lacks such authority;
 - (d) a judge who participated in the judgment committed a crime in relation to the judge's duties in the case;
 - (e) the party was led to make an admission, or was hindered from presenting arguments and evidence that would have affected the judgment, due to a criminal act of another party;
 - (f) a document or other item used as evidence to support the judgment was forged or fraudulently altered;
 - (g) a false statement of a witness, expert witness or interpreter, or a false statement of a sworn party or statutory agent, was used as evidence to support the judgment;
 - (h) a civil or criminal judgment, or any other decision or administrative disposition on which the judgment was based, was changed by a subsequent decision or administrative disposition;
 - (i) significant matters that would have affected the judgment were left unadjudicated; or
 - (j) the judgment against which the action for retrial was filed conflicts with a judgment that had previously become final and binding.
2. Where any of the grounds described in Items (d) through (g) of Paragraph 1 exist, an action for retrial may be filed only if either of the following circumstances apply:
 - (a) the judgment of conviction or the decision imposing a civil fine has become final and binding with regard to a punishable act; or
 - (b) a final and binding judgment of conviction or a final and binding decision imposing a civil fine cannot be obtained due to reasons other than a lack of evidence.
3. An action for retrial against the judgment of the court of first instance may not be filed once a judgment on the merits has been rendered by the *Uttor* appellate court.

308. Grounds for retrial (2)

Where any of the grounds set forth in Paragraph 1 of **Article 307 Grounds for retrial (1)** exist with regard to a decision forming the basis of

a judgment, such grounds may serve as grounds for retrial against such judgment even if an independent method for filing an appeal against the decision is provided for.

309. Retrial court

1. A motion for retrial shall be under the exclusive jurisdiction of the court that rendered the judgment for which the retrial is being sought.
2. Motions for retrial against judgments rendered by multiple courts of differing levels in regard to the same case shall be collectively subject to the jurisdiction of the highest level court among said courts.
3. The judge who participated in the judgment against which the action for retrial was filed may not participate in the trial or decision regarding the action for retrial.

310. Court proceedings at retrial

The provisions pertaining to court proceedings for each court level shall apply *mutatis mutandis* to the court proceedings at retrial so much as they are consistent with the nature of the court proceedings at retrial.

311. Period for retrial

1. An motion for retrial shall be filed within thirty days of the date the party learned of the grounds for retrial after the judgment became final and binding. This shall not apply where the grounds for retrial are the grounds provided in Item (c) or Item (j) of Paragraph 1 of **Article 307 Grounds for retrial (1)**.
2. The period described in Paragraph 1 may not be extended.
3. An action for retrial may not be filed once five years have elapsed from either: (i) the date on which the judgment became final and binding; or (ii) where the grounds for retrial occurred after the judgment became final and binding, the date on which such grounds occurred. This shall not apply when the grounds for retrial are the grounds provided in Item (c) or Item (j) of Paragraph 1 of **Article 307 Grounds for retrial (1)**.

312. Matters to be stated in complaint for retrial

1. A motion for retrial shall contain the following information:
 - (a) the names and addresses of the parties, and the names and address of the statutory agents;
 - (b) an indication of the judgment against which the retrial is being sought, and a statement noting that a retrial is being sought in reference to such judgment; and
 - (c) the facts comprising the grounds for said retrial.
2. A copy of the judgment for which the retrial is sought shall be attached to the motion for retrial.

313. Change of grounds for retrial

A party who files a motion for retrial may change the grounds for retrial.

314. Dismissal of action for retrial and denial of retrial claim

1. Where a motion for retrial does not conform with the law, the court shall dismiss the motion via the issuance of a ruling.
2. Where there are no grounds for retrial, the court shall reject a motion for retrial via the issuance of a ruling.

3. Once a ruling described in Paragraph 2 has become final and binding, a subsequent motion for retrial based on the same grounds may not be filed.
4. A *Chomtoah Appeal* may be filed against a ruling issued pursuant to Paragraphs 1 or 2.

315. Ruling ordering the commencement of a retrial

1. Should grounds for retrial exist, the court shall issue a ruling ordering the commencement of a retrial.
2. The court shall question the counter-party before issuing the ruling set forth in Paragraph 1.
3. A *Chomtoah Appeal* may be filed against the ruling set forth in Paragraph 1.

316. Trial and decision on the merits

1. Once a ruling ordering the commencement of a retrial has become final and binding, the court shall proceed with the trial and provide a decision on the merits within the scope of the motion for retrial.
2. For situations described in Paragraph 1, the court shall, upon finding the judgment to be proper, deny the motion for retrial.
3. For all other cases aside from those described in Paragraph 2, the court shall reverse the judgment and render a new decision.

317. Motion for retrial concerning a ruling

1. A motion for retrial may be filed against a ruling that is subject to *Chomtoah Appeal* and has become final and binding.
2. The provisions set forth from **Articles 307 Grounds for retrial (1)** through **Article 316 Trial and decision on the merits** shall apply *mutatis mutandis* to the motion described in Paragraph 1.

318. Motion for retrial by third-party

1. Where the plaintiff and defendant collude in order to obtain a judgment prejudicial to the rights or interests of a third party, said third party may file a motion for retrial concerning that judgment once it has become final and binding.
2. In the motion for retrial described in Paragraph 1, the plaintiff and defendant of the original judgement shall be the co-respondents under such motion.
3. The provisions of **Article 41 Rules regarding proceedings in mandatory joint suit** shall apply *mutatis mutandis* to the persons deemed as co-respondents pursuant to Paragraph 2 and to the third party filing the motion for retrial pursuant to Paragraph 1.

BOOK FIVE DEMAND PROCEDURE

Chapter One DEMAND PROCEDURE

319. Requirements for a demand ruling

With regard to a claim for the payment of money, the court may, upon a motion by the obligee, issue a demand ruling. However, this shall apply only where such demand ruling can be served in Cambodia in a manner other than service by publication.

320. Motion seeking issuance of a demand ruling

1. A motion seeking the issuance of a demand ruling against each category of obligor described below shall be filed with the court of first instance having jurisdiction over the corresponding location for each category provided below:
 - (a) a natural person:
 - o the person's domicile, or should there be no domicile in Cambodia or such domicile is unknown, the location of the person's residence;
 - (b) a domestic juristic person:
 - o the juristic person's main office or place of business, or should there be no such office or place of business, the domicile of the entity's representative or other principal person in charge of the operations of said entity; and/or
 - (c) a foreign juristic person:
 - o the juristic person's main office or place of business within Cambodia, or should there be no such office or place of business within Cambodia, the domicile within Cambodia of the entity's representative or other principal person in charge of the operations of the entity.
2. A motion seeking the issuance of a demand ruling with regard to the following types of claims may also be filed with the court of first instance having jurisdiction over the corresponding location for each type provided below:
 - (a) a claim against a person having an office or place of business and pertaining to business transacted therein:
 - o the location which such office or place of business is located;
 - (b) a claim for the payment of money based on a bill or check, and any claim ancillary thereto:
 - o The payment location of said bill or check.
3. Jurisdictions described in Paragraphs 1 and 2 shall be exclusive.

321. *Mutatis mutandis* application of provisions pertaining to an action

Provisions pertaining to an action shall apply *mutatis mutandis* to a motion seeking issuance of a demand ruling except where such provisions are inconsistent with the nature of such motion.

322. Dismissal of motion

Should a motion seeking the issuance of a demand ruling violate the

provisions of **Article 319 Requirements for a demand ruling** or **Article 320 Motion seeking issuance of a demand ruling**, or where it is clear from the purport of the motion that there are no grounds for the claim, the court shall dismiss the motion via the issuance of a ruling. Should a demand ruling not be issued for any part of the claim, this rule shall apply to such part.

323. Issuance of demand ruling

1. A demand ruling shall be issued without the questioning of the obligor.
2. The obligor may file an objection to a demand ruling with the court that issued it.

324. Matters to be stated in demand ruling

1. A demand ruling shall state the following information:
 - (a) the names and addresses of the parties, and the name and address of the statutory agent;
 - (b) the contents of the ruling sought, and the facts necessary to adjudicate the claim; and
 - (c) a demand for the payment of a certain sum of money.
2. The demand ruling described in Paragraph 1 shall contain the statement that if no objection thereto is filed within two (2) weeks of the day the obligor receives service thereof, the court shall on its own authority issue a declaration of provisional execution.

325. Service of a demand ruling

1. The court shall notify the obligee of the demand ruling and serve the demand ruling on the obligor.
2. The demand ruling shall take effect when service thereof is made upon the obligor.
3. Should the demand ruling not be able to be served due to the obligor's domicile, location of residence, place of business or office, or the domicile of the obligor's representative or other principal person in charge of its operation not existing at the location provided by the obligee, the court shall notify the obligee of this fact. In such case, if the obligee fails to provide an alternative location at which service can be made within two (2) months of the obligee receiving such notification, the motion seeking the issuance of a demand ruling shall be dismissed.
4. The period specified in the latter sentence of Paragraph 3 may not be extended.

326. Dismissal of an objection to a demand ruling made prior to the declaration of provisional execution

1. Should the court find that an objection to a demand ruling that was filed prior to a declaration of provisional execution is unlawful, the court shall dismiss the objection via the issuance of a ruling.
2. A *Chomtoah Appeal* may be filed against the ruling described in Paragraph 1.

327. Effect of objection to demand ruling made prior to declaration of provisional execution

1. Where a valid objection to a demand ruling is filed prior to a declaration of provisional execution, the demand ruling shall lose its effect to the extent of the objection raised in reference

thereto.

2. In the case set forth in Paragraph 1, an action shall be deemed to have been filed with the court described in **Article 320 Motion seeking issuance of a demand ruling** at the time of filing for the motion seeking the issuance of a demand ruling regarding the claim for which the objection to demand ruling has been filed. In such case, the costs incurred for the demand procedure shall be deemed to be part of the litigation costs.

328. Declaration of provisional execution

1. Where an obligor fails to file an objection to a demand ruling within two (2) weeks of the date of receipt of service thereof, or where a ruling dismissing an objection to a demand ruling filed prior to a declaration of provisional execution becomes final and binding, the court shall add to the demand ruling a statement regarding the amount of costs incurred for the demand procedure, and shall make a declaration of provisional execution thereof.
2. The declaration of provisional execution shall be stated in the demand ruling served on the parties.
3. The provisions of **Article 197 Loss of effect of declaration of provisional execution and restitution** and of Paragraph 2 of **Article 325 Service of a demand ruling** apply *mutatis mutandis* to any declaration of provisional execution made pursuant to Paragraph 1.

329. Objection to demand ruling filed after declaration of provisional execution

1. An objection to a demand ruling subsequent to a declaration of provisional execution pursuant to Paragraph 2 of **Article 323 Issuance of demand ruling** shall be filed within two (2) weeks of the date service thereof.
2. The period specified in Paragraph 1 may not be extended.

330. Dismissal of objection to demand ruling filed after declaration of provisional execution

1. Should the court find that an objection to a demand ruling that was filed after a declaration of provisional execution to be unlawful, the court shall dismiss such objection via the issuance of a ruling.
2. A *Chomtoah Appeal* may be filed against the ruling described in Paragraph 1.

331. Transfer to an action upon objection to demand ruling filed after declaration of provisional execution

Where a valid objection to a demand ruling has been filed subsequent to a declaration of provisional execution, an action shall be deemed to have been filed with the court issuing the demand ruling at the time that said motion seeking the issuance of a demand ruling was filed regarding the claim for which the objection to the demand ruling had been filed. In such case, the costs incurred from the demand procedure shall be deemed to be part of the litigation costs.

332. Judgment for an action transferred after declaration of provisional execution

1. Where a judgment rendered in an action that has been transferred pursuant to the provisions of **Article 331 Transfer to an action upon objection to demand ruling filed after declaration of provisional**

execution conforms to the demand ruling, the court shall uphold such demand ruling with a declaration of provisional execution. This shall not apply where the demand procedure was conducted in violation of law.

2. Except where a demand ruling with a declaration of provisional execution is upheld pursuant to the provisions of Paragraph 1, a judgment rendered for the action that was transferred pursuant to the provisions of **Article 331 Transfer to an action upon objection to demand ruling filed after declaration of provisional execution** shall nullify the demand ruling with the issuing of provisional execution.

333. Effect of demand ruling

Should no objection be filed to a demand ruling with a declaration of provisional execution, or where a ruling dismissing an objection to a demand ruling with a declaration of provisional execution become final and binding, such demand ruling shall have the same effect as a final and binding judgment.

BOOK SIX COMPULSORY EXECUTION

Chapter Two GENERAL PROVISIONS

Section I. Tenor

334. Tenor

Except as otherwise provided by other laws, persons holding claims or security rights under the Civil Code or other laws shall be entitled to seek enforcement of such claims or rights through compulsory execution in accordance with the provisions of this Book.

335. *Mutatis mutandis* application of provisions of Book II through IV

Except as otherwise provided, the provisions of Book II through Book IV shall apply *mutatis mutandis* to the proceedings for compulsory execution.

Section II. Execution Organs

336. Execution organs

1. Execution shall be carried out by the execution organs on motion by a party.
2. The execution organ shall be either an Execution Court or a bailiff.
3. The court of first instance charged with compulsory execution in accordance with the provisions of this Book shall be the Execution Court.
4. A decision on an objection to any execution dispositions conducted by a bailiff shall be rendered by the court of first instance to which such bailiff belongs.

337. Decisions of Execution Courts

1. Decisions by the Execution Court shall be made via the issuance of a ruling.
2. When conducting execution dispositions, the Execution Court may question any interested person or other informant should the court finds it necessary.
3. Paragraphs 1 and 2 shall also apply to cases where the court of first instance renders a decision on an objection to any execution dispositions conducted by a bailiff.

338. Ensuring performance of duties by bailiffs

1. Bailiffs who encounter resistance to the performance of their duties may use force or request the assistance of police or other national organs responsible for the maintenance of public order in order to overcome such resistance.
2. Persons other than a bailiff who are performing duties relating to compulsory execution by order of an Execution Court, when encountering resistance to the performance of such duties, may request the assistance of a bailiff.

339. Attendants

Bailiffs or other persons performing duties relating to compulsory execution by order of an Execution Court shall have a commune official, police officer or other person deemed suitable as a witness, accompany them to such residence if said bailiff or other person upon entering a person's residence in the performance of their duties are unable to locate the householder, his/her agent, cohabiting relative, employee, or other dependent of reasonable discernment.

This requirement shall likewise apply for cases wherein a bailiff uses force or receives assistance from a police officer or other national organ responsible for the maintenance of public order in accordance with Article 338 Ensuring performance of duties by bailiffs paragraph 1.

340. Execution on holidays or at night

1. Bailiffs or other persons performing duties relating to compulsory execution by order of an Execution Court shall obtain permission from the court of first instance to which they belong, or the Execution Court issuing the order if they will enter the residence of a person and execute their duties on a Sunday or other holiday as defined by law or regulation, or between the hours of 6:00 p.m. of that day and 6:00 a.m. the following morning.
2. Bailiffs or other persons performing duties relating to compulsory execution by order of an Execution Court shall, upon performing their duties, present documents proving that they have obtained the permission set forth in paragraph 1.

341. Carrying of identification

Bailiffs or other persons performing duties relating to compulsory execution by order of an Execution Court shall, in performing their duties, carry a document proving their identity or status and shall present such document upon request by any interested person.

342. Request for assistance from government agencies

When necessary for compulsory execution, the Execution Court may request the assistance of competent government agencies.

343. Special rules governing *Chomtoah Appeals* in compulsory execution proceedings

1. Notwithstanding the provisions of **Article 305 Stay of effect of original ruling**, a *Chomtoah Appeal* under this Book shall not stay the effect of the original ruling.
2. Prior to a decision on the *Chomtoah Appeal* taking effect, the *Chomtoah Appeal* court may render the following rulings:
 - (a) ordering a stay of the original ruling's effect with or without the posting of security; or
 - (b) ordering a stay of the proceedings of compulsory execution, in whole or part, with or without the posting of security.

344. Objections to execution

1. An objection may be filed with the Execution Court against an execution disposition of the Execution Court for which a *Chomtoah Appeal* cannot be filed.
2. An objection to an execution disposition conducted by a bailiff,

or his/her delay or neglect relating thereto, may be filed with the court of first instance to which such bailiff belongs.

3. The provisions of Paragraph 2 of **Article 343 Special rules governing Chomtoah Appeals in compulsory execution proceedings** shall apply *mutatis mutandis* to cases where an objection to the execution has been filed.

345. Chomtoah Appeal against cancellation ruling

1. A *Chomtoah Appeal* may be filed against the rulings set forth below:
 - (a) a ruling by an Execution Court to terminate compulsory execution proceedings;
 - (b) a ruling by a court of first instance ordering a bailiff to terminate compulsory execution proceedings; and
 - (c) a ruling by a court of first instance dismissing an objection to a disposition for a bailiff to cancel the compulsory execution proceedings.
2. Rulings against which a *Chomtoah Appeals* may be filed under Paragraph 1 shall only come into effect when said rulings become final and binding.

346. Exclusive jurisdiction

Court jurisdictions described in this Book shall be exclusive.

Section III. Executing Parties and Agents

347. Naming of parties

In this Book, the party filing a motion for compulsory execution shall be referred to as the Creditor-in-Execution and the counter-party named in such motion shall be referred to as the Debtor-in-Execution.

348. Appointed representative for the proceedings of compulsory execution

1. Matters relating to the appointed representatives for the compulsory execution proceedings shall be governed by the following guidelines:
 - (a) Paragraph 1 of **Article 53 Qualification of appointed representative** shall govern procedures relating to actions or appeals provided in Book VI;
 - (b) except for cases provided for in Item (a), persons not otherwise qualified to be appointed representatives pursuant to Paragraph 1 of **Article 53 Qualification of appointed representative** shall be qualified to be appointed representatives through the permission of the Execution Court or court of first instance for the purpose of the compulsory execution proceedings carried out by said court; and
 - (c) any person whosoever may become an appointed representative in the course of procedures carried out by a bailiff.
2. An Execution Court or court of first instance may cancel the permission granted under Item (b) of Paragraph 1 at any time.

Section IV. Requirements for Compulsory Execution

349. Method for motions for compulsory execution

1. A motion for compulsory execution shall be in writing.
2. A written motion for compulsory execution shall contain the following information, and shall be accompanied by a true copy of an enforceable Title of Execution:
 - (a) the name and address of the Creditor-in-Execution and Debtor-in-Execution as well as the name and address of the statutory agent;
 - (b) an depiction of the Title of Execution;
 - (c) specification as to whether direct enforcement, substituted execution, or indirect enforcement is being sought;
 - (d) in the case of direct enforcement, a description of the property that will be subject to the compulsory execution and the method of compulsory execution that is being sought by the Creditor-in-Execution; and
 - (e) in the case of substituted execution or indirect enforcement, the contents of the decision that is being sought by the Creditor-in-Execution.
3. If the Creditor-in-Execution is seeking compulsory execution of only part of the claim that is noted in the Title of Execution ordering payment of money, this fact and the scope therefor shall be stated in the written motion for compulsory execution.

350. Title of Execution

1. Compulsory execution shall be carried out on the basis of the Title of Execution.
2. A title of execution refers to the following:
 - (a) a final and binding⁵ performance judgment⁶;
 - (b) a performance judgment with a declaration of provisional execution;
 - (c) a ruling ordering performance- this is limited to a final and binding ruling in cases where such ruling only takes effect upon becoming final and binding;
 - (d) a demand ruling with a declaration of provisional execution;
 - (e) a disposition by a court clerk described in Paragraph 1 of **Article 66 Procedures to fix amount of litigation costs**;
 - (f) a notarized document prepared by a notary concerning a claim for a fixed amount of money- this shall only apply to a notarized document that contains a statement that the debtor shall be immediately subject to compulsory execution;
 - (g) a judgment of a foreign court in respect to which an execution judgment that has become final and binding under **Article 352 Execution judgment of foreign court judgment** has been rendered;
 - (h) an arbitration award in respect to which an execution ruling has been rendered that has become final and binding under **Article 353 Execution ruling of arbitration awards**; and
 - (i) a protocol having the same effect as a final and binding judgment

⁵ *kakutei (hanketsu)* - i.e. a judgment that is conclusive in the sense that the period for normal appeal has expired, and therefore binding.

⁶ *kyufu hanketsu* i.e. a judgment ordering an action (often payment) to be taken or not taken, as opposed to a declaratory judgment or a formative judgment.

such as the protocol described in **Article 222 Effect of settlement protocol.**

351. Scope of persons who can be parties to compulsory execution

1. Compulsory execution may be carried out with the following persons as Creditor-in-Execution or Debtor-in-Execution:
 - (a) parties stated in the Title of Execution;
 - (b) if a party set forth in the Title of Execution has become a party on behalf of another person, such other person;
 - (c) successors in rights and/or duties of parties described in Items (a) and (b) after the establishment of the Title of Execution. This shall mean successors in rights and duties after an action becomes pending in the case of a Title of Executions described in Items (a), (b), (g) or (h) of Paragraph 2 of **Article 350 Title of Execution.**
2. Compulsory execution by Title of Execution described in Items (a) to (c), and (g) to (i) of Paragraph 2 of **Article 350 Title of Execution** may also be carried out against persons holding the property that is subject to the claim on behalf of persons listed in any Item of Paragraph 1.

352. Execution judgment of foreign court judgment

1. An execution judgment must be obtained from a Cambodian court in order to execute a judgment of a foreign court.
2. An action seeking an execution judgment with regard to a judgment of a foreign court shall fall within the jurisdiction of the court having jurisdiction over the location of the Debtor-in-Execution in accordance with **Article 8 Jurisdiction determined by domicile**, or, if no such court is able to be determined under said Article, the court of first instance having jurisdiction over the location in which the property that is subject to the claim, or property that can be attached, is located.
3. An action under Paragraph 2 shall be dismissed if the foreign court judgment is not proven to have become final and binding or does not fulfill each of the requirements set forth in **Article 199 Effect of final and binding judgment of foreign court.**
4. The court shall render an execution judgment without examining whether or not the foreign court judgment is appropriate.
5. The execution judgment shall declare that compulsory execution of the foreign court judgment to be permitted.

353. Execution ruling of arbitration awards

1. An execution ruling issued by a court shall be obtained in order to execute an arbitration award; whether domestic or foreign.
2. The party filing a motion for an execution ruling of an arbitration award shall submit the following documents:
 - (a) a duly authenticated original arbitration award or true copy thereof; and
 - (b) the original arbitration agreement or a true copy thereof.
3. The court may refuse to execute an arbitration award if the party against whom it is invoked has proved that:
 - (a) a party to the arbitration agreement was incapable, or said agreement is not valid under the governing law chosen by the

- parties or, in the absence of a choice of law, under the law of the country where the award was made;
- (b) the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings, or was otherwise unable to present his case;
 - (c) the award deals with a dispute not contemplated under or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration;
 - (d) the composition of the arbitral tribunal or the arbitral proceedings were not in accordance with the agreement of the parties or, in the absence of such agreement, was not in accordance with the law of the country where the arbitration took place; or
 - (e) the award has not yet become binding on the parties, or has been canceled or suspended by a court of the country in which such award was made or the country to which the law or regulation forming the basis of such award belongs.
- 4. A court may refuse to execute an award if the court finds that:
 - (a) the subject-matter of the dispute cannot be resolved through arbitration; or
 - (b) the recognition or execution of the award would be contrary to public order.
 - 5. A motion seeking an execution ruling with regard to a domestic arbitration award shall fall within the jurisdiction of the court having jurisdiction over the residence of the Debtor-in-Execution in accordance with **Article 8 Jurisdiction determined by domicile**, and, if no such court can be determined through said Article, then the court of first instance having jurisdiction over the location of the property that is subject to the claim, or of the property subject to attachment.
 - 6. The appellate courts shall have jurisdiction over a motion seeking an execution ruling with regard to a foreign arbitration award.
 - 7. Except for cases described in Paragraphs 3 and 4, the court shall issue an execution ruling without examining whether or not the arbitration award is appropriate.
 - 8. The execution ruling shall declare the compulsory execution of the arbitration award permissible.
 - 9. A *Chomtoah Appeal* may be filed against a ruling on a motion for an execution ruling.
 - 10. An execution ruling shall come into effect only when it has become final and binding.

354. Requirements for execution clause and organs granting such clause

- 1. Compulsory execution shall be carried out based on a true copy of the Title of Execution that contains an execution clause. The compulsory execution shall only be carried out based on a true copy in cases of compulsory execution whose Creditor-in-Execution and Debtor-in-Execution are named in the following Title of Executions:
 - (a) a final and binding judgment of a small claims case;
 - (b) a small claims case judgment with a declaration of provisional execution; and/or
 - (c) a demand ruling with a declaration of provisional execution.
- 2. The clerk of the court where the case record is kept shall, upon

motion, grant the execution clause. In the case of the Title of Execution described in Item (f) of Paragraph 2 of **Article 350 Title of Execution**, the notary who has custody over the original thereof shall grant the execution clause.

355. Motion for granting of execution clause

1. A motion for the granting of an execution clause shall be in writing and shall include the following information:
 - (a) the name and address of the Creditor-in-Execution and the Debtor-in-Execution, and the name and address of the statutory agent;
 - (b) an indication of the Title of Execution; and
 - (c) if granting an execution clause under **Article 356 Special execution clause** or **Article 358 Multiple granting of execution clauses** is being sought, a statement to this effect and the reason for such.
2. Should the Title of Execution be a decision which comes into effect only upon becoming final and binding, the Creditor-in-Execution shall, upon filing a motion for the granting of the execution clause, attach to such written motion a document proving that the decision has become final and binding. This shall not be required should the fact that the decision has become final and binding is clear from the records.
3. Paragraph 1 of this Article shall apply *mutatis mutandis* to cases where the Creditor-in-Execution requests the further issuance of true copy(s) of the Title of Execution set forth in the second sentence of Paragraph 1 of **Article 354 Requirements for execution clause and organs granting such clause**.

356. Special execution clause

1. If the claim right⁷ stated in the Title of Execution is subject to a condition precedent or to a conditional event⁸, the court clerk or notary may grant an execution clause only if the Creditor-in-Execution proves that such condition has been fulfilled or such event has occurred.
2. In order to carry out a compulsory execution with a person other than a party noted in the Title of Execution as the Creditor-in-Execution or the Debtor-in-Execution, the Creditor-in-Execution must obtain an execution clause that states such.
3. A court clerk or notary may grant the execution clause described in Paragraph 2 if it is clear that compulsory execution can be carried out with a person other than a party noted in the Title of Execution as the Creditor-in-Execution or Debtor-in-Execution, or if the Creditor-in-Execution provides documentary proof thereof.
4. A court clerk shall obtain the permission of the court to which he/she

⁷ *seikyuken* - i.e. a legal term which could also be translated as "cause of action."

⁸ *fukakuteikigen* - i.e. a time (limit) that is certain to be arrived at but at an uncertain time, such as the time of somebody's death

belongs for the granting of an execution clause under Paragraph 1 or Paragraph 3 of this Article.

357. Matters to be stated in an execution clause

1. An execution clause is granted by inscribing the following items at the end of the true copy of the Title of Execution:
 - (a) the person who is entitled to seek implementation of the compulsory execution on the basis of the Title of Execution and the counter-party;
 - (b) if the execution clause has been granted under **Article 356 Special execution clause**, a stipulation to this fact;
 - (c) if the execution clause is granted in respect to a part of the claim right, the scope of compulsory execution that is permitted; and
 - (d) if the execution clause is granted in accordance with the provisions of Paragraph 1 of **Article 358 Multiple granting of execution clauses**, a stipulation to this fact.
2. The court clerk or notary shall date and sign the execution clause.

358. Multiple granting of execution clauses

1. Further granting of an execution clause may be allowed only in cases where more than one true copy of the Title of Execution with the execution clause is required in order to fully satisfy the claim right, or if the true copy has been destroyed.
2. Where a court clerk or notary has granted an execution clause pursuant to Paragraph 1, he/she shall notify the Debtor-in-Execution of this fact as well as the reasons for such and the number of authenticated copies of the Title of Execution with the execution clause.
3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to cases where the further issuance of the true copy(s) of the Title of Execution described in the second sentence of Paragraph 1 of **Article 354 Requirements for execution clause and organs granting such clause** is made.

359. Recording on original Title of Execution

1. The court clerk or notary shall record the items set forth below on the original Title of Execution after granting the execution clause:
 - (a) the fact that the execution clause has been granted, the date of granting, and the number of authenticated copies with the execution clause;
 - (b) if the grant has been made in respect to part of the claim right, the scope of compulsory execution that is permitted; and
 - (c) where an execution clause has been granted under Paragraph 2 of **Article 356 Special execution clause**, this fact together with the names of the Creditor-in-Execution and the Debtor-in-Execution.
2. Where a court clerk has issued a further true copy of a Title of Execution described in the second sentence of Paragraph 1 of **Article 354 Requirements for execution clause and organs granting such clause**, he/she shall record this fact, the date of issuance and the number of issued true copies of the original of such judgment or

demand ruling.

360. Service of Title of Execution

Compulsory execution may commence only once a true copy or certified copy of the Title of Execution or the decision that is to become the Title of Execution, upon becoming final and binding, has been served on the Debtor-in-Execution. Where the execution clause has been granted in accordance with **Article 356 Special execution clause**, the true copies of the execution clause and documents submitted by the Creditor-in-Execution under said Article shall be served on the Debtor-in-Execution in advance.

361. Requirements for commencement of execution to be examined by executing organ

1. Where the time period for performance of the claim right noted in the Title of Execution is fixed⁹, the executing organ may commence compulsory execution only after such time has elapsed.
2. With regard to compulsory execution based on a Title of Execution that requires the posting of security as a condition for implementation of the compulsory execution, the executing organ may commence compulsory execution only once the Creditor-in-Execution submits documentary proof of the posting of such security.
3. If performance by the Debtor-in-Execution is to be exchanged for counter performance by the Creditor-in-Execution, the executing organ may commence compulsory execution only once the Creditor-in-Execution has proven that such counter performance has been carried out or tendered.

362. Filing of an objection to the granting of execution clause

1. An objection may be filed against the disposition taken in respect to a motion for the granting of an execution clause with the court to which the court clerk belongs in cases where such disposition was made by a court clerk, or with the court of first instance that has jurisdiction over the location of the notary's office in cases where such disposition was made by a notary.
2. A decision on the objection under Paragraph 1 shall be made via the issuance of a ruling.
3. Paragraphs 1 and 2 shall apply *mutatis mutandis* to cases where the further issuance of true copy(s) of the Title of Execution described in the second sentence of Paragraph 1 of **Article 354 Requirements for execution clause and organs granting such clause** is requested.

Section V. Actions Relating to Execution

363. Motion objecting to claim

1. A Debtor-in-Execution who objects to the existence or contents of a claim right noted in a Title of Execution may file a motion objecting to the claim and seeking prohibition of the compulsory

⁹ *kakutei kigen*, literally "a time certain (for performance)", as opposed to "*fukakutei kigen*" – see footnote to Paragraph 1 of Article 7 (Special Execution Clause).

execution based on said Title of Execution. This shall not apply to titles of execution listed in Item (b) or Item (d) of Paragraph 2 of **Article 350 Title of Execution** that have yet to become final and binding.

2. The grounds for an objection to a final and binding judgment shall be limited to grounds arising after the conclusion of oral arguments.
3. Motions under Paragraph 1 shall be subject to the jurisdiction of the court described for each of the following Items in accordance with the corresponding type of Title of Execution, as set forth below:

a.	Title of Execution listed in Items (a) to (d), or (g) to (i) of Paragraph 2 of Article 350 Title of Execution	The court of first instance for the proceedings in question.
B.	Title of Execution listed in Item (e) of Paragraph 2 of Article 350 Title of Execution	The court to which the court clerk who made the disposition described in said Item belongs.
c.	Title of Execution listed in Items (f) of Paragraph 2 of Article 350 Title of Execution	The court having jurisdiction over the residence of the defendant in accordance with Article 8 Jurisdiction determined by domicile , and, if no such court can be determined through said Article, the court of first instance having jurisdiction over the location of the property that is subject to the claim, or the property that can be attached

364. Motion objecting to grant of execution clause

1. Where a special execution clause has been granted under **Article 356 Special execution clause**, a Debtor-in-Execution having an objection concerning whether a condition precedent has been fulfilled, whether a certain event has occurred, or whether a compulsory execution can take place with a person other than a party named in the Title of Execution as Creditor-in-Execution or Debtor-in-Execution; may file an action objecting to the granting of such execution clause in order to seek a stay on compulsory execution based on a true copy of the Title of Execution containing such execution clause.
2. The provisions of Paragraph 3 of **Article 363 Motion objecting to claim** shall apply *mutatis mutandis* to the actions described in Paragraph 1 of this Article.

365. A third party objection action

1. A third party having ownership over property that is subject to compulsory execution, or having other rights to prevent the transfer or delivery of said property, may file a motion of third party

- objection seeking as stay on the compulsory execution.
2. A motion under Paragraph 1 shall fall within the jurisdiction of the Execution Court in cases where the execution court is to be the executing organ, or the jurisdiction of the court of first instance to which the bailiff belongs if the bailiff is to be the executing organ.

Section VI. Stay and Cancellation of Execution

366. Decision of stay of execution upon filing of an action for retrial

1. For following cases, upon motion, the court may order a temporary stay of compulsory execution with or without the posting of security:
 - (a) Where a motion for retrial has been filed, the circumstances asserted as grounds for the retrial appear to have legal merit, and there is *prima facie* showing of the factual issues;
 - (b) Where a *Satuk* appeal has been filed against a judgment with a declaration of provisional execution, there is *prima facie* showing of circumstances that could be grounds for quashing the original judgment;
 - (c) Where an *Uttor* appeal has been filed against a judgment with a declaration of provisional execution or where an objection to a demand ruling has been filed against a demand ruling with a declaration of provisional execution, there is *prima facie* showing of circumstances that could be grounds for reversal or amendment of the original judgment or demand ruling; or
 - (d) Where a motion to set aside a judgment has been filed against a default judgment with a declaration of provisional execution, there is *prima facie* showing of circumstances that should be grounds for reversal or amendment of the default judgment.
2. For the cases described in the Items of Paragraph 1, the court may, upon motion, order a temporary stay of compulsory execution as well as order a cancellation of any execution disposition already taken with the posting of security.
3. Where a *Satuk* appeal or *Uttor* appeal has been filed against a judgment with a declaration of provisional execution, if the case records still exist at the original court, that court shall decide on the motions set forth in Paragraphs 1 and 2.

367. Decision of stay of execution upon the filing of a motion objecting to a claim

1. Where a motion objecting to a claim, a motion objecting to the granting of an execution clause or a third party objection motion has been filed, and the asserted grounds of objection have a *prima facie* showing, the court in charge of such motion may, upon motion, order a temporary stay of compulsory execution with or without the posting of security until the decision under **Article 368 Decision of stay of execution in final judgment** has been reached via a final judgment¹⁰.

¹⁰ *shuukyoku hanketsu* - final, as opposed to interim, at a certain level - i.e. final in every sense except that it is still subject to appeal, as opposed to an interim judgment (*chuukan hanketsu*)

2. For the cases described in Paragraph 1, the court in charge of the action may, upon motion, order a temporary stay of compulsory execution, and also order a cancellation of any execution disposition already taken with the posting of security.
3. Should a motion objecting to a claim or a motion objecting to the granting of an execution clause be filed, if the grounds for the objection have a *prima facie* showing without existing urgent circumstances, the Execution Court or the court of first instance to which the bailiff belongs may, upon motion, issue a ruling as set forth in Paragraphs 1 or 2 fixing a period for the submission of a true copy of the decision described in Paragraph 1. This decision may also be made prior to the filing of an action described in Paragraph 1.
4. If the period fixed under Paragraph 3 expires, or a decision described in Paragraphs 1 or 2 is submitted to the Execution Court or to the bailiff, the ruling under Paragraph 3 shall lose effect.

368. Decision of stay of execution in final judgment

In rendering a final judgment concerning a motion objecting to a claim, a motion objecting to the granting of an execution clause or a motion of third party objection; the court in charge of the motion may issue an order for the disposition described in Paragraphs 1 or 2 of **Article 367 Decision of stay of execution upon the filing of a motion objecting to a claim** or may reverse, amend or grant the decision already made under said Paragraphs. This decision shall come into effect with the rendering of final judgment concerning any motions described in this Article.

369. Decision for stay of execution upon filing of an objection to the granting of an execution clause

Where an objection to the granting of an execution clause, among others, has been filed, should it be found necessary, the court may, upon motion, order a stay of compulsory execution with or without the posting of security until a decision on the objection is been rendered.

370. Stay and cancellation of compulsory execution

1. Upon the submission of any of the documents listed below, the Execution Court or bailiff shall stay the compulsory execution and shall nullify any execution dispositions that have already been executed:
 - (a) a true copy of the decision that evidences an order canceling a Title of Execution other than a notarized document described in Item (f) of Paragraph 2 of **Article 350 Title of Execution** or a true copy of a decision that evidences an order nullifying a declaration of provisional execution;
 - (b) a true copy of a decision that evidences an order prohibiting compulsory execution;
 - (c) a true copy of a final and binding judgment declaring that a settlement or acknowledgment in connection with a Title of Execution has ceased to have effect;
 - (d) a true copy of a protocol or other document prepared by a court clerk certifying that the Title of Execution noted in Items (b) through (e) of Paragraph 2 of **Article 350 Title of Execution** has lost its effect on account of a discontinuance of the motion

- or for other reasons;
- (e) a true copy of a protocol for settlement in court that states that compulsory execution will not be carried out or that a motion thereof will be withdrawn;
 - (f) a document proving the posting of security for the purpose of exemption from compulsory execution; or
 - (g) a true copy of a decision that states an order for a stay of compulsory execution and cancellation of the execution disposition.
2. Upon submission of any of the documents set forth below, the Execution Court or bailiff shall stay the compulsory execution. In the case of Item (b), the effect of the stay shall be limited to a 2-month duration:
- (a) a true copy of a decision that evidences an order for a temporary stay of compulsory execution; or
 - (b) a document stating that the Creditor-in-Execution has received payment or has consented to a deferral of payment subsequent to the establishment of the Title of Execution.
3. **Article 345 Chomtoah Appeal against cancellation ruling** shall not apply to cases of nullification of an execution disposition under Paragraph 1 of this Article.

Section VII. Execution Costs and Viewing of Execution Record

371. Definition of Execution Costs and Procedural Costs

The following terms shall have the meanings respectively set forth for each term:

- (a) Execution Costs: filing fees described in **Article 372 Filing fees**, costs other than filing fees described in **Article 373 Costs other than filing fees** and party's costs described in **Article 374 Party's Costs**; and
- (b) Procedural Costs: among Execution Costs described in Item (a), those that are of common benefit.

372. Filing fees

- 1. Upon filing a motion for compulsory execution with the Execution Court, the Creditor-in-Execution shall pay a fee of 10,000 riel to the court.
- 2. Upon filing a motion for compulsory execution with the bailiff, the Creditor-in-Execution shall pay fees of the amount set forth in other laws or regulations.

373. Costs other than filing fees

The Creditor-in-Execution shall pay as costs any such amounts that are determined by the court to be necessary for procedural actions in the course of the compulsory execution, such as the serving of documents.

374. Party's Costs

Costs that the court finds to be necessary for implementation of compulsory execution apart from those described in **Article 372 Filing fees** and **Article 373 Costs other than filing fees** shall be referred hereto

as Party's Costs.

375. Payment in advance

1. Upon filing a motion for compulsory execution, the moving party shall pay in advance the amount set by the court as the necessary costs for the compulsory execution proceedings. This shall apply to cases in which the advance payment was insufficient and the Execution Court orders additional advance payment to fill said deficiency.
2. Should the moving party fail to pay such costs in advance, the Execution Court may dismiss the motion for compulsory execution or cancel the proceedings for compulsory execution.
3. A *Chomtoah Appeal* may be filed for a ruling to dismiss a motion under Paragraph 2.

376. Allocation of Execution Costs

1. Execution Costs shall be borne by the Debtor-in-Execution.
2. In the case of compulsory execution for a claim whose subject is payment of money, Execution Costs may be collected simultaneous with such execution proceedings in the absence of a Title of Execution.

377. Posting of security

In order to post security in accordance with the provisions of this Book, a party shall make a deposit to the court that ordered such posting or the Execution Court comprised of monies or negotiable instruments that have been deemed to be appropriate by said court.

378. Viewing of records of compulsory execution case

1. A person who has established via a *prima facie* showing his/her interest in the compulsory execution conducted by the Execution Court may request the court to permit a viewing or copying of the case records, or may request delivery of true copies, certified copies or excerpts thereof, or delivery of a certificate of matters related to the case, with the payment of any fees.
2. A person who has established via a *prima facie* showing his/her interest in the compulsory execution conducted by a bailiff may request the bailiff to permit a viewing or copying of the case records, or may request delivery of true copies, certified copies or excerpts thereof, or delivery of a certificate of matters related to the case, with the payment of any fees.

Chapter Two Compulsory Execution of Claims Having the Subject of Monetary Payment

Section I. Property Subject to Attachment

379. Principles

Except where otherwise provided in this or any other law, attachment may be carried out against any tangible and intangible property belonging to the Debtor-in-Execution.

380. Movables immune to attachment

The following Movables may not be attached:

- (a) clothing, bedding, furniture, kitchen appliances and house fixtures that are indispensable to the daily living of the Debtor-in-Execution and his/her dependents, and cohabitating relatives;¹¹
- (b) foodstuffs and fuel necessary for two months livelihood of the Debtor-in-Execution and his/herhis/her dependents, and cohabitating relatives relatives;
- (c) money or objects granted to the Debtor-in-Execution from the central or local government as livelihood support, educational support, medical support or other support to protect his/her life;
- (d) apart from the money described in Item (c), money up to 1,000,000 riel;
- (e) tools, fertilizer, domestic livestock and their feed that are necessary for a person engaging in agriculture to work predominantly by their own labor, together with seed and other agricultural products indispensable to the continuing of such work to the next harvest;
- (f) nets and other fishing equipment, feed, fry and other fishery products that are necessary for a person engaged in fisheries to catch or raise fish predominantly by their own labor;
- (g) tools and other objects that are necessary for the work of technicians, artisans, laborers and/or other persons engaged in an occupation or business predominantly using their own intellectual or physical abilities; excluding objects that are possessed for the purpose of sale or lease;
- (h) images of buddha, sacred books and other indispensable objects directly used in worship or religious ceremonies;
- (i) genealogical records, diaries, trade books and similar objects indispensable to the Debtor-in-Execution;
- (j) objects commemorating awards or other honors granted to the Debtor-in-Execution or his/her relatives;
- (k) books, documents and other equipment necessary for the Debtor-in-Execution or his/her relatives living together under the same roof to study at a school or other educational institution;
- (l) an invention or work that has not yet been revealed to the public;
- (m) an artificial hand, leg, ear, eye or other prosthetic body part of the Debtor-in-Execution or his/her relatives living together under the same roof, and objects necessary for the care of any sickness of the Debtor-in-Execution or his/her cohabitating relatives; and
- (n) firefighting equipment, apparatus, escape apparatus and other equipment required to be installed by law or regulation for prevention of disaster and security of buildings and other structures.

¹¹ Literally "the debtor and any cohabiting relative having a common livelihood with the debtor"

381. Change of scope of Movables immune to attachment

1. The court of first instance to which the bailiff belongs may, upon motion, order the cancellation, in whole or a part, of an attachment carried out by a bailiff, or permit the attachment of any Movables listed in **Article 380 Movables immune to attachment**, taking into account the living conditions and other circumstances of the Debtor-in-Execution and the Creditor-in-Execution.
2. Where there has been a change of the circumstances, the court of first instance to which the bailiff belongs may, upon motion, permit the attachment of Movables for which attachment has been cancelled under Paragraph 1, or order the cancellation, in whole or part, of the attachment under said Paragraph.
3. Where a motion has been filed seeking a ruling of cancellation for an attachment under Paragraphs 1 or 2, the court of first instance to which the bailiff belongs may order a stay of compulsory execution with or without the posting of security until such ruling comes into effect.
4. A *Chomtoah Appeal* may be filed for rulings dismissing motions under Paragraphs 1 or 2, or rulings permitting attachment under said provisions.

382. Claims immune from attachment

1. Salaries, wages, and other claims in the nature of compensation for work may be attachable only within the limits set forth below in respect to the balance remaining after deduction of taxes and social insurance premiums from the amount receivable by the Debtor-in-Execution on the date of payment of such compensation:
 - (a) an initial amount of up to 200,000 riel per month shall be immune from attachment;
 - (b) no more than one quarter of the amount exceeding 200,000 riel up to 600,000 riel per month may be attached;
 - (c) no more than one third of the amount exceeding 600,000 riel up to 2,000,000 riel per month may be attached;
 - (d) no more than one half of the amount exceeding 2,000,000 riel up to 4,00,000 riel per month may be attached;
 - (e) no more than two thirds of the amount exceeding 4,000,000 riel up to 6,00,000 riel per month may be attached; and
 - (f) the entirety of the amount exceeding 6,000,000 riel per month may be attached.
2. Claims to receive livelihood support, educational support, medical support or other support having the objective of protecting the life of the Debtor-in-Execution may not be attached.

383. Change of scope of claims immune from attachment

1. The Execution Court may, upon motion, cancel the whole or a part of the attachment ruling, or issue the attachment ruling for the claims prohibited from attachment under **Article 380 Movables immune to attachment**, in whole or part, taking into account the living conditions and other circumstances of the Debtor-in-Execution and the Creditor-in-Execution.
2. Where there has been a change in circumstances, the Execution Court may, upon motion, attach the claims over which the attachment ruling

had been cancelled under Paragraph 1, or cancel the attachment ruling under said Paragraph in whole or part.

3. Where a motion is filed under Paragraphs 1 or 2, the Execution Court may order a stay on payment or other performance by a third party debtor described in **Article 402 Meaning of execution of claims and Execution Court**, with or without the posting of security, until such ruling comes into effect.
4. A *Chomtoah Appeal* may be filed against a ruling dismissing the motion for cancellation of the attachment ruling under Paragraphs 1 or 2.

Section II. Execution Against Movables

384. Commencement of execution against Movables

1. A motion for compulsory execution against Movables shall be filed with a bailiff belonging to the court of the first instance with jurisdiction over the location of the property subject to the execution.
2. In addition to the information listed in Paragraph 2 of **Article 349 Method for motions for compulsory execution**, the location(s) of the Movables to be attached shall be stated in the written motion for execution against Movables.
3. Compulsory execution against Movables shall commence with the bailiff's attaching of the property subject to the execution.
4. Movables as set forth in this Book include natural fruits that have not yet been separated from the land if it is certain that said fruits can be harvested within one month of the execution.
5. Should the bailiff meet the Debtor-in-Execution at the site of attachment, he shall request such debtor to make a voluntary payment prior to the commencing of the attachment.
6. In the course of carrying out execution against the Movables, the bailiff may receive payment of the claim and Execution Costs on behalf of the Creditor-in-Execution.

385. Attachment of Movables in the possession of the Debtor-in-Execution

1. Attachment of Movables in the possession of the Debtor-in-Execution shall be executed through the bailiff's taking possession of the Movables thereof.
2. At the time of attachment under Paragraph 1, the bailiff may enter the residence or other locations occupied by the Debtor-in-Execution and search for the Movables to be attached. In such circumstances the bailiff may take the necessary disposition to open locked doors, safes, and/or other containers.
3. In selecting Movables for attachment, the bailiff shall take into account the interests of the Debtor-in-Execution to the extent that this does not harm the interests of the Creditor-in-Execution.
4. A bailiff may have a Debtor-in-Execution maintain the Movables that the bailiff has attached should the bailiff find it appropriate. In such case, the attachment shall be valid provided that a seal or other indication of attachment has been affixed to the attached Movables.
5. Where a bailiff allows the Debtor-in-Execution to maintain the

attached Movables under Paragraph 4, the bailiff may permit the Debtor-in-Execution to use such attached Movables if the bailiff finds it appropriate.

6. Should the bailiff find it necessary, he/she may take custody of the Movables that the Debtor-in-Execution was allowed to maintain under the provisions of Paragraph 4, or may cancel the permission under the provisions of Paragraph 5. The provisions of Paragraph 2 shall apply *mutatis mutandis* to cases wherein the bailiff takes custody of the Movables that the Debtor-in-Execution was allowed to maintain.

386. Attachment of Movables in the possession of persons other than the Debtor-in-Execution

The provisions of Paragraphs 1, 3, 4, 5, and 6 of **Article 385 Attachment of Movables in the possession of the Debtor-in-Execution** shall apply *mutatis mutandis* to cases where the Movables are in the possession of the Creditor-in-Execution, or where the Movables are in the possession of a third party with such third party not refusing to present the Movables.

387. Special rules relating to registered automobiles

1. Where an attached automobile or motorcycle has been entered into a register, the bailiff shall entrust the relevant government agency to enter the facts of said attachment into such register.
2. The attachment of automobiles or motorcycles described in Paragraph 1 shall come into effect upon the entry of such attachment in said register.
3. The provisions of Paragraph 1 and 2 shall apply in the same manner to Movables other than automobiles and motorcycles that are required to be registered.

388. Consolidation of cases

1. Should a further motion for execution against the Movables is filed against a Debtor-in-Execution, for whom attachment has already been carried out at the same location, the bailiff shall attach the Movables which have not yet been attached, and, should there be no remaining Movables to be attached, shall declare that fact and shall consolidate any later Movables execution cases with the previous Movables execution case. The same shall apply if a motion for execution against the Movables is filed against a Debtor-in-Execution for which provisional execution has already been carried out at the same location.
2. Should two Movable execution cases be consolidated in accordance with the first sentence of Paragraph 1, the Movables attached in the latter case shall be deemed to have been attached in the previous case at the time of consolidation of the cases, and the motion in the latter case shall come into effect as a demand for distribution. Should the creditor in the previous case withdraw the motion for execution against the Movables or if the proceedings commenced by that motion be stayed or cancelled, the Movables attached in the previous case shall be deemed to have been attached in the latter case at the time of the consolidation of the cases.
3. Should a provisional attachment execution case and a case of

execution against Movables be consolidated in accordance with the second sentence of Paragraph 1, the Movables attached provisionally in the provisional attachment case shall be deemed to have been attached in the case of execution against Movables at the time of consolidation, and the motion in the provisional attachment execution case shall have the effect of a demand for distribution. Should the creditor in the case for execution against Movables withdraw the motion for execution against the Movables, or should the proceedings commenced by that motion be cancelled, the Movables attached in the case for execution against Movables shall be deemed to have been attached in the provisional attachment execution case at the time of consolidation of the cases.

4. Upon consolidation of the cases, the bailiff shall notify the Creditor-in-Execution, the creditor in provisional attachment execution, and the Debtor-in-Execution of the details of such consolidation.

389. Effect scope of attachment

The effects of attachment shall extend to all natural products coming out of the attached Movables.

390. Ruling ordering the delivery of attached Movables

1. Where the attached Movables have come into the possession of a third party, the court of first instance to which the bailiff belongs may, upon motion by the Creditor-in-Execution, order via the issuing of a ruling that such third party deliver the Movables to the bailiff.
2. The motion referred to in Paragraph 1 shall be filed no later than one week after the Creditor-in-Execution becomes aware of the attached Movables being in the possession of a third party.
3. A *Chomtoah Appeal* may be filed against a ruling on the motion referred to in Paragraph 1.
4. A ruling pursuant to the provisions of Paragraph 1 shall not be enforced once two weeks have passed since the moving party was notified of the ruling.
5. A ruling pursuant to the provisions of Paragraph 1 may be enforced even prior to service upon the third party who is in possession of the attached Movables.
6. The costs arising from the ruling pursuant to the provisions of Paragraph 1 shall be deemed to be costs of common benefit of the proceedings for compulsory execution against such Movables.

391. Prohibition of excessive attachment

1. Attachment of Movables shall not be carried out in excess of that which is necessary for payment of the claims of the Creditor-in-Execution and the Execution Costs.
2. Should it become clear after attachment that the limit described in Paragraph 1 was exceeded, the bailiff shall cancel the attachment to the extent of such excess.

392. Prohibition of attachments with no prospects for producing a residual

1. The bailiff shall not carry out an attachment if there is no prospect

of achieving a surplus after payment of the Procedural Costs from the proceeds of sale of the Movables to be attached.

2. The bailiff shall suspend the attachment if there are no prospects for achieving a surplus after paying any claims that have priority over the claims of the Creditor-in-Execution and the Procedural Costs from the proceeds of sale of the attached Movables.

393. Cancellation of attachment where there is no prospect of sale

In cases where the bailiff has attempted, by appropriate means, to sell the attached Movables but was unable to sell said property, and there are no prospects for sale in the future, the bailiff may void the attachment over such Movables.

394. Demand for distribution by holder of statutory lien

A person holding a statutory lien or pledge may demand distribution by submitting a document evidencing such right.

395. Method of sale

1. The bailiff shall carry out the sale of the attached Movables via auction or tender.
2. Notwithstanding the provisions of Paragraph 1, the bailiff may, with permission obtained from the court of first instance to which he/she belongs, sell the attached Movables by a method other than auction or tender, or have a person other than the bailiff sell said property, should the bailiff find it appropriate in consideration of the type, quantity, or other characteristic of the Movables.
3. The bailiff shall post notice of the Movables to be sold and the method of sale on the notice board.
4. The Debtor-in-Execution may not offer to purchase the Movables.
5. Once the bailiff approves a purchase, the purchaser shall pay the price forthwith.
6. Should the Movables be resold due to a purchaser's failure to pay the purchase price, such previous purchaser may not make an additional offer to purchase the Movables.
7. Where the bailiff has attached Movables of high value, the bailiff shall select a valuator and have the Movables valued.

396. Maintenance of order on the sale premises

Where a person engages in or causes others to engage in activities preventing other people from offering to purchase, colluding to reduce the sales price improperly or otherwise preventing the proper implementation of the sale, the bailiff may restrict such person's entry onto the sale premises, eject such person therefrom or disallow such person from making an offer for purchase.

397. Sale during stay of execution

1. Should a document listed in Item (a) or (b) of Paragraph 2 of **Article 370 Stay and cancellation of compulsory execution** have been submitted, the bailiff may sell the attached Movables only if there is risk of severe depreciation in the price of the attached Movables, or if an incommensurate cost is required to store such Movables.
2. The bailiff shall deposit the proceeds of the sale of the attached

Movables with the court of first instance to which he/she belongs in accordance with Paragraph 1.

398. Scope of creditors entitled to distribution

The creditors listed below shall be entitled to distribution:

- (a) the Creditor-in-Execution;
- (b) with regard to the proceeds of sale, the creditors who have made a demand for distribution prior to the bailiff receiving such proceeds; and
- (c) with regard to attached money, the creditors who have a demand for distribution prior to the attachment of such money.

399. Execution of distribution by the bailiff

1. Should there be only one creditor or two or more creditors with the proceeds of the sale and attached money being sufficient to pay all the claims of each creditor and the Execution Costs, the bailiff shall execute the distribution of such money to the creditors and shall deliver any residuals to the Debtor-in-Execution.
2. Except for cases described in Paragraph 1, if the bailiff has received the proceeds of the sale or has attached money, the bailiff shall set a date for a meeting concerning the distribution of the proceeds of the sale or the attached money within two weeks thereof, and shall notify each of the creditors of the date, time, and place of said meeting. If consensus is reached among the creditors, the bailiff shall then execute the distribution of said proceeds pursuant to said consensus.
3. Where a document listed in Items (a) through (g) of Paragraph 1 of **Article 370 Stay and cancellation of compulsory execution** is submitted after the purchaser has paid the sales price, the bailiff shall, if there are creditors entitled to distribution other than the Creditor-in-Execution, execute the distribution on behalf of said creditors.
4. Even if a document listed in Items (a) or (b) of Paragraph 2 of **Article 370 Stay and cancellation of compulsory execution** has been submitted subsequent to the purchaser having paid the sales price, the bailiff shall execute the distribution.
5. Claims with a finite duration that have yet to come due shall be deemed to have come due for the purpose of the distribution.

400. Deposit by bailiff with the court

1. Where a claim of a creditor entitled to distribution carried out under Paragraphs 1 or 2 of **Article 399 Execution of distribution by the bailiff** is found to have any of the following characteristics, the bailiff shall deposit with the court of first instance to which he/she belongs the amount of the distribution for such claim, and shall draft a report of such where:
 - (a) The claim is subject to a condition precedent or conditional event;
 - (b) The claim is a claim of a provisional attachment by a creditor;
 - (c) A document listed in Item (a) of Paragraph 2 of **Article 370 Stay and cancellation of compulsory execution** has been submitted; or
 - (d) A true copy of a decision that temporarily prohibits the

execution of a statutory lien or pledge relating to the claim has been submitted.

2. The bailiff shall make a deposit with the court of first instance to which he/she belongs of the amount of the distribution for a creditor who is not present to receive such distribution.

401. Report to court of first instance

Should a consensus not be reached under Paragraph 2 of **Article 399 Execution of distribution by the bailiff**, the bailiff shall report such circumstances to the court of first instance to which he/she belongs.

Section III. Execution Against Claims and Other Property Rights

402. Meaning of execution of claims and Execution Court

1. An Execution of Claim refers to an execution of a claim for which the subject is the payment of money or the delivery of Movables.
2. The debtor of the claim to be attached shall be referred to as a Third Party Debtor.
3. The court of first instance having jurisdiction over the residence of the Debtor-in-Execution described in **Article 8 Jurisdiction determined by domicile**, or, should there be no such location, the court of first instance having jurisdiction over the place of the Third Party Debtor described in **Article 8 Jurisdiction determined by domicile** shall be the Execution Court having jurisdiction over the execution of claim.
4. Should a further attachment ruling be issued with respect to an attached claim, the Execution Court may transfer the case to another Execution Court if that other Execution Court issued the attachment ruling.

403. Attachment ruling

1. A motion for the execution of a claim shall be filed at the Execution Court.
2. In addition to the matters listed in each Item of Paragraph 2 of **Article 349 Method for motions for compulsory execution**, the written motion for the execution of claim shall indicate the Third Party Debtor.
3. Where the motion is seeking execution against only part of the claim, the Creditor-in-Execution shall clearly specify the scope of said execution in the written motion thereto.
4. Execution of claim commences via the attachment ruling issued by the Execution Court.
5. In the attachment ruling the Execution Court shall prohibit the Debtor-in-Execution from collecting or otherwise disposing of the claim and shall prohibit the Third Party Debtor from paying to the Debtor-in-Execution.
6. The attachment ruling shall be issued without questioning the Debtor-in-Execution or the Third Party Debtor.
7. The attachment ruling shall be served on the Debtor-in-Execution and the Third Party Debtor.
8. Attachment shall come into effect upon service of the attachment ruling on the Third Party Debtor.
9. Once the attachment ruling has been served on the

Debtor-in-Execution and the Third Party Debtor, the bailiff shall notify the Creditor-in-Execution of said fact and of the date of service.

10. Once an attachment ruling over a claim secured by a registered hypothec or other security right has come into effect, the court clerk shall, upon motion by the Creditor-in-Execution, entrust the relevant government agency with conducting a registration stating that such claim has been attached.
11. A *Chomtoah Appeal* may be filed for the decision on a motion for an attachment ruling.

404. Scope of attachment

1. The Execution Court may issue an attachment ruling in respect to the entirety of the claim to be attached.
2. Should the value of the attached claim(s) exceed the total amount of the Creditor-in-Execution's claim and the Execution Costs, the Execution Court shall not attach any further claims.
3. Should a portion of a claim have been attached or should provisional attachment have been executed against a portion of a claim, if an attachment ruling that exceeds the remaining portion of the claim has been issued, the effect of each attachment or provisional attachment shall extend to the whole of the claim. The same shall apply if the whole of a claim has been attached or subjected to provisional attachment execution with another subsequent attachment ruling being issued in respect to a portion of such claim.

405. Notice to Third Party Debtor to give statement

1. Upon motion by the Creditor-in-Execution, the Execution Court shall notify and demand at the time of service of the attachment ruling that the Third Party Debtor provide a statement within two weeks of the date of service as to the following matters:
 - (a) whether the attached claim exists or not, and if so, the type, amount and details thereof;
 - (b) whether the Third Party Debtor intends to make payment or not, the scope of payment or the reasons for not paying;
 - (c) if there are any persons having rights with priority over those of the Creditor-in-Execution in respect to the claim in question, an indication of such person, and of the type and scope of such priority rights; and/or
 - (d) whether there has been any attachment or provisional attachment execution by other creditors.
2. Should the Third Party Debtor intentionally or negligently fail to make a statement or make a false statement, he/she will be liable to compensate for any damages suffered thereby.

406. Delivery of claim certificate

1. Should a certificate exist for the attached claim, the Debtor-in-Execution shall deliver such certificate to the Creditor-in-Execution.
2. Based on an attachment ruling, the Creditor-in-Execution may have the certificate referred to in paragraph 1 delivered via the method of compulsory execution for delivery of Movables as described in **Article 525 Compulsory execution of delivery of Movables.**

407. Attachment of continuing payments

The effect of attachment over salaries or other claims to be paid continuously shall extend to payments to be received after the attachment and up to the total amount of the Creditor-in-Execution's claim and Execution Costs.

408. Notice of withdrawal of motion

1. Should a motion for execution of a claim have been withdrawn, the court clerk shall give notice of this fact to the Third Party Debtor who has been served with the attachment ruling.
2. Should a ruling to cancel the proceedings for execution of a claim have been issued, the court clerk shall give notice of this fact to the Third Party Debtor who has been served with the attachment rulings.

409. Demand for distribution

1. Any creditor who holds a true copy of an enforceable Title of Execution or who has evidenced, through documents, that he/she holds a statutory lien may demand distribution.
2. Upon a demand for distribution described in Paragraph 1, the Execution Court shall serve written notice thereof on the Third Party Debtors.
3. A *Chomtoah Appeal* may be filed against a ruling to dismiss a demand for distribution.

410. Collection of claims for which the subject is the payment of money

1. Once a creditor has attached a claim whose subject is the payment of money, such creditor may collect said claim after a week has passed from the day on which the attachment ruling was served on the Debtor-in-Execution. Payment in excess of the total amount of the Creditor-in-Execution's claim and the execution costs may not be collected.
2. Once the Creditor-in-Execution has received payment from the Third Party Debtor, the claim and execution costs shall be deemed to have been paid to the extent of such payments being received.
3. Where the Creditor-in-Execution receives payment under Paragraph 2, it shall report this fact immediately to the Execution Court.
4. The Creditor-in-Execution shall be liable to compensate the Debtor-in-Execution for any damages arising from the failure of the Creditor-in-Execution to exercise the attached claim.

411. Court deposit by Third Party Debtor

1. The Third Party Debtor may make a deposit with the Execution Court of money in the attached amount, or the whole amount of the claim for a claim whose subject is a monetary payment.
2. Under the below situations, the Third Party Debtor shall make a court deposit of money in the amount described below with the Execution Court:

(a)	Should an attachment ruling or provisional attachment ruling have been issued in excess of the portion of the	The full amount of the claim.
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	claim that has not been attached, and this ruling has been served by the time that the Third Party Debtor receives the written complaint of a motion set forth in Article 412 Collection actions Paragraph 1; or	
(b)	Should the Third Party Debtor have been served with a written notice that a demand for distribution has been made.	The portion of the claim that has been attached.

3. Should the Third Party Debtor have made a court deposit as set forth in Paragraphs 1 or 2, the Third Party Debtor shall give notice of the circumstances of such to the Execution Court.

412. Collection actions

1. Where a Creditor-in-Execution has filed an action against the Third Party Debtor demanding payment under an attached claim, the court in charge of such action may, upon motion by the Third Party Debtor and by the issuing of a ruling, order the other creditors that had attached such claim at the time of service of the complaint to participate in such action as co-plaintiffs.
2. The effect of the judgment in the action described in Paragraph 1 shall extend to creditors in execution who have been ordered to participate in the action under such Paragraph even should they have not actually participated as such.
3. For actions under Paragraph 1 against a Third Party Debtor who is subject to a court deposit duty under Paragraph 2 of **Article 411 Court deposit by Third Party Debtor**, should the plaintiff's claim be granted, the court in charge of the action shall issue an order in the main text of its judgment stating that a monetary payment of the claimed amount shall be made by way of court deposit.

413. Ruling ordering sale

1. Where the attached claim is subject to a condition precedent or conditional event, or where the attached claim is difficult to collect due to such claim being subject to counter-performance or for any other reason; the Execution Court, upon motion by the Creditor-in-Execution, may issue a ruling ordering the bailiff to sell the claim in a manner prescribed by the court and to submit the proceeds of such sale to the Execution Court.
2. In issuing a ruling under Paragraph 1, the Execution Court shall interrogate the Debtor-in-Execution. This shall not apply where the Debtor-in-Execution is out of the country or his/her address is unknown.
3. The Execution Court shall not issue an order described in Paragraph 1 if there are no prospects for a residual after applying the proceeds of sale to payment of the claims having priority over the claims of the Creditor-in-Execution and procedural costs.
4. A *Chomtoah Appeal* may be filed for a ruling on a motion under Paragraph 1.
5. A ruling on a motion under Paragraph 1 shall have no effect unless it has become final and binding.
6. When issuing a ruling under Paragraph 1, the Execution Court may, should the court find it necessary, select a valuator and order the valuation of the claim.
7. The bailiff shall not sell the claim unless the sales price is of

sufficient value to achieve a residual after satisfying the claims having priority over the claims of the Creditor-in-Execution and procedural costs.

8. The Debtor-in-Execution is not permitted to make an offer for purchase under the sale of Paragraph 1.
9. When the attached claim is sold, the bailiff shall, in lieu of the Debtor-in-Execution, notify the Third Party Debtor of the claim assignment by delivering an instrument bearing a certification date.
10. Where the sale of a claim described in Paragraph 10 of Article 403 Attachment ruling has been completed under Paragraph 1 of this Article; the court shall, on motion by the purchaser who acquired said claim, entrust a relevant government agent with registering the transfer of the hypothec or other security right for the benefit of the purchaser, and entrust such relevant government agency to strike out the registration that had been carried out under Paragraph 10 of **Article 403 Attachment ruling**.

414. Execution of attachment ruling over the claim right to demand delivery of Movables

1. Upon one week having passed from the service of the attachment ruling on the Debtor-in-Execution, the creditor who has attached the claim right to demand delivery of Movables may demand the Third Party Debtor to deliver such Movables to the bailiff who has received the motion from the Creditor-in-Execution.
2. When the bailiff has received the Movables, he/she shall sell them in accordance with the sales proceedings set forth in the Movables execution and submit the sales proceeds to the Execution Court.

415. Scope of creditors entitled to distribution

Creditors entitled to distribution shall be those who have carried out attachment or provisional attachment execution or made a demand for distribution no later than the events set forth below:

- (a) the time at which the Third Party Debtor made the court deposit under Paragraph 1 or 2 of **Article 411 Court deposit by Third Party Debtor**;
- (b) the time at which the petition for collection has been served on the Third Party Debtor;
- (c) the time at which the proceeds of the sale pursuant to a ruling ordering sale are delivered to the bailiff; or
- (d) the time at which Movables are delivered to the bailiff in a case of attachment over a claim right to demand delivery of Movables.

416. Compulsory execution against other property rights

Except where specifically provided for otherwise, compulsory execution against rights of property other than immovables, vessels, movables and claims shall follow the method of execution against claims.

Section IV. Execution against Immovables

Sub-section I. Subject of execution against immovables, execution organs, method of execution, method of attachment, means of public notice, and preservative dispositions

417. Subject and method of compulsory execution against immovables

1. For this section, the term Immovable shall refer to land, registered buildings, jointly held shares of such, registered perpetual leases and usufructs, and jointly held shares in those foregoing rights.
2. Execution against immovables shall be effected using the compulsory sale method.
3. A written motion for execution against the immovables shall be attached to a true copy of an enforceable Title of Execution, together with:
 - (a) a certified copy of the register in the case of a registered immovable, and, if a person other than the Debtor-in-Execution is documented as an owner in the register, a document proving the immovable is owned by the Debtor-in-Execution; or
 - (b) in the case of land that is unregistered, a document proving that the land is owned by the Debtor-in-Execution.

418. Execution Court

The courts described below shall have jurisdiction as the Execution Court in respect to compulsory execution against immovables:

- (a) where the subject of the execution is land or a registered building, the court of first instance having jurisdiction over the location of such immovable; and
- (b) where the subject of the execution is a jointly held share of land or a registered building, a registered perpetual lease or usufruct, or a jointly held share in the foregoing rights, the court having jurisdiction over the place of registration of such rights.

419. Ruling for commencement of compulsory sale

1. In order to commence compulsory sale proceedings, the Execution Court shall issue a ruling for commencement of compulsory sale and declare in such ruling that the immovable be attached for the benefit of the Creditor-in-Execution.
2. The ruling for commencement under Paragraph 1 shall be served on the Debtor-in-Execution.
3. A *Chomtoah Appeal* may be filed against a ruling dismissing the motion for compulsory execution against immovables.

420. Entrustment for registration of attachment

1. Upon the issuance of a ruling for commencement of compulsory sale, the court clerk shall immediately entrust a competent government agency to register the attachment under such ruling.
2. Upon registration of the attachment pursuant to the entrustment under paragraph 1, the competent government agency shall send

a certified copy of the registration to the court clerk.

421. Effect of attachment

1. The effect of attachment over immovables shall extend to objects that are attached to the immovables and form a single form with the immovable together with any accessories and accessory rights thereof.
2. The effect of the attachment shall arise from the serving of the ruling for commencement of compulsory sale on the Debtor-in-Execution. However, should the registration of the attachment be carried out prior to service of the ruling for the commencement of compulsory sale, said effect shall arise at the time of such registration.
3. Attachment shall not preclude the Debtor-in-Execution from using the property in a normal manner and profiting from the immovable. This shall not apply where a claim whose subject is payment of rents for the immovable is attached pursuant to **Article 516 Attachment of claim for rents of immovable**, or where preservative disposition has been ordered pursuant to **Article 429 Preservative dispositions**.

422. Final date for demands for distribution and its alteration

1. For cases where attachment has come into effect through a ruling for commencement of compulsory sale, except in cases where a double ruling for commencement of compulsory sale has been issued under **Article 424 Double ruling for commencement** Paragraph 1, the Execution Court shall determine the final date for demands for distribution, taking into consideration the period required to prepare the specifications of the property.
2. Once the final date for demands for distribution has been set, the Execution Court shall give public notice of the fact that a ruling for commencement has been issued and of the final date for demands for distribution, and shall demand the following persons to report to the Execution Court by said final date concerning whether they have a claim, the grounds of such claim and the amount thereof:
 - (a) creditors who have made provisional attachments registered prior to the registration of the attachment based on the first ruling for commencement of compulsory sale concerning the immovable;
 - (b) creditors holding a real security right that was registered prior to the registration of the attachment based on the first ruling for commencement of compulsory sale concerning the immovable; and
 - (c) government agencies having jurisdiction over taxes or other public imposts.
3. For cases provided for in Paragraph 2, the Execution Court shall demand the persons stated in Paragraph 2 to complete the following actions:
 - (a) to report whether or not the person has an intention to enforce the real security right by the final date for demands for distribution; and

- (b) in cases where the person has the intention to enforce such real security rights, to file a motion to enforce such real security right by the final date for demands for distribution.
4. If no ruling permitting sale has been issued within 3 months of the final date for demands for distribution, the Execution Court may change such final date.
 5. Should the final date for demands for distribution have been changed in accordance with Paragraph 4, the Execution Court shall give public notice of such change.

423. Duty to report the claim by the person demanded

1. Persons listed in Items (a), (b) or (c) of Paragraph 2 of **Article 422 Final date for demands for distribution and its alteration** who have received a demanded under said paragraph or Paragraph 3 of said article, shall report the matters specified in such demand prior to the final date for demands for distribution.
2. Should there be a change in the principal amount of the claim reported under Paragraph 1, the person who made such report shall also report said change.
3. Should a person required to report under Paragraphs 1 or 2 intentionally or negligently fail to make such report or make a false report, he/she shall be liable for any damages suffered thereby.

424. Double ruling for commencement

1. Where an additional motion for compulsory execution is filed in respect to an immovable over which a ruling for commencement of compulsory sale has been issued, the Execution Court shall, if such motion is granted, issue another ruling for commencement of compulsory sale. For such case, the court shall send a notice of this fact to the Creditor-in-Execution under the earlier ruling for commencement.
2. Should the motion for compulsory sale in the earlier ruling for commencement be withdrawn or the proceedings based on the earlier ruling for commencement be cancelled, the Execution Court shall continue the proceedings on the basis of the later ruling for commencement of compulsory sale.
3. In the case set forth in paragraph 2, should the later ruling for commencement of compulsory sale be based on a motion that was filed after the final date for demands for distribution, the Execution Court shall determine a new final date for demands for distribution. In such case, the demand described in the provisions of Paragraph 2 of **Article 422 Final date for demands for distribution and its alteration** shall not be necessary for persons who have already made the report under Paragraph 1 of **Article 423 Duty to report the claim by the person demanded**.
4. Should the compulsory sale proceedings based on the earlier ruling for commencement be stayed, the Execution Court shall give notice of this fact to the Creditor-in-Execution under the later ruling for commencement. In such case, the Execution Court may,

upon motion, issue a ruling that the proceedings shall continue based on the later ruling for commencement for which a motion was filed by the final date for demands for distribution. This shall not apply in cases for which there would be a change in a matter described in Paragraphs 1 to 3 of **Article 431 Rights which remain in existence and rights that are extinguished upon sale** if the compulsory sale under the earlier ruling for commencement was cancelled.

5. Should a ruling be issued in accordance with Paragraph 4, the Execution Court shall give notice of this fact to the Debtor-in-Execution.
6. A *Chomtoah Appeal* may be filed against a ruling dismissing a motion under Paragraph 4.

425. Double ruling for commencement in the enforcement of real security right and execution against an immovable

Paragraphs 1 to 3 of **Article 424 Double ruling for commencement** shall apply *mutatis mutandis* to cases where a motion for compulsory execution is filed in respect to an immovable over which a ruling for commencement of compulsory sale has already been issued as an enforcement of a real security right.

426. Demand for distribution

1. Persons listed below are entitled to make a demand for distribution:
 - (a) creditors holding a true copy of a Title of Execution that is enforceable by compulsory execution in accordance with Paragraph 1 of **Article 354 Requirements for execution clause and organs granting such clause**. This shall not apply to creditors holding real security rights that will remain in existence even after the sale of the immovable pursuant to Paragraph 1 of **Article 431 Rights which remain in existence and rights that are extinguished upon sale**;
 - (b) creditors who have registered provisional attachment after the registration of attachment based on a ruling for commencement of compulsory sale; and
 - (c) creditors who prove through documentation that they hold a general statutory lien.
2. A demand for distribution shall be in writing and state the grounds and the amount of the claim, including interest and other ancillary claims.
3. Should a demand for distribution be made, the Execution Court shall notify the Creditor-in-Execution and the Debtor-in-Execution of this fact.
4. A *Chomtoah Appeal* may be filed against a ruling dismissing a demand for distribution.

427. Cancellation of compulsory sale proceedings for reasons including destruction or loss of the immovable

The Execution Court shall cancel the compulsory sale proceedings in

the event of destruction or loss of the immovable, or other circumstances that prevent the transfer of the immovable via sale are found.

428. Entrustment for striking out of registration of attachment

1. Should a motion for compulsory sale be withdrawn, or a ruling canceling compulsory sale proceedings come into effect, the court clerk shall entrust the relevant government agency with striking out the registration of the attachment based on the ruling for commencement.
2. The expenses arising from the entrustment under Paragraph 1 shall be borne by the Creditor-in-Execution who withdraws the motion or by the Creditor-in-Execution who receives the ruling of cancellation.

429. Preservative dispositions

1. Should the debtor or a possessor of an immovable be committing or be likely to commit an act that will severely reduce the value of the immovable or render the sale or delivery of the immovable difficult; then upon motion by the Creditor-in-Execution or highest bidder or purchaser, the Execution Court may, via ruling, prohibit such person who is committing or is likely to commit such act from committing such act, order such person to carry out a certain act or order the possession of the immovable to be transferred to the custody of the bailiff with or without the posting of security. Such order of the custody by the bailiff may only be allowed should the possessor of the immovable be unable to assert his/her right to possession against the purchaser.
2. Should the Execution Court wish to issue a ruling under Paragraph 1 against a possessor other than the Debtor-in-Execution, the Execution Court shall question such possessor. This shall not apply for expedited cases.
3. Should circumstances change, the Execution Court, upon motion, may cancel or amend the ruling under Paragraph 1.
4. A *Chomtoah Appeal* may be filed against a ruling on the motion filed under Paragraphs 1 or 3.
5. A ruling issued under Paragraph 1 is enforceable even before it is served on the counter-party.
6. The costs incurred from the motion or ruling under Paragraph 1 shall be deemed to be a common benefit cost in the compulsory sale proceedings against such immovable.

Sub-section II. Conditions of sale

430. Valuation

1. The Execution Court shall appoint a valuator and order a valuation of the immovable based on examination of its configuration, possession, and other existent characteristics.
2. The valuator shall obtain permission from the Execution Court

in order to request the assistance of the bailiff pursuant to Paragraph 2 of **Article 338 Ensuring performance of duties by bailiffs.**

3. When carrying out an examination for the purpose of valuation, the valuator may enter the immovable, question the Debtor-in-Execution or other third party in possession thereof, and request such persons to present documents.
4. A bailiff whose assistance has been requested by a valuator under Paragraph 2 of **Article 338 Ensuring performance of duties by bailiffs** may take actions necessary to open locked doors in situations where the valuator enters the immovable pursuant to Paragraph 3.
5. The valuator shall report in writing to the Execution Court the results of the examination of the immovable and its valuation.

431. Rights which remain in existence and rights that are extinguished upon sale

1. Real security rights, usufructuary real rights and leases on the immovables that can be asserted against attachment by the Creditor-in-Execution shall remain in existence after said sale.
2. Rights on the immovable other than those described in Paragraph 1 shall be extinguished upon sale.
3. Attachment over immovables, execution of provisional attachment over immovables or execution of provisional disposition over immovables that cannot be asserted against the Creditor-in-Execution or the provisional attachment creditor shall lapse upon sale.
4. Should an interested party give notice by the time of the fixing of the minimum sale price that an agreement deviating from the provisions of Paragraphs 1 and 2 has been made, such agreement shall govern the change of such right for the immovable by sale.

432. Determination of minimum sale price

1. The Execution Court shall fix the minimum sale price on the basis of the valuation of the valuator.
2. The Execution Court may, if it finds it necessary, change the minimum sale price.

433. Sale of immovables collectively

The Execution Court may decide to conduct a sale of a number of immovables collectively should the court find it reasonable to have one purchaser purchase them together in light of the mutual use of such immovables, even if such immovables have different creditors in execution or debtors in execution. However, should the whole of the claims of the creditors in execution and Execution Costs be likely to be satisfied by the minimum sale price of a portion of the immovables against which a ruling for commencement of a compulsory sale has been issued on the basis of a single motion, this provision shall apply only with the consent of the Debtor-in-Execution.

434. Specifications of property

1. The Execution Court shall prepare the specifications of the property and maintain a copy of such specifications together with the valuator's valuation report and make such available for public viewing at the court. The specifications of the property shall state the following information:
 - (a) a description of the immovable; and
 - (b) the rights pertaining to the immovable that will remain in existence after sale in accordance with **Article 431 Rights which remain in existence and rights that are extinguished upon sale** Paragraph 1 and the execution of provisional disposition that will not lapse upon sale.
2. The Execution Court may, if it finds necessary in order to prepare the specifications provided in the Paragraph 1, order a bailiff to examine the configuration, possession, structure of a building should the building exist on the land or be the subject of execution and any other existing circumstances, and order the bailiff to report the results of said examination in writing.
3. A bailiff shall possess the same authority as that of a valuator provided in Paragraph 3 of **Article 430 Valuation** when examining the existing circumstances of the immovable according to the order provided in Paragraph 2. The bailiff may take necessary actions to open locked doors.

435. Measures to be taken if a surplus are unlikely

1. Should the Execution Court find that a surplus is unlikely to arise after paying the Procedural Costs out of the minimum sale price of the immovable, the court shall notify the Creditor-in-Execution of this fact.
2. The Execution Court shall cancel the compulsory sale proceedings that have arisen from a motion filed by the Creditor-in-Execution when the Creditor-in-Execution fails to perform the following actions:
 - (a) to make an offer to purchase by him/herself in a fixed amount, if there are no other offers to purchase that fulfills said fixed amount, the property. The offer shall be made within a week of receiving the notice described in Paragraph 1, and said fixed amount shall be in excess of the estimated amount for Procedural Costs; and
 - (b) to provide the money guarantee in the amount offered under Item (a).

Sub-section III. Method of sale

436. Method of sale

1. The sale of the immovable shall be carried out by tender or auction.
2. If, and only if, a sale cannot be carried out by tender or auction, the sale may be carried out by methods other than tender or auction as prescribed by the Execution Court.

3. In the case of sale by tender or auction, the Execution Court shall set the date, time and place of sale, and have the bailiff carry out said sale.
4. In the case of sale under Paragraph 3, the court clerk shall provide a description of the immovable to be sold, the minimum sale price, and the date, time and place of sale through public notice.
5. For sales under Paragraph 3, **Article 396 Maintenance of order on the sale premises** shall apply *mutatis mutandis*.

437. Guarantee of offer to purchase

1. Any person wishing to offer to purchase an immovable shall provide a money guarantee in the amount of 10 percent of the minimum sale price. The Execution Court may, if it finds appropriate, set an amount for the money guarantee in excess of this amount.
2. On request by a person other than the highest bidder, the Execution Court shall promptly return the money guarantee provided in accordance with Paragraph 1 to such person after the sale has been completed pursuant to **Article 436 Method of sale**.

438. Prohibitions on offers to purchase by Debtor-in-Execution

No Debtor-in-Execution shall be entitled to make an offer to purchase.

439. Determination of highest bidder

1. After the completion of the tender or auction, the bailiff shall determine the highest bidder, and after announcing the name of said bidder and the amount tendered, shall declare that the date of tender or auction is closed.
2. Should two or more bidders tendered the highest bid, the bailiff shall have these bidders propose tender once more in order to determine the highest bidder. In such case, the bidders may not tender a purchase price less than the amount he/she previously tendered.
3. Should none of the bidders provided in the Paragraph 2 tender, the highest bidder shall be determined by lot. The same shall apply in cases where two or more bidders tendered the same highest bid in the tender provided in the Paragraph 2.
4. After carrying out the tender or auction, the bailiff shall without delay prepare a tender protocol or auction protocol that states the following matters and submit it to the Execution Court:
 - (a) a description of the immovable;
 - (b) the date and time of tender or auction;
 - (c) a description of the highest bidder and his/her agent;
 - (d) the price of purchase by the highest bidder;
 - (e) if the highest bidder could not be determined, this fact and the circumstances; and
 - (f) if measures described in **Article 396 Maintenance of order on the sale premises** have been taken, the reasons and the measures taken.
5. The bailiff shall have the highest bidder or his/her representative

or agent sign the tender protocol or auction protocol.

440. Date for ruling on sale

1. The Execution Court shall hold a date for a ruling on the sale and shall issue a declaration as to whether it will or will not permit the sale.
2. Should the Execution Court set a date for ruling on the sale, it shall give notice of this fact to the interested persons.

441. Statements of opinion concerning permission or non-permission of sale

Persons having an interest in the permitting or prohibiting of the sale of the immovable may, on the date for the ruling on the sale, state their opinions concerning any grounds listed in Paragraph 2 of **Article 442 Permission or non-permission of sale** that affect their rights.

442. Permission or non-permission of sale

1. Except for cases described in Paragraph 2, the Execution Court shall issue a ruling permitting the sale.
2. Where any of following grounds are found, the Execution Court shall issue a ruling prohibiting the sale:
 - (a) The compulsory sale proceedings should not be commenced or continued;
 - (b) The highest bidder is not qualified or capable of purchasing the immovable, or his/her agent is not authorized to purchase the immovable;
 - (c) A motion to prohibit the sale is filed in accordance with Paragraph 1 of **Article 445 Motion to prohibit sale where the immovable has been damaged**;
 - (d) There is a serious error in the proceedings in the determination of the minimum sale price; or
 - (e) There is a serious error in the sales proceedings.

443. Measures in case of excessive sale

1. Where more than one immovable is to be sold and the whole of the creditors' claims and Execution Costs are likely to be satisfied by the sales price offered for one or a combination of such immovables, the Execution Court shall place a hold on the ruling permitting the sale of the rest of the immovables.
2. For cases described in Paragraph 1, if there is more than one combination of immovables for which the total amount of the offered sales price is likely to satisfy the whole of the claims of the creditors and Execution Costs, the Execution Court shall, in advance, hear the opinion of the Debtor-in-Execution as to which immovable(s) should be permitted to be sold.
3. The highest bidder for the immovable over which a ruling permitting sale has been reserved under Paragraph 1, may cancel his/her offer to purchase at the Execution Court.
4. Should the price have been paid for the immovable over which a ruling permitting sale has been issued, the Execution Court shall cancel

the compulsory sale proceedings for the immovables falling under Paragraph 3.

444. Chomtoah Appeal against a ruling permitting or prohibiting sale

1. An interested party may file a *Chomtoah Appeal* against a ruling permitting or prohibiting the sale only in cases where such party's rights would be infringed upon by such ruling.
2. A *Chomtoah Appeal* against a ruling permitting sale shall be based on the grounds listed in Paragraph 2 of **Article 442 Permission or non-permission of sale** or on the grounds that there is a serious error in the proceedings of the ruling permitting sale.
3. The *Chomtoah* appellate court may, if it finds it necessary, designate a counter-party to the *Chomtoah* appellant.
4. A ruling permitting or forbidding sale shall come into effect only after it becomes final and binding.

445. Motion to prohibit sale where the immovable has been damaged

1. In cases where the immovable is seriously damaged due to a force majeure or other cause not attributable to fault of the highest bidder or purchaser after they had made a purchase offer, such highest bidder or purchaser may file a motion with the Execution Court for halting the sale if a ruling permitting sale has not yet been issued, or may file a motion for cancellation of the ruling permitting sale if it has already been issued, up until the time of payment of the sales price.
2. A *Chomtoah Appeal* may be filed against a ruling on a motion for cancellation of a ruling permitting sale under Paragraph 1.
3. The ruling canceling a ruling permitting sale based upon a motion under Paragraph 1 shall not come into effect until it becomes final and binding.

446. Withdrawal of motion for compulsory sale after purchase offers

In order to withdraw a motion for compulsory sale after an offer to purchase has been made, a Creditor-in-Execution must obtain the consent of the highest bidder or purchaser.

Sub-section IV. Effect of sale

447. Payment of the price

1. Once the ruling permitting sale becomes final and binding, the purchaser shall pay the sales price to the Execution Court within the period stipulated by the Execution Court. Such period shall be no longer than one month counting from the day when the ruling permitting sale became final and binding.
2. The money paid by the purchaser as a guarantee of his/her offer to purchase shall be applied to payment of the price.
3. Should the purchaser be a creditor who is entitled to distribution from the sales price, such purchaser may, upon request to the Execution Court prior to the conclusion of the date for the ruling on sale, make payment of the sale price less the amount of

distribution to which he/she is entitled, on the distribution date. In such case, should there be any statement of objection to the amount of distribution to which the purchaser is entitled, the purchaser shall immediately pay the amount subject to such objection.

4. The purchaser shall receive the immovable at the time of payment of the price.

448. Entrustment for registration based on payment of price

1. Upon the payment of the price by the purchaser, the court clerk shall entrust a relevant government agency with entering and striking out the following registrations:
 - (a) the registration of the transfer of the rights acquired by the purchaser;
 - (b) the striking out of the registration of the acquisition of any rights extinguished by the sale or of any rights that have lapsed due to the sale;
 - (c) the striking out of any registration of provisional disposition that has lapsed due to the sale; and
 - (d) the striking out of any registration of attachment or provisional attachment.
2. When making the entrustment under Paragraph 1, the court clerk shall attach a true copy of the ruling permitting sale to the written entrustment.
3. The costs incurred for the entrustment under Paragraph 1 shall be borne by the purchaser.

449. Responsibility of the purchaser

1. Should the Debtor-in-Execution be the debtor of a claim secured by a real security right that remains in existence after the sale pursuant to Paragraph 1 of **Article 431 Rights which remain in existence and rights that are extinguished upon sale**, the purchaser shall be responsible for satisfying such secured claims.
2. For cases stipulated in Paragraph 1, should the real security right that remains in existence after the sale be a revolving hypothec for which the principle has been finalized, the purchaser shall be responsible for satisfying the claim secured by the revolving hypothec to the extent of the amount of the maximum credit limit.

450. Ruling ordering delivery of immovables

1. Upon motion by the purchaser who has paid the price, the Execution Court may issue a ruling ordering the Debtor-in-Execution or the person in possession of the immovable to deliver the immovable to the purchaser. This shall not apply to a person who the court finds is in possession of the immovable on the basis of a right that can be asserted against the purchaser according to the case record.
2. The purchaser may not file a motion under Paragraph 1 after the lapse of 6 months from the date of the payment of the price.
3. Where the Execution Court is to issue the ruling under Paragraph 1 against a possessor other than the Debtor-in-Execution, the Execution Court shall question said possessor.
4. A *Chomtoah Appeal* may be filed against a ruling on a motion under Paragraph 1.

5. A ruling under Paragraph 1 shall not come into effect until it has become final and binding.

451. Effect of non-payment of price

1. Should the purchaser not pay the price, the ruling permitting sale shall become void. In such case, the purchaser shall have no right to demand the return of the money provided as a guarantee for the purchase offer.
2. For the circumstance described in Paragraph 1, the Execution Court shall once again conduct a compulsory sale.
3. The purchaser set forth in Paragraph 1 may not make an offer to purchase under the compulsory sale as described in Paragraph 2.

452. Sales price

1. The sales price to be applied to the distribution shall consist of the following:
 - (a) the price of the immovable; and
 - (b) the money for which the purchaser may not demand a return pursuant to the second sentence of Paragraph 1 of **Article 451 Effect of non-payment of price.**
2. In cases where more than one immovable has been sold collectively in accordance with **Article 433 Sale of immovables collectively**, should it be necessary to determine the amount for the sales price of each immovable, such amount shall be calculated by dividing the total amount of the sale price into proportions according to the minimum sale price of each immovable. The same shall apply to the allocation of Execution Costs for each immovable.

453. Scope of creditors entitled to distribution

The creditors listed below shall be entitled to distribution of the sale price:

- (a) creditors who have filed a motion for compulsory sale or a motion for compulsory sale in the enforcement of general statutory lien no later than the final date for demands for distribution;
- (b) creditors who have made a demand for distribution no later than the final date for demands for distribution; and
- (c) creditors who have registered provisional attachment prior to the registration of attachment which was the basis of the initial ruling for the commencement of compulsory sale.

Section V. Execution against Vessels

454. Meaning of Vessels

1. In this Book and Book VII, the term Vessel (s) refers to vessels having a gross tonnage of 20 tons or more, and vessels having a gross tonnage of less than 20 tons that have been registered in Cambodia.
2. In this Book and Book VII, Certificate of Registry of Vessels refers to the documents evidencing the vessel's nationality and other documents necessary for the vessel's lawful sailing.

455. Motion for and method of compulsory execution against Vessels

1. Compulsory execution against a Vessel shall be carried out by means of compulsory sale through the Execution Court.
2. In addition to the matters described in each Item of Paragraph 2 of **Article 349 Determination of highest bidder**, the Creditor-in-Execution shall state the location of the vessel, and the name and current location of the captain in a written motion for compulsory execution against the vessel.
3. The written motion under Paragraph 2 shall be attached to a true copy of the enforceable Title of Execution, together with:
 - (a) a certified copy of the register in the case of a registered Cambodian vessel; and
 - (b) a document proving that the vessel is a Vessel as provided in Paragraph 1 of **Article 454 Meaning of Vessels** and that the vessel is owned by the Debtor-in-Execution in the case of non-registered Cambodian vessel or a non-Cambodian vessel.

456. Execution Court

The court of first instance having jurisdiction over the place in which the vessel is located at the time of the ruling for the commencement of compulsory sale shall be the Execution Court for compulsory execution against a vessel.

457. Ruling for commencement

1. In order to commence the compulsory sale proceedings, the Execution Court shall issue a ruling for commencement of compulsory sale, and shall order the bailiff to confiscate the certificate of registry of the vessel as well as other objects, and to submit the same to the Execution Court.
2. The ruling for commencement under Paragraph 1 shall include a declaration of attachment over the vessel on behalf of the Creditor-in-Execution, together with a prohibition against the Debtor-in-Execution from leaving port.
3. The ruling for commencement under Paragraph 1 shall be served on the Debtor-in-Execution.
4. Upon the issuance of a ruling for commencement under Paragraph 1 in respect to a registered Cambodian vessel, the court clerk shall immediately entrust a relevant government agency to enter the registration of attachment based on such ruling.
5. The effect of the attachment shall arise upon service under Paragraph 3. Should registration of the attachment is carried out prior to the service of the ruling for commencement of compulsory sale, said effect shall arise at the time of such registration.
6. Should the bailiff confiscate the certificate of registry of the vessel and other matters prior to serving of the ruling for commencement of compulsory execution or the registration of the attachment, the effect of the attachment shall arise at the time of such confiscation.
7. A *Chomtoah Appeal* may be filed against a ruling dismissing a motion for compulsory execution.

458. Final date for demands for distribution and its alteration

1. Should attachment based on a ruling for commencement of compulsory execution come into effect, the Execution Court shall determine the final date for demands for distribution.
2. Should no ruling permitting sale have been issued within 3 months of the final date for demands for distribution, the Execution Court may alter such final date.

459. Ruling ordering delivery of certificate of registry and other matters prior to motion

1. Should it be likely that compulsory execution over a vessel will be extremely difficult if the certificate of registry of the vessel and other matters not be confiscated prior to the motion for compulsory execution against such vessel, the court of first instance having jurisdiction over the place where the registration of the vessel was made, may, upon motion, issue a ruling ordering the Debtor-in-Execution to deliver the certificate of registry of the vessel and other matters to the bailiff. In cases where the vessel has not been registered or in case of urgency, the court having jurisdiction over the location of the vessel may issue such a ruling.
2. When filing a motion under Paragraph 1, a true copy of the enforceable Title of Execution shall be presented and the grounds described in said Paragraph shall be established via *prima facie* showing.
3. A ruling under Paragraph 1 shall be served on the Debtor-in-Execution.
4. A *Chomtoah Appeal* may be filed against a ruling under Paragraph 1.
5. A ruling under Paragraph 1 may be enforced prior to its being served on the Debtor-in-Execution. The costs incurred for such enforcement shall be deemed as common benefit costs of the compulsory sale proceedings.
6. A ruling under Paragraph 1 ordering the delivery of the certificate of registry of the vessel and other matters to the bailiff shall not be enforced once two weeks have passed from the date notice thereof was given to the Creditor-in-Execution.
7. Unless the Creditor-in-Execution submits documents proving that a motion for compulsory execution against the vessel has been filed within 5 days of delivery to the bailiff of the certificate of registry of the vessel and other matters, the bailiff shall return the certificate of registry of the vessel and other matters to the Debtor-in-Execution.

460. Appointment of custodian

1. Upon motion by the Creditor-in-Execution, the Execution Court may, should it deem necessary, appoint a custodian of the vessel for which a ruling for commencement of compulsory sale has been issued, and may have such custodian retain possession of the vessel.
2. The Execution Court shall supervise the custodian. The custodian

shall perform his/her duties with the care of a good manager. Once the custodian completes his/her mandate, he/she shall submit a report of account to the Execution Court without delay.

3. The custodian may receive an advanced payment for costs required for the custodianship of the vessel, and a payment of remuneration as determined via a ruling of the Execution Court. The costs required by the custodian for custodianship of the vessel and his/her remuneration shall be deemed as procedural costs.
4. A *Chomtoah Appeal* may be filed against a ruling on a motion under Paragraph 1 and a ruling under Paragraph 3.

461. Cancellation of compulsory sale proceedings for reason concerning the provision of money guarantee

1. Should any document listed in Paragraph 2 of **Article 370 Stay and cancellation of compulsory execution** be submitted in connection to the claim of the Creditor-in-Execution and the Debtor-in-Execution provides a money guarantee equivalent to the total amount of the claims of the Creditor-in-Execution, the claims of the creditors who have made demands for distribution, and the execution costs prior to the making of any offer for purchase; the Execution Court shall, upon motion, cancel all of the compulsory execution proceedings except for the distribution proceedings. Should the money guarantee be provided prior to the final date for demands for distribution, the amount of the money guarantee provided by the Debtor-in-Execution shall be equivalent to the total amount of the claims of the Creditor-in-Execution, the claims of the creditors who have made demands for distribution up until that time, and the execution costs.
2. Should a stay of execution due to the submission of a document described in Paragraph 1 losing its effect, the Execution Court shall implement a distribution of the money guarantee provided under said Paragraph to the creditors described therein.
3. A *Chomtoah Appeal* may be filed against a ruling dismissing a motion under Paragraph 1.
4. The provisions of **Article 71 Method of providing security and substitution of security** and **Article 72 Rights of person receiving provision of security** shall apply *mutatis mutandis* to the provision of the money guarantee under Paragraph 1.

462. Permission to sail

1. The Execution Court may, upon a motion by the Debtor-in-Execution, grant permission for the vessel to sail if the Execution Court finds that necessity to conduct business or other good grounds exist, and if the consent of each creditor and the highest bidder or the purchaser are obtained.
2. A *Chomtoah Appeal* may be filed against a ruling on a motion under Paragraph 1.
3. A ruling under Paragraph 1 shall have no effect until it becomes final and binding.

463. Transfer of case

Should a vessel for which a ruling for commencement of compulsory sale has been issued be moved to a location outside the jurisdiction of the Execution Court, the Execution Court may transfer the case to the court of first instance with jurisdiction over the location of the vessel.

464. Cancellation of compulsory sale proceedings where certificates of registry of the vessel and other matters cannot be confiscated

Should the bailiff be unable to confiscate the certificate of registry of the vessel and other objects within 2 weeks of the issuance of the ruling for commencement of compulsory sale, the Execution Court shall suspend the compulsory execution proceedings.

465. Cancellation of compulsory execution proceedings for reason of destruction or loss of vessel

The Execution Court shall cancel the compulsory sales proceedings upon the destruction or loss of the vessel, or other circumstances that prevent the transfer of the vessel by sale being found to have occurred.

466. Entrustment for the striking out of the attachment registration

1. Should a motion for compulsory sale be withdrawn, or a ruling suspending compulsory sale proceedings come into effect, the court clerk shall entrust the relevant government agency with striking the registration of the attachment from the register based on the commencement ruling.
2. Expenses arising from the entrustment under Paragraph 1 shall be borne by the Creditor-in-Execution who withdraws the motion or by the Creditor-in-Execution who receives the ruling of cancellation.

467. Valuation

1. The Execution Court may appoint a valuator and order a valuation of the vessel.
2. The valuator shall obtain the permission of the Execution Court in order to request the assistance of a bailiff pursuant to Paragraph 2 of **Article 338 Ensuring performance of duties by bailiffs**.
3. When carrying out an examination for the purpose of valuation, the valuator may enter the vessel, question the Debtor-in-Execution or other third party in possession thereof, and request such persons to present documents.
4. A bailiff whose assistance has been requested by a valuator under Paragraph 2 of **Article 338 Ensuring performance of duties by bailiffs** may take necessary actions to open locked doors in cases where the valuator enters the vessel pursuant to Paragraph 3.

468. Determination of minimum sales price

1. The Execution Court shall fix the minimum sales price on the basis of the valuation of the valuator, if any.
2. The Execution Court may, if it finds necessary, change the minimum sale price.
3. The provisions of **Article 435 Measures to be taken if a surplus are unlikely** shall apply *mutatis mutandis* to execution against the Vessel.

469. Method of sale

1. Sale of the Vessel shall be carried out by tender, auction, or other method prescribed by the Execution Court.
2. In the case of sale by tender or auction, the Execution Court shall set the date, time and place of sale, and have the bailiff carry out such sale.
3. In the case of sale under Paragraph 2, the court clerk shall provide a description of the Vessel to be sold, the minimum sales price, and the date, time and place of sale via public notice.
4. In the case of sale under Paragraph 2, **Article 396 Maintenance of order on the sale premises** shall apply *mutatis mutandis*.

470. Guarantee of offer to purchase

1. Any person wishing to offer to purchase the vessel shall provide a money guarantee in the amount of 10 percent of the minimum sale price. The Execution Court may, if it deems appropriate, set an amount for the money guarantee that exceeds 10 percent.
2. On request by a person other than the highest bidder, the Execution Court shall promptly return the money guarantee provided in accordance with Paragraph 1 to such person after the sale has been completed pursuant to **Article 469 Method of sale**.

471. Prohibition of offer to purchase by Debtor-in-Execution

No Debtor-in-Execution shall be entitled to make an offer for purchase.

472. Date for ruling on sale

1. The Execution Court shall provide a date for the ruling on sale and shall rule whether or not to permit the sale.
2. Should the Execution Court set a date for a ruling on sale, it shall give notice of this fact to the interested persons.

473. Statements of opinion concerning permission or prohibition of sale

Persons having an interest in the execution or prohibition of sale of the vessel may state their opinions concerning any grounds listed in Paragraph 2 of **Article 474 Permission or non-permission of sale** that affect their rights on the date of the ruling on sale.

474. Permission or prohibition of sale

1. Except for cases described in Paragraph 2, the Execution Court shall issue a ruling permitting sale.
2. Where any of following grounds are found, the Execution Court shall issue a ruling prohibiting sale:
 - (a) The compulsory sale proceedings should not be commenced or continued;
 - (b) The highest bidder is not qualified or capable of purchasing the vessel, or his/her agent is not authorized to purchase the vessel;
 - (c) A motion to prohibit sale is filed in accordance with Paragraph 1 of **Article 476 Motion to prohibit sale where the immovable has been damaged;**
 - (d) There is a serious error in the proceedings for determining the minimum sales price; or
 - (e) There is a serious error in the sale proceedings.

475. Chomtoah Appeal against ruling permitting or prohibiting sale

1. An interested party may file a *Chomtoah Appeal* against a ruling permitting or prohibiting sale only in cases where such party's rights would be infringed upon by such ruling.
2. A *Chomtoah Appeal* against a ruling permitting sale shall be based on the grounds listed in Paragraph 2 of **Article 474 Permission or non-permission of sale** or on the grounds that there is a serious error in the proceedings of the ruling permitting sale.
3. The *Chomtoah* appellate court may, if it deems necessary, designate a counter-party for the *Chomtoah* appellant.
4. A ruling permitting or prohibiting sale shall come into effect only after it becomes final and binding.

476. Motion prohibiting sale where the vessel has been damaged

1. Should the Vessel be seriously damaged due to force majeure or other cause not attributable to the highest bidder or purchaser after they have made an offer to purchase, such highest bidder or purchaser may file a motion with the Execution Court for suspending the sale if a ruling permitting sale has not yet been issued, or may file a motion, up until the time of payment of the sales price, for cancellation of the ruling permitting sale if it has already been issued.
2. A *Chomtoah Appeal* may be filed against a ruling on a motion for cancellation of a ruling permitting sale under Paragraph 1.
3. The ruling canceling a ruling permitting sale based upon a motion under Paragraph 1 shall not come into effect until it becomes final and binding.

477. Withdrawal of motion for compulsory sale after the making of offers to purchase

In order to withdraw a motion for compulsory sale after an offer to purchase has been made, a Creditor-in-Execution shall obtain the consent of the highest bidder or purchaser.

478. Deadline for Payment of Price

Once the ruling permitting sale becomes final and binding, the Execution Court shall promptly stipulate a deadline for payment of the price and notify the purchaser thereof.

479. Payment of the price

1. The purchaser shall pay the sales price to the Execution Court by the deadline stipulated by the Execution Court pursuant to **Article 478 Deadline for Payment of Price**.
2. The money paid by the purchaser as a guarantee of his/her offer to purchase shall be applied towards the payment of the price.

480. Time of acquisition of vessel

The purchaser shall acquire the vessel at the time of payment of the price.

481. Effect of non-payment of price

1. Should the purchaser fail to pay the price, the ruling permitting sale shall become null. In such case, the purchaser shall have no right to demand the return of the money provided pursuant to the provisions of **Article 470 Guarantee of offer to purchase**.
2. For circumstances described under Paragraph 1, the Execution Court shall once more conduct a compulsory sale.
3. The purchaser set forth in Paragraph 1 may not make an offer to purchase under the compulsory sale described in Paragraph 2.

482. Entrustment for registration based on payment of price

1. Upon the payment of the price by the purchaser, the court clerk shall entrust a relevant government agency with entering and striking out the following registrations:
 - (a) the registration of the transfer of the ownership acquired by the purchaser; and
 - (b) the striking out of any registration of attachment or provisional attachment.
2. When making the entrustment under Paragraph 1, the court clerk shall attach a true copy of the ruling permitting sale to the written entrustment.
3. The costs incurred for the entrustment under Paragraph 1 shall be borne by the purchaser.

483. Ruling ordering delivery of Vessel

1. Upon motion by a purchaser who has paid the price, the Execution Court may issue a ruling ordering the Debtor-in-Execution or a person in possession of the Vessel to deliver the Vessel to the purchaser. This shall not apply to a person who the court finds is in possession of the immovable on the basis of a right that can be asserted against the purchaser according to the case record.
2. The purchaser may not file a motion under Paragraph 1 after the lapse of 6 months from the date of payment of the price.
3. Where the Execution Court is to issue a ruling under Paragraph 1 against a possessor other than the Debtor-in-Execution, the

Execution Court shall questions such possessor.

4. A *Chomtoah Appeal* may be filed against a ruling on a motion under Paragraph 1.
5. A ruling under Paragraph 1 shall not come into effect until it becomes final and binding.

484. Sales price

The sales price to be applied to distribution shall be comprised of the following:

- (a) the price of the vessel; and
- (b) the money which the purchaser may not demand the return of pursuant to the second sentence of Paragraph 1 of **Article 481 Effect of non-payment of price.**

485. Demand for distribution

1. The persons listed below are entitled to make a demand for distribution:
 - (a) creditors holding a true copy of a Title of Execution that is enforceable by compulsory execution in accordance with Paragraph 1 of **Article 354 Requirements for execution clause and organs granting such clause;**
 - (b) creditors who have registered provisional attachments after the registration of attachment based on a ruling for commencement of compulsory sale;
 - (c) creditors who have executed provisional attachment via a method for confiscation of the certificate of registry of the vessel; and
 - (d) creditors who prove by documentation that they hold a general statutory lien or statutory lien over the vessel.
2. A *Chomtoah Appeal* may be filed against a ruling dismissing a demand for distribution.

486. Scope of creditors entitled to distribution

The creditors listed below shall be entitled to distribution of the sale amount:

- (a) the Creditor-in-Execution;
- (b) creditors who have made a demand for distribution not later than the final date for demands for distribution; and
- (c) creditors who have registered provisional attachment prior to the registration of attachment based on the ruling for commencement of compulsory sale.

Section VI. Proceedings for Distribution by Court

487. Court to implementing distribution

The court implementing the distribution shall be the court of first instance to which the bailiff belongs in the case of compulsory execution against Movables, or the Execution Court for all other cases.

488. Preparations for distribution

1. Should any of the grounds described below arise, the court implementing the distribution shall set a day of distribution and send notice of such date, time and place thereof to the creditors entitled to distribution and to the Debtor-in-Execution:
 - (a) for cases of compulsory execution against Movables, the grounds for court deposit is extinguished once there has been a report under Paragraph 1 of **Article 400 Deposit by bailiff with the court**, or there has been a report under **Article 401 Report to court of first instance**;
 - (b) for cases of compulsory execution of a claim or other property rights, there has been a court deposit under **Article 412 Collection actions**, a sale has been carried out pursuant to a ruling ordering sale under **Article 413 Ruling ordering sale**, or the proceeds of the sale have been submitted under Paragraph 2 of **Article 414 Execution of attachment ruling over the claim right to demand delivery of Movables**;
 - (c) for cases of compulsory execution against an immovable, there has been a payment of the sales price under Paragraph 1 of **Article 447 Payment of the price**, or a ruling permitting sale has become final and binding when a request under the first sentence of Paragraph 3 of **Article 447 Payment of the price** has been made; or
 - (d) for cases of compulsory execution against a Vessel, there has been payment of the sale price under **Article 479 Payment of the price**.
2. Once the day of distribution has been fixed, the court clerk shall send a notice demanding that each creditor submit within one week to the court carrying out the distribution a statement of accounts indicating the amounts of the principal claim, the interest up until the day of distribution and Execution Costs.

489. Implementation of distribution

1. The court implementing the distribution shall implement said distribution in accordance with the distribution schedule in cases described in Paragraph 1 of **Article 488 Preparations for distribution**. It shall be unnecessary to follow such distribution schedule for cases described in Paragraph 2 below.
2. Where there is only one creditor or where there are two or more creditors with the amount of money to be applied to distribution being sufficient to satisfy the claims of each creditor and the whole of the Execution Costs, the court implementing the distribution shall effect distribution for the creditor(s) and deliver any surplus to the Debtor-in-Execution.
3. Should, after the distribution is implemented, a document listed in Items (a) to (g) of Paragraph 1 of **Article 370 Stay and cancellation of compulsory execution** be submitted, and there are creditors entitled to distribution other than the Creditor-in-Execution, the court implementing the distribution shall effect distribution for such creditors.
4. Even if, after the distribution was to be implemented, a document

listed in Items (a) or (b) of Paragraph 2 of **Article 370 Stay and cancellation of compulsory execution** is submitted, the court implementing the distribution shall implement said distribution.

490. Preparation of distribution schedule

1. The court implementing the distribution shall prepare a distribution schedule on the day of distribution except as provided in Paragraph 2 of **Article 489 Implementation of distribution**.
2. On the day of distribution, the court shall summon the creditors set forth below, together with the Debtor-in-Execution:

(a)	Compulsory execution against Movables	Creditors described in Article 398 Scope of creditors entitled to distribution .
(b)	Compulsory execution against claims and other property rights	Creditors described in Article 415 Scope of creditors entitled to distribution .
(c)	Compulsory execution against immovables	Creditors described in Article 453 Scope of creditors entitled to distribution .
(d)	Compulsory execution against a Vessel	Creditors described in Article 486 Scope of creditors entitled to distribution .

3. For the purpose of preparing the distribution schedule, the court may question the Creditors- and Debtor-in-Execution who appear before court on the day of distribution, and may examine any documentary evidence that can be examined on the spot.
4. The distribution schedule shall state the amount of the principal claim, the interest and other ancillary claims, and Execution Costs for each creditor, and shall also state the priority and amount of distribution for each creditor, together with the amounts listed below:

(a)	Compulsory execution against Movables	Amount of proceeds of the sale of attached Movables and amount of money attached
(b)	Compulsory execution against claims and other property rights	Amount to be distributed
(c)	Compulsory execution against Immovables	Amount of sales price
(d)	Compulsory execution against Vessel	Amount of sales price

5. The priority and amount of distribution described in Paragraph 4 shall be entered in accordance with the agreement of all the creditors if such agreement is reached on the date of distribution, or, for other cases, in accordance with the provisions of the Civil Code, Commercial Code or other relevant law.
6. For the purpose of distribution, claims subject to a specific event that has yet to occur shall be deemed to have had such event occur.

491. Objection to entry in distribution schedule

1. A Creditor- or the Debtor-in-Execution who is dissatisfied with the amount of the claims of creditors or the amounts for distribution stated in the distribution schedule may make an objection on the day of distribution.
2. The court implementing the distribution shall implement said distribution to the extent that there are no objections to the entries on the distribution schedule.
3. Should the Creditor-in-Execution or a creditor who has made a demand for distribution based on a true copy of the enforceable Title of Execution receive payment of the whole of his/her claim as a result of the distribution, the Debtor-in-Execution may demand that the court clerk deliver to him/her a true copy of the enforceable Title of Execution submitted by such creditor.
4. Where the case has been concluded, except for cases described in Paragraph 3, the creditor described in said Paragraph may demand that the court clerk deliver to him/her a true copy of enforceable Title of Execution. Should such creditor receive partial payment of his/her claim, the court clerk shall note the amount of such payment on said true copy of the enforceable Title of Execution, and shall deliver it.

492. Motion of objection by creditor objecting to entries in distribution schedule

1. A creditor who objects to an entry in the distribution schedule shall file a motion of objection to an entry in the distribution schedule for which the counter-party shall be the creditor who opposes such objection.
2. The court implementing the distribution shall have jurisdiction over the motion described in Paragraph 1.
3. Unless the creditor objecting to the entry in the distribution schedule proves, no later than one week following the day of distribution, that he/she has filed the motion described in Paragraph 1, the objection to the entry in the distribution schedule shall be deemed to have been withdrawn.
4. In the judgment for the motion described in Paragraph 1, if the court finds that the objection is well grounded, the court shall amend the distribution schedule or void it in order to prepare a new distribution schedule.

493. Motion of objection by Debtor-in-Execution who has made an

objection to an entry in the distribution schedule

1. The Debtor-in-Execution objecting to an entry in the distribution schedule against a creditor holding a true copy of enforceable Title of Execution, shall file an motion objecting to said claim in which the counter-party shall be the creditor who is opposed to such objection.
2. The Debtor-in-Execution objecting to entry in the distribution schedule against a creditor not holding a true copy of an enforceable Title of Execution, shall file a motion of objection to an entry in the distribution schedule in which the counter-party shall be the creditor who is opposed to such objection.
3. The court implementing the distribution shall have jurisdiction over the motion described in Paragraph 2.
4. Unless the Debtor-in-Execution objecting to the entry in the distribution schedule proves, no later than one week following the day of distribution, that he/she has filed the motion described in Paragraph 1 by submitting a true copy of a decision staying execution based on such motion, or proves that he/she has filed the motion described in Paragraph 2, the objection to the entry in the distribution schedule shall be deemed to have been withdrawn.
5. In the judgment of the action described in Paragraph 2, should the court implementing the distribution find that the objection is well grounded, such court shall amend the distribution schedule or void it in order to prepare a new distribution schedule.

494. Retention of amount of distribution

1. Should any of the following grounds exist with regard to a claim of a creditor who is entitled to distribution, the court implementing the distribution shall retain money in the amount of such distribution:
 - (a) the claim is subject to a condition precedent or specific event;
 - (b) the claim is a provisional attachment for a creditor;
 - (c) a document listed in Paragraph 2, Item (a) of **Article 370 Stay and cancellation of compulsory execution** has been submitted;
 - (d) a true copy of a decision temporarily enjoining the enforcement of a statutory lien, pledge or hypothec relating to the claim has been submitted; and
 - (e) an motion for objection to an entry in the distribution schedule has been filed under Paragraph 1 of **Article 492 Motion of objection by creditor objecting to entries in distribution schedule** or Paragraph 2 of **Article 493 Motion of objection by Debtor-in-Execution who has made an objection to an entry in the distribution schedule**.
2. The court implementing the distribution shall retain the money for the amount of distribution for any creditor who fails to appear before the court to receive such distribution.

495. Implementation of distribution upon confirmation of rights

1. In the case of retention under Paragraph 1 of **Article 494 Retention of amount of distribution**, if the grounds for retention are resolved, the court implementing the distribution shall distribute the retained money.
2. Should distribution be implemented under Paragraph 1, the court implementing the distribution shall amend the distribution schedule for the benefit of creditors who have not made an objection to entry in the distribution schedule for the situations listed below:
 - (a) where it is no longer possible to make a distribution to a creditor whose distribution has been retained for reasons described in Items (a) through (d) of Paragraph 1 of **Article 494 Retention of amount of distribution**; or
 - (b) where a creditor whose distribution has been retained on grounds described in Item (e) of Paragraph 1 of **Article 494 Retention of amount of distribution** loses a motion of objection to an entry in the distribution schedule filed by the Debtor-in-Execution under Paragraph 2 of **Article 493 Motion of objection by Debtor-in-Execution who has made an objection to an entry in the distribution schedule**.

Chapter Three SPECIFIC RULES GOVERNING ENFORCEMENT OF REAL SECURITY RIGHTS

Section I. General Provisions

496. Title of Execution for enforcement of real security rights

Notwithstanding the provisions of **Article 350 Title of Execution**, the enforcement of a real security right shall be based on one of the following titles of execution:

- (a) a final and binding judgment proving the existence of the real security right, or a document having the same effect; or
- (b) a notarized document prepared by a notary, proving the existence of the real security rights.

497. Special rules on jurisdiction of actions objecting to claims and actions objecting to the granting of execution clauses relating to Title of Execution for the enforcement of real security rights

1. Notwithstanding the provisions of **Article 363 Motion objecting to claim**, actions objecting to a claim relating to a Title of Execution for the enforcement of a real security right shall be subject to the jurisdiction of the court noted next to the respective type of Title of Execution of each Item below:
 - (a) for titles of execution noted in Item (a) of **Article 496 Title of Execution for enforcement of real security rights**: the court of first instance in the proceedings for such case; and
 - (b) for titles of execution noted in Item (b) of **Article 496 Title of Execution for enforcement of real security rights**: the court

having jurisdiction over the location of the defendant as set forth in **Article 8 Jurisdiction determined by domicile**. Should there be no court having jurisdiction under said Article, the court of first instance having jurisdiction over the location in which the subject of the real security right is located. Should the subject of the real security right be a claim, the court having jurisdiction over the location of the Third Party Debtor as set forth in **Article 8 Jurisdiction determined by domicile**.

2. The provisions of Paragraph 1 shall apply *mutatis mutandis* to actions objecting to the granting of an execution clause.

498. Stay and cancellation of enforcement of real security rights

1. Upon submission of any of the documents listed below, the Execution Court or bailiff shall stay the proceedings for the enforcement of real security rights, and shall void any execution disposition that has already been carried out:
 - (a) a true copy of a decision that contains an order canceling the Title of Execution described in Item (a) of Article 496 Title of Execution for enforcement of real security rights;
 - (b) a true copy of a decision that contains an order stating that the enforcement of the real security right is not permitted;
 - (c) a true copy of a final and binding judgment declaring that a settlement or acknowledgment in connection with the Title of Execution listed in **Article 496 Title of Execution for enforcement of real security rights** has no effect;
 - (d) a true copy of a protocol of settlement in court that states that the enforcement of a real security right will not be carried out or that a motion thereof will be withdrawn;
 - (f) a true copy of a decision that contains an order for the staying of the enforcement of a real security right and cancellation of the execution disposition.
2. Upon submission of any of the documents listed below, the Execution Court or bailiff shall stay the proceedings for enforcement of a real security right. In the case of Item (b), the effect of the stay shall be limited to 2 months.
 - (a) a true copy of a decision that contains an order for temporary stay of enforcement of a real security right; or
 - (b) a document stating that the creditor has received payment of the claim that is secured by the real security right, or has consented to a deferral of such payment, after the establishment of the Title of Execution listed in **Article 496 Title of Execution for enforcement of real security rights**.
3. **Article 370 Stay and cancellation of compulsory execution** shall not apply to the enforcement of real security rights.
4. **Article 345 Chomtoah Appeal against cancellation ruling** shall not apply to cases of cancellation of an execution disposition under Paragraph 1 of this Article.

499. Compulsory sale based on right of retention and compulsory sale for realization

Compulsory sale based on a right of retention and compulsory sale for

the purpose of realization in accordance with the provisions of the Civil Code and other laws shall be carried out in accordance with the provisions of this law for the governing of compulsory sales as an enforcement of real security rights.

Section II. Enforcement of Real Security Rights against Movables

500. Requirements for the enforcement of real security rights against Movables

Even absent the submission of a Title of Execution described in **Article 496 Title of Execution for enforcement of real security rights**, enforcement of a real security right against a movable may be commenced once the Creditor-in-Execution submits to the bailiff the movable that is subject to the real security right or a document proving that the possessor of the movable has consented to the attachment.

501. Execution objection to attachment over Movables

Should enforcement of a real security right against a movable be commenced under **Article 500 Requirements for the enforcement of real security rights against Movables**, the owner of the movable or the debtor of the secured claim may file an execution objection to the attachment over the movable on the grounds of the non-existence or extinguishment of such real security right.

502. Matters to be stated in written motion for enforcement of real security rights against Movables

The moving party shall state the following matters in the written motion for the enforcement of a real security right against a movable:

- (a) a description of the Creditor-in-Execution, the owner of the movable who is the Debtor-in-Execution, the debtor of the secured claim, and their agents;
- (b) a description of the real security right and the secured claim;
- (c) a description of the movable that is subject to the enforcement of the real security right and the location thereof; and
- (d) if the real security right is to be enforced against only a portion of the secured claim, a statement to this effect and a statement of the scope thereof.

503. Exclusion from application of provisions relating to execution against Movables

The provisions of **Article 380 Movables immune to attachment**, **Article 381 Change of scope of Movables immune to attachment** and **Article 391 Prohibition of excessive attachment** shall not apply to the proceedings for the enforcement of real security rights against Movables.

504. Proceedings for summary enforcement of pledge

1. In accordance with the provisions of the summary enforcement of

pledge in the Civil Code, a pledgee of the Movables may file a motion with the court of first instance having jurisdiction over the location of the performance of the obligation for a ruling permitting the pledged movables to be immediately applied to the payment of the obligation.

2. When issuing a ruling on the motion under Paragraph 1, the court shall question the pledgee, the owner of the pledged Movables, and the debtor of the secured claim.
3. Prior to issuing a ruling under Paragraph 1, the court shall appoint a valuator and have such valuator value the pledged Movables in accordance with the provisions of summary enforcement of pledge under the Civil Code. This shall not apply to cases where the pledgee him/herself has set a valuation amount in his/her motion under Paragraph 1 and the owner of the pledged Movables consents to such amount.
4. Once the court has issued the ruling set forth under Paragraph 1, the Procedural Costs for such ruling shall be borne by the owner of the pledged Movables.
5. In the ruling set forth under Paragraph 1, the court shall declare that the pledged Movables be permitted to be applied to the payment to the extent of the valuation amount of the valuator, and also shall order that, if the valuation amount exceeds the total amount of the obligation to be paid and the Procedural Costs, such surplus amount shall be returned to the owner of the pledged Movables.
6. A Chomtoah Appeal may be filed against a ruling on a motion under Paragraph 1.
7. A ruling under Paragraph 5 shall come into effect only upon becoming final and binding.

Section III. Enforcement of Real Security Rights against Claims and Other Property Rights

505. Matters to be stated in written motion for enforcement of real security rights against claims

1. Notwithstanding the provisions of Paragraphs 2 and 3 of **Article 403 Meaning of execution of claims and Execution Court**, the Creditor-in-Execution shall state the following information in the written motion for enforcement of real security rights against a claim described in Paragraph 1 of **Article 402 Meaning of execution of claims and Execution Court**:
 - (a) a description of the Creditor-in-Execution, the Debtor-in-Execution, the debtor of the secured claim, the Third Party Debtor, and their agents;
 - (b) a description of the real security right and the secured claim;
 - (c) a description of the claim that is subject to the enforcement of the real security right; and
 - (d) if the real security right is to be enforced against only a portion of the secured claim, a statement to this fact and a statement of the scope thereof.
2. A true copy of the Title of Execution listed in **Article 496 Title of Execution for enforcement of real security rights** shall be attached to the written motion under Paragraph 1.

506. Attachment of claims on the basis of real subrogation

1. Where a real security right holder exercises such right pursuant to the provisions of the Civil Code or other law against the money or other property which the Debtor-in-Execution can receive by virtue of sale, lease, loss, damage of the subject property or creation of a real right on the subject property, said exercise of such right shall be governed by **Article 505 Matters to be stated in written motion for enforcement of real security rights against claims** in addition to this Article.
2. In case of the exercising of the right under Paragraph 1, in addition to the matters listed in each Item of Paragraph 1 of **Article 505 Matters to be stated in written motion for enforcement of real security rights against claims**, a written motion shall state the relationship between the secured claim and the claim to be attached.
3. Notwithstanding the provisions of Paragraph 2 of **Article 505 Matters to be stated in written motion for enforcement of real security rights against claims**, where a person holding a real security right against a movable exercises the right under Paragraph 1, the Creditor-in-Execution may attach a true copy of a document proving the existence of the real security right in lieu of the true copy of the Title of Execution described in **Article 496 Title of Execution for enforcement of real security rights**.

507. Enforcement of real security rights against other property rights

Except where otherwise specifically provided, enforcement of real security rights against property rights described in **Article 416 Compulsory execution against other property rights** shall follow the example of execution against claims described in **Book VI, Chapter II, Section III Compulsory execution against other property rights**.

508. Exclusions from application

The provisions of **Article 382 Claims immune from attachment**, **Article 383 Change of scope of claims immune from attachment**, and Paragraph 2 of **Article 404 Scope of attachment** shall not apply to this Section.

Section IV. Enforcement of Real Security Rights against Immovables

509. Matters to be stated via written motion for enforcement of real security rights against immovables

1. The moving party shall state the following information in the written motion for enforcement of a real security right against an immovable:
 - (a) a description of the Creditor-in-Execution, the owner of the immovable who is the Debtor-in-Execution, the debtor of the secured claim, and their agents;
 - (b) a description of the real security right and the secured claim;
 - (c) a description of the immovable that is the subject-matter of the enforcement of the real security right; and
 - (d) if the real security right is to be enforced against only a

portion of the secured claim, a statement to this fact and a statement of the scope thereof.

2. The documents listed below as well as a true copy of the Title of Execution listed in **Article 496 Title of Execution for enforcement of real security rights**, shall be attached to the written motion for enforcement of real security rights:
 - (a) a certified copy of the register in cases of enforcement of a real security rights other than a general statutory lien; or
 - (b) in the case of enforcement of a general statutory lien, a certified copy of the register for a registered immovable, and, if a person other than the Debtor-in-Execution is noted as an owner in the register, a document proving the immovable is owned by the Debtor-in-Execution; or in the case of land that is not registered, a document proving that the land is owned by the Debtor-in-Execution.

510. Rights which remain in existence and rights which are extinguished after compulsory sale for enforcement of real security rights

1. Real security rights, usufructuary real rights and leases on the immovable that can be asserted against a real security right of the Creditor-in-Execution, shall remain in existence after a compulsory sale for enforcement of the real security right.
2. Rights on the immovable other than those described in Paragraph 1 shall be extinguished upon sale.
3. Attachments over immovables, execution of provisional attachment over immovables, or execution of provisional disposition over immovables that cannot be asserted against the Creditor-in-Execution or the provisional attachment creditor will lapse upon sale.
4. Should an interested person give notice by the time of the fixing of the minimum sale price that an agreement deviating from the provisions of Paragraphs 1 and 2 has been made, such agreement shall govern the changes in such right on the immovable upon sale.

511. Dual ruling for commencement of execution against immovables and enforcement of real security rights

1. Where a motion for enforcement of a real security right is filed in respect to an immovable over which a ruling for commencement of compulsory sale has been issued in accordance with **Article 419 Ruling for commencement of compulsory sale**, the Execution Court shall, if such motion is to be granted, issue another ruling for the commencement of compulsory sale. In such case, the court shall send a notice of this fact to the Creditor-in-Execution in the earlier ruling for commencement.
2. Should the motion for compulsory sale in the earlier ruling for commencement be withdrawn, or the proceedings based on the earlier ruling for commencement be suspended, the Execution Court shall continue the proceedings on the basis of the later ruling

for the commencement of compulsory sale.

3. For cases under paragraph 2, should the later ruling for commencement of compulsory sale be based on a motion that was filed after the final date for the demand for distribution, the Execution Court shall determine a new final date for demand for distribution. The demand described in the provisions of Paragraph 2 of **Article 422 Final date for demands for distribution and its alteration** is not necessary for persons who have already made a report under Paragraph 1 of **Article 423 Duty to report the claim by the person demanded**.
4. Should the compulsory sale proceedings based on the earlier ruling for commencement have been stayed, the Execution Court shall give notice of this fact to the Creditor-in-Execution under the later ruling for commencement. In such case, if the real security right held by such Creditor-in-Execution may be asserted against the attachment by the creditor in the earlier execution, the Execution Court may, upon motion, issue a ruling that the proceedings shall continue based on the later ruling for commencement.
5. Should a ruling be issued in accordance with Paragraph 4, the Execution Court shall give notice of this fact to the Debtor-in-Execution.
6. A *Chomtoah Appeal* may be filed against a ruling dismissing a motion under Paragraph 4.

512. Double ruling for commencement of enforcement of real security rights and enforcement of real security rights

1. Where an additional motion for enforcement of a real security right is filed in respect to an immovable over which a ruling for commencement of enforcement of a real security right already exists, the Execution Court shall, if such motion is to be granted, issue another ruling for the commencement of compulsory sale. In such case, the court shall send a notice of this fact to the Creditor-in-Execution in the earlier ruling for commencement.
2. Should the motion for compulsory sale in the earlier ruling for commencement be withdrawn, or the proceedings based on the earlier ruling for commencement be cancelled, the Execution Court shall continue the proceedings on the basis of the later ruling for commencement of compulsory sale.
3. For cases under paragraph 2, if the later ruling for commencement of compulsory sale is based on a motion that was filed after the final date for demands for distribution, the Execution Court shall determine a new final date for demands for distribution. The demand described in the provisions of Paragraph 2 of **Article 422 Final date for demands for distribution and its alteration** is not necessary for persons who have already made a report under Paragraph 1 of **Article 423 Duty to report the claim by the person demanded**.
4. Should the compulsory sale proceedings based on the earlier ruling for commencement have been stayed, the Execution Court shall give notice of this fact to the Creditor-in-Execution under

the later ruling for commencement. In such case, if the real security right held by the Creditor-in-Execution who filed the motion for the latter ruling for commencement can be asserted against the real security right held by the creditor in earlier execution, the Execution Court may, upon motion, issue a ruling that the proceedings shall continue based on the later ruling for commencement.

5. Should a ruling be issued in accordance with Paragraph 4, the Execution Court shall give notice of this fact to the Debtor-in-Execution.
6. A *Chomtoah Appeal* may be filed against a ruling dismissing a motion under Paragraph 4.

513. Rights that are extinguished after the earlier execution against immovable or compulsory sale as enforcement of real security rights

1. For cases under Paragraph 1 of **Article 511 Dual ruling for commencement of execution against immovables and enforcement of real security rights**, should the later motion for compulsory sale as enforcement of a real security right be based on a real security right that can be asserted against attachment by the creditor in the earlier execution, the real security right of the Creditor-in-Execution who filed the later motion and any other real security rights, usufructuary real rights or lease that cannot be asserted against said real security right shall be extinguished upon sale.
2. For cases under Paragraph 1 of Article 512 Double ruling for commencement of enforcement of real security rights and enforcement of real security rights, if the later motion for compulsory sale is based on a real security right that can be asserted against the real security right of the creditor in the earlier execution, the real security right of the Creditor-in-Execution who filed the later motion and any other real security rights, usufructuary real rights or lease that cannot be asserted against said real security right, shall be extinguished upon sale.
3. The provisions of Paragraph 1 and 2 shall not apply for case where the later motion is filed after the commencement of tender or auction in proceedings based on the earlier motion.

514. Preparation of specifications of property in case of dual rulings for commencement

1. When the Execution Court determining the minimum sale price and preparing specifications of property in the cases under Paragraph 1 or 2 of **Article 513 Rights that are extinguished after the earlier execution against immovable or compulsory sale as enforcement of real security rights**, the Execution Court shall take into account the real security right of the Creditor-in-Execution who filed the later motion and any other real security rights, usufructuary real rights or lease that cannot be asserted against said real security right that shall be extinguished upon sale.
2. In case of Paragraph 1, the Execution Court shall, if necessary, re-determine the minimum sales price or re-prepare specifications

of property.

515. Arrangement of cases where motion for enforcement of real security right is filed after commencement of date of tender or auction in proceedings for compulsory sale of immovables

1. For cases described in Paragraph 1 of **Article 511 Dual ruling for commencement of execution against immovables and enforcement of real security rights**, should a motion for compulsory sale for enforcement of a real security right be filed after the commencement of tender or auction in the proceedings for the earlier compulsory sale, the Execution Court shall issue a ruling for the commencement of its compulsory sale, and at the same time stay the proceedings for the later compulsory sale. This shall not apply if the real security right cannot be asserted against the attachment by the creditor in the earlier execution.
2. For cases described in Paragraph 1 of **Article 512 Double ruling for commencement of enforcement of real security rights and enforcement of real security rights**, should a motion for compulsory sale for enforcement of a real security right be filed after the commencement of tender or auction in the proceedings for the earlier compulsory sale, the Execution Court shall issue a ruling for the commencement of its compulsory sale, and at the same time stay the proceedings for the later compulsory sale. This shall not apply if the real security right of the Creditor-in-Execution who filed the later motion for compulsory sale be unable to assert his/her rights against the real security right of the creditor in the earlier execution.
3. Where a price is paid in the earlier compulsory sale proceedings after the stay of the later compulsory sale proceedings described in Paragraph 1 or 2, the Execution Court shall cancel the ruling for commencement of the later compulsory sale proceedings.

516. Attachment of claim for rents of immovable

1. In cases where the attachment over an immovable based on a ruling for commencement of compulsory sale has come into effect, if the Creditor-in-Execution files a motion to attach a claim for rents of the attached immovable, the Execution Court may issue a ruling for such attachment over the claim. Such ruling shall be issued without questioning the Debtor-in-Execution or the person obliged to pay the rents.
2. In the ruling under Paragraph 1, the Execution Court shall forbid the Debtor-in-Execution from collecting or disposing of claims for the purpose of receiving rents, and shall forbid the person obliged to pay the rent from paying it to the Debtor-in-Execution and order him/her to make a court deposit of money equivalent to the whole amount of the attached claim.
3. A ruling under Paragraph 1 shall be served on the Debtor-in-Execution and on the person obliged to pay rent.
4. Attachment shall come into effect upon service of the ruling under Paragraph 1 on the person obliged to pay rent.

517. Effect of attachment over claim for rents

1. After the lapse of one week from the date on which the ruling described in Paragraph 1 of **Article 516 Attachment of claim for rents of immovable** is served on the Debtor-in-Execution, the Creditor-in-Execution who has attached the claim for rents of the immovable in accordance with said Paragraph may demand the person obliged to pay the rent to make a court deposit of money equivalent to the whole amount of the attached claim.
2. The effect of attachment pursuant to Paragraph 1 of **Article 516 Attachment of claim for rents of immovable** shall extend to rents that the Debtor-in-Execution is entitled to receive after the attachment until the purchaser makes payment equivalent to the price of the immovable.
3. Any rents deposited to the court by the person obliged to pay the rent shall be deemed to be payment towards the sales price.

518. Relationship between attachment of claim for rents of immovable and the proceedings for execution against claims

1. In the event that a ruling of attachment under **Article 403 Attachment ruling** over a claim for rents of immovable is served on the lessee of the immovable before a ruling of attachment under Paragraph 1 of **Article 516 Attachment of claim for rents of immovable** comes into effect, the ruling of attachment under said **Article 516 Attachment of claim for rents of immovable** shall not come into effect, except in cases where the real security right of the Creditor-in-Execution who obtained the ruling of attachment under **Article 516 Attachment of claim for rents of immovable** had been registered prior to said service of the ruling of attachment.
2. After a ruling of attachment under Paragraph 1 of **Article 516 Attachment of claim for rents of immovable** over a claim for rents of immovable comes into effect, attachment of said claim cannot be carried out pursuant to **Article 403 Attachment ruling**.

519. Scope of creditors entitled to distribution

Creditors who are entitled to distribution of the sales price of a compulsory sale as enforcement of a real security right shall be creditors holding a real security right that will be extinguished by the sale in addition to the persons described in **Article 453 Scope of creditors entitled to distribution**. This shall not apply to creditors holding a real security right that has been registered after the attachment came into effect.

520. Exclusion from application of provisions relating to execution against immovables

Paragraphs 2 and 3 of **Article 349 Method for motions for compulsory execution**, Paragraph 3 of **Article 417 Subject and method of compulsory execution against immovables**, Paragraph 1 of **Article 431 Rights which remain in existence and rights that are extinguished upon sale**, and **Article 453 Scope of creditors entitled to distribution** shall not apply

to the enforcement of a real security right against immovables.

Section V. Enforcement of Real Security Rights against Vessels

521. **Matters to be stated in written motion for enforcement of real security rights against Vessels**

1. Notwithstanding the provisions of Paragraph 2 of **Article 455 Motion for and method of compulsory execution against Vessels**, the Creditor-in-Execution shall state the following information in the written motion for enforcement of a real security right against a Vessel:
 - (a) a description of the Creditor-in-Execution, the owner of the vessel who is the Debtor-in-Execution, the debtor of the secured claim, and their agents;
 - (b) a description of the real security right and the secured claim;
 - (c) a description of the Vessel that is the subject to the enforcement of the real security right;
 - (d) the location of the vessel, and the name and current location of the captain; and
 - (e) if the real security right is to be enforced against only a portion of the secured claim, a statement to this fact and a statement of the scope thereof.
2. Notwithstanding the provisions of Paragraph 3 of **Article 455 Motion for and method of compulsory execution against Vessels**, the document listed below as well as a true copy of the Title of Execution listed in **Article 496 Title of Execution for enforcement of real security rights** shall be attached to the written motion for enforcement of real security rights:
 - (a) a certified copy of the register in the case of enforcement of a real security right other than a general statutory lien; or
 - (b) in the case of enforcement of a general statutory lien, a certified copy of the register of a registered vessel, and, if a person other than the Debtor-in-Execution is noted as an owner in the register, a document proving the vessel is owned by the Debtor-in-Execution; or in the case of a vessel that is not registered, a document proving that the vessel is owned by the Debtor-in-Execution.
3. Upon a motion by the Creditor-in-Execution, the Execution Court may, via the issuing of a ruling, order the possessor of the vessel to deliver the certificate of registry of the vessel and other matters to the bailiff. This shall not apply to a person found to be possessing the vessel based on a right that can be asserted against the Creditor-in-Execution.
4. A *Chomtoah Appeal* may be filed against a ruling on a motion under Paragraph 3.
5. A ruling under Paragraph 3 may be enforced even before it is served on the counter-party.

522. *Mutatis mutandis* application of provisions governing enforcement of real security rights against immovables

In addition to any specific provisions, if any, the provisions of **Book VI, Chapter III, Section IV (Enforcement of real security rights against immovables)** shall apply *mutatis mutandis* to compulsory sale for the enforcement of a real security right against a Vessel.

523. Replacement provision

The words "a true copy of the enforceable Title of Execution" in Paragraph 2 of **Article 459 Ruling ordering delivery of certificate of registry and other matters prior to motion** shall be deemed to be replaced with "the document described in **Article 496 Title of Execution for enforcement of real security rights**".

Chapter Four COMPULSORY EXECUTION OF RIGHT OF CLAIM WHOSE SUBJECT IS NOT MONEY

524. Compulsory execution of delivery of immovables

1. Compulsory execution of the delivery of an immovable, or a ship or other object in which a person dwells, shall be carried out by the method wherein a bailiff who belongs to the court of first instance having jurisdiction over the location of such subject takes possession thereof from the Debtor-in-Execution, and has the Creditor-in-Execution obtain the possession therefrom.
2. Compulsory execution described in Paragraph 1 may be carried out only when the Creditor-in-Execution or his/her agent appears at the place of execution.
3. When carrying out compulsory execution under Paragraph 1, the bailiff may enter the immovable, ship or other thing in the possession of the Debtor-in-Execution, and may take a necessary action in order to open any locked doors.
4. In carrying out the compulsory execution under Paragraph 1, the bailiff shall remove all Movable that are not subject to the execution and deliver such to the Debtor-in-Execution, his/her agent, or a cohabiting relative, servant or other employee who possesses proper faculties. In such case, if the bailiff is unable to deliver the Movable to such person, the bailiff shall retain custody thereof.
5. The costs for the custodialship described in Paragraph 4 shall be deemed as Execution Costs.
6. Should the bailiff be unable to deliver the Movable to a person described in Paragraph 4, the bailiff may sell the Movable in accordance with the sales proceedings for execution against Movable.
7. When Movable are sold in accordance with Paragraph 6, the bailiff shall make a court deposit of the surplus of the proceeds of sale after deducting the costs incurred for sale and custodialship, with the court of first instance to which the bailiff belongs.
8. When compulsory execution under Paragraph 1 and Paragraph 4 has been concluded, the bailiff shall give notice of this fact to the Debtor-in-Execution.

525. Compulsory execution of delivery of Movable

1. Compulsory execution of delivery of Movable other than Movable described in **Article 524 Compulsory execution of delivery of immovables** shall be carried out by the method of a bailiff of the court of first instance having jurisdiction over the location of such Movable taking said Movable from the Debtor-in-Execution and delivering them to the Creditor-in-Execution.
2. Should neither the Creditor-in-Execution nor his/her agent appear at the place where compulsory execution under Paragraph 1 is being carried out, the bailiff may defer the implementation of the compulsory execution if the bailiff finds it unavoidable by taking into account the type, volume, and other characteristics of such Movable.
3. In cases where neither the Creditor-in-Execution nor his/her agent appears at the place for the compulsory execution of delivery of Movable, once the bailiff has taken the Movable from the Debtor-in-Execution he/she shall retain custody of said the Movable.
4. The provisions of Paragraph 6 of **Article 384 Commencement of execution against Movable**, Paragraph 2 of **Article 385 Attachment of Movable in the possession of the Debtor-in-Execution**, and Paragraph 4 through 8 of **Article 524 Compulsory execution of delivery of immovables** shall apply *mutatis mutandis* to compulsory execution under Paragraph 1 of this Article.

526. Compulsory execution of delivery in cases where a third party is in possession of the subject property

1. Should a third party be in possession of the subject of the compulsory execution and owe a duty to deliver the same to the Debtor-in-Execution, execution of the delivery of the subject shall be carried out by the Execution Court attaching the Debtor-in-Execution's claim right to the demand delivery against the third party and permit, via the issuance of a ruling, the Creditor-in-Execution to exercise said claim right.
2. The provisions of Paragraphs 3 and 4 of **Article 402 Meaning of execution of claims and Execution Court**, **Article 403 Attachment ruling**, **Article 405 Notice to Third Party Debtor to give statement**, **Article 406 Delivery of claim certificate** and Paragraphs 1, 2 and 4 of **Article 410 Collection of claims for which the subject is the payment of money** shall apply *mutatis mutandis* to compulsory execution under Paragraph 1 of this Article.

527. Execution by substitute

1. Where the obligation is an obligation for actions that can be performed by a third party in lieu of the debtor, compulsory execution of such obligation shall, upon motion by the Creditor-in-Execution, be carried out by the Execution Court issuing a ruling permitting the Creditor-in-Execution to have the action performed by a third party in lieu of the Debtor-in-Execution at the expense of said debtor.
2. The Execution Court described in Paragraph 1 shall be the court set forth in **Article 363 Motion objecting to claim**, Paragraph 3, Items (a) or (c) corresponding to the type of Title of Execution listed in each Item.
3. When issuing a ruling under Paragraph 1, the Execution Court shall

- question the Debtor-in-Execution.
4. When issuing a ruling under Paragraph 1, the Execution Court may, upon motion, order the Debtor-in-Execution to make payment in advance to the Creditor-in-Execution for the costs necessary for performing the action prescribed in the ruling.
 5. A *Chomtoah Appeal* may be filed against a decision on a motion for compulsory execution under Paragraph 1 or a motion under Paragraph 4.
 6. The provisions of Paragraph 2 of **Article 338 Ensuring performance of duties by bailiffs** shall apply *mutatis mutandis* to cases of execution of a ruling under Paragraph 1.
 7. The provisions of Paragraphs 1 through 6 of this Article shall apply *mutatis mutandis* to cases where the obligation is an obligation of inaction, and the Creditor-in-Execution requests the removal of the results of the breach of the duty of inaction in order to to establish material facility for the purpose of preventing said breach, or to take other appropriate measures at the expense of the Debtor-in-Execution.

528. Indirect enforcement

1. Compulsory Execution of an obligation of action or inaction may also be carried out through the Execution Court issuing a ruling ordering the Debtor-in-Execution to pay to the Creditor-in-Execution a specified amount of money found reasonable to secure the performance of the obligation, either in compliance with a period of delinquency, or immediately if the obligation is not performed within a specified period that is found reasonable.
2. The Execution Court described in Paragraph 1 shall be the court set forth in **Article 363 Motion objecting to claim**, Paragraph 3, Items (a) or (c) corresponding to the type of Title of Execution listed in each Item.
3. Should circumstances have changed, the Execution Court may, upon motion by the Creditor-in-Execution or the Debtor-in-Execution, amend the ruling issued under Paragraph 1.
4. When issuing a ruling under Paragraph 1 or Paragraph 3, the Execution Court shall question the counter-party to the motion.
5. Where payment of the money ordered to be paid under Paragraph 1 was made, if the amount of damages arising from non-performance of the obligation exceeds the amount so paid, the Creditor-in-Execution may demand compensation of the damages in the amount of said excess.
6. A *Chomtoah Appeal* may be filed against a decision on a motion for compulsory execution under Paragraph 1 or a motion under Paragraph 3.

529. Constructive declaration of intention

1. Should a judgment or ruling ordering a Debtor-in-Execution to make a declaration of intention become final and binding, or a Title of Execution based on a settlement or acknowledgment which states that the Debtor-in-Execution shall declare an intention be formed, the Debtor-in-Execution shall be deemed to have made such declaration of intention at the time that the said judgment or order becomes final and binding or the said Title of Execution is formed. If the claim right to demand the declaration of intention is subject to a condition precedent or conditional event, the declaration of intention shall

be deemed to have been made at the time of the granting of the execution clause pursuant to Paragraph 1 of **Article 356 Special execution clause**. Should the declaration of intention by the Debtor-in-Execution be effected in exchange for counter-performance by the Creditor-in-Execution, the declaration of intention shall be deemed to have been made at the time of the granting of the execution clause under Paragraph 2 of this Article.

2. Should the declaration of intention by the Debtor-in-Execution be effected in exchange for counter-performance by the Creditor-in-Execution, the execution clause may be granted only when the Creditor-in-Execution has submitted documentation proving that the Creditor-in-Execution has affected the counter-performance or tendered the same.

BOOK SEVEN PRESERVATIVE DISPOSITIONS

Chapter One GENERAL PROVISIONS

530. Tenor

Should there be a risk that the compulsory execution will become impossible or extremely difficult by reason of alteration of the state of the property of the Debtor-in-Execution, or that significant damage or imminent risk will arise affecting the status of one of the parties in respect to the right in dispute, a person wishing to preserve his/her rights may apply for preservative dispositions pursuant to the provisions of this Book as well as special provisions of other laws.

531. Types of preservative dispositions

Preservative dispositions consist of the following as set forth in each Item below and the contents as defined in the corresponding column:

(i)	Provisional attachment	Disposition restricting the disposition of property of the debtor in order to preserve compulsory execution for a claim whose subject is the payment of money
(ii)	Provisional disposition of subject of dispute	Disposition for the maintenance of the status quo of the subject property of the dispute, in cases where there is a risk that alteration of the status thereof would render it impossible, or extremely difficult, for the creditor to enforce his/her rights
(iii)	Provisional disposition establishing a provisional status	Disposition establishing a provisional situation until a judgment becomes final and binding where this is necessary in order to avoid significant damages or imminent risk arising to the creditor with regard to the legal relations in dispute

532. Organs granting preservative disposition

1. A ruling for preservative disposition shall, upon motion, be issued by the court.
2. Execution of preservative disposition shall, upon motion, be carried out by the court or the bailiff.
3. The court that is to carry out the execution of the preservative disposition pursuant to the provisions of this Book shall be the Preservative Disposition Execution Court.
4. The provisions of Paragraph 4 of **Article 336 Execution organs** shall apply *mutatis mutandis* to execution of preservative disposition

carried out by a bailiff.

533. Exclusive jurisdiction

The jurisdiction of the court described in this Book shall be exclusive.

534. Method for filing motions

The motions listed below shall be filed in writing:

- (a) a motion for a ruling of preservative disposition;
- (b) a *Chomtoah Appeal* of a ruling dismissing a motion for preservative disposition;
- (c) a motion of objection to preservative disposition;
- (d) a motion to cancel a ruling of preservative disposition;
- (e) a *Chomtoah Appeal* stipulated in **Article 561 Chomtoah Appeals**;
and
- (f) a motion for the execution of a preservative disposition.

535. Decision on proceedings for preservative disposition

1. Decisions concerning the proceedings for a ruling of preservative disposition or the court proceedings for the execution of a preservative disposition shall be made via the issuing of a ruling.
2. When carrying out an execution disposition, the Preservative Disposition Execution Court may, if it finds necessary, question any interested person or other persons concerned.
3. Paragraphs 1 and 2 shall apply to cases where a court of first instance renders a decision on an objection to an execution disposition carried out by a bailiff.

536. Provision of security

In order to post security in accordance with the provisions of this Book, a party shall make a court deposit of money or negotiable instruments, as deemed appropriate by the court, to the court that ordered such posting or the Preservative Disposition Execution Court.

537. Costs for preservative disposition

1. Where a motion for a ruling of preservative disposition is filed, the moving party shall pay a fee in the amount of 5,000 riel to the court.
2. Where a motion for execution of preservative disposition is filed with the Preservative Disposition Execution Court, the moving party shall pay in advance the amount set by the Preservative Disposition Execution Court as the costs required for the execution proceedings for preservative disposition.
3. Should the moving party not pay such costs in advance, the Preservative Disposition Execution Court may dismiss the motion for execution of preservative disposition or suspend the proceedings for the execution of preservative disposition.
4. A *Chomtoah Appeal* may be filed against a ruling to dismiss a motion under Paragraph 3.
5. When a motion for execution of preservative disposition is filed with a bailiff, the moving party shall pay a fee as provided separately.

538. Viewing the record of preservative disposition cases

1. A person who has established via a *prima facie* showing his/her interest in the proceedings relating to a ruling of preservative disposition or the court proceedings concerning the execution thereof may request the court to allow the viewing or copying of the case records, or may request delivery of authenticated copies, certified copies or excerpts thereof or the delivery of a certificate of matters related to the case with a payment of fees.
2. A person who has established via a *prima facie* showing his/her interest in the execution of the preservative disposition conducted by a bailiff, may request the bailiff to allow a viewing or copying of the case records, or may request delivery of authenticated copies, certified copies or excerpts thereof, or delivery of a certificate of matters related to the case with a payment of fees.

539. *Mutatis mutandis* application of provisions of Book II through IV

Except where specifically provided, the provisions of Book II through IV shall apply *mutatis mutandis* to proceedings of preservative disposition.

Chapter Two RULINGS OF PRESERVATIVE DISPOSITIONS

Section I. General Provisions

540. Court having jurisdiction

1. The court having jurisdiction over the motion on the merits, or the court of first instance having jurisdiction over the place where the object to be provisionally attached or the subject of the dispute is located shall have jurisdiction over the case for a ruling of preservative disposition.
2. The court having jurisdiction over the action on the merits shall be the court of first instance. Where the action on the merits is pending in an appellate court, it shall be such appellate court.
3. Where the object to be provisionally attached or the subject of the dispute is a claim, the claim shall be deemed to be located in the location of the Third Party Debtor as set forth in **Article 8 Jurisdiction determined by domicile**. Where the subject of a claim is delivery of a vessel or movable, the claim shall be deemed to be located at the place of such object.
4. The first sentence of Paragraph 3 shall apply *mutatis mutandis* to cases where the object to be provisionally attached or the subject of the dispute is a property right described in **Article 416 Compulsory execution against other property rights** and there exists a Third Party Debtor or analogous person.

541. Matters to be stated in written motions and *prima facie* showing

1. A written motion to a ruling of preservative disposition shall

contain the following information:

- (a) the names and addresses of the parties and the name and address of their agent;
 - (b) the contents of a ruling of preservative disposition that is sought;
 - (c) the rights or legal relationship that are to be preserved; and
 - (d) the necessity of the preservative disposition.
2. The moving party shall make efforts to state specific details for Items (c) and (d) under Paragraph 1, and state evidence for each fact and the grounds required to be proven.
 3. *Prima facie* showing shall be established concerning items (c) and (d) of paragraph 1.

542. Security for rulings of preservative disposition

A ruling of preservative disposition may be issued with or without requiring the provision of security.

543. Service

The court shall serve the ruling of preservative disposition on the parties.

544. *Chomtoah Appeal* against decision to dismiss

1. A creditor may file a *Chomtoah Appeal* against a decision to dismiss a motion for preservative disposition within two weeks of receiving notice thereof.
2. The period described in Paragraph 1 may not be extended.

Section II. Ruling of Provisional Attachment

545. Necessity of ruling of provisional attachment

1. A ruling of provisional attachment may be issued where there is a risk that compulsory execution will become impossible or extremely difficult with respect to a claim whose subject is a monetary payment.
2. A ruling of provisional attachment may be issued even in cases where the claim described in Paragraph 1 is subject to a condition or specific event.

546. Subjects of ruling of provisional attachment

The court shall issue a ruling of provisional attachment specifying the subject thereof. However, a ruling of provisional attachment over Movables may be issued without specifying the subject thereof.

547. Money for release from provisional attachment

1. The court shall stipulate in a ruling of provisional attachment the monetary amount the debtor is required to place as a court deposit in order to have the execution of the provisional attachment recinded.
2. A court deposit of the monetary amount described in Paragraph 1 shall be made with the court that issued the ruling of provisional

attachment or the Preservative Disposition Execution Court.

Section III. Ruling of Provisional Disposition

548. Necessity of ruling of provisional disposition

1. The court may issue a ruling of provisional disposition for the subject of the dispute should there be a risk that alteration of the status of such subject would render it impossible, or extremely difficult, for the creditor to enforce his/her rights.
2. The court may issue a ruling of provisional disposition establishing a provisional status where it is necessary in order to avoid significant damages or imminent risk arising to the creditor with regard to the legal relations in dispute.
3. The provisions of Paragraph 2 of **Article 545 Necessity of ruling of provisional attachment** shall apply *mutatis mutandis* to rulings of provisional disposition.
4. The court may not issue a ruling of provisional disposition described in Paragraph 2 without holding a court date for either oral arguments or the questionings for which the debtor is able to attend. This shall not apply where there are extraordinary circumstances that would prevent the attainment of the purpose of the motion for a ruling of provisional disposition if such court date were held.

549. Method of provisional disposition

The court may order any disposition necessary to attain the purpose of the motion for a ruling of provisional disposition, such as ordering the debtor to perform a specific acts, prohibiting the debtor from performing specific acts, ordering the debtor to effect performance, or ordering a custodian to take custody of the subject property.

Section IV. Objection to a Ruling of Preservative Disposition

550. Motion of objection to a ruling of preservative disposition

A debtor may file a motion of objection to a ruling of preservative disposition with the court that issued such ruling.

551. Decision to stay execution of preservative disposition

1. Where a motion of objection to a ruling of preservative disposition has been filed, the court may, upon motion, order a stay of execution of preservative disposition or a cancellation of execution disposition, with the requirement of providing security, until a decision under Paragraph 3 is rendered in the ruling on the motion of objection to a ruling of preservative disposition, only if it is established by *prima facie* showing that clear circumstances constituting grounds for canceling the ruling of preservative disposition exist, and that there is a risk that execution of preservative disposition would cause irreparable damage.
2. In cases where a *Chomtoah Appeal* court issued the ruling of preservative disposition and the record of the case is kept in

the original court, that court may also render a decision under Paragraph 1.

3. In the ruling on the motion of objection to a ruling of preservative disposition, the court shall cancel, amend or grant the decision already rendered in accordance with Paragraph 1.

552. Trial for objection to a ruling of preservative disposition

The court shall not issue a ruling on the motion of objection to a ruling of preservative disposition without holding a court date for either oral arguments or questioning to which both parties are able to attend.

553. Conclusion of trial

Where the court is to conclude the trial for the objection to a ruling of preservative disposition, the court shall set up such conclusion date with a grace period as it finds appropriate. The court may declare that the trial be concluded immediately on the court date of either oral arguments or questioning, which both parties were able to attend.

554. Ruling on motion of objection to a ruling of preservative disposition

1. In the ruling on a motion of objection to a ruling of preservative disposition, the court shall grant, amend or cancel the ruling of preservative disposition.
2. In a ruling canceling a ruling of preservative disposition under Paragraph 1, the court may impose the condition that the debtor provide security.
3. The provisions of **Article 543 Service** shall apply *mutatis mutandis* to rulings under Paragraph 1.

555. Ruling to order restitution

Where the creditor has, based on a ruling of provisional disposition, received delivery of an object or payment of money, or used or taken custody of an object, the court may, upon motion of the debtor, order the creditor to return the object delivered or money paid by the debtor, or to return the object which the creditor uses or holds in custody, through a ruling of cancellation of the ruling of provisional disposition under Paragraph 1 of **Article 554 Ruling on motion of objection to a ruling of preservative disposition**

556. Effect of ruling of cancellation of ruling of preservative disposition

A ruling of cancellation of a ruling of preservative disposition under Paragraph 1 of **Article 554 Ruling on motion of objection to a ruling of preservative disposition** shall come into effect only when it becomes final and binding. The court may, if it finds particularly necessary, declare that the ruling shall come into effect immediately.

Section V. Cancellation of Ruling of Preservative Disposition

557. Cancellation of ruling of preservative disposition due to failure

to file an action on the merits

1. The court that issued the ruling of preservative disposition shall, upon motion of the debtor, order the creditor to file an action on the merits and submit documents proving such filing within a period deemed reasonable by the court.
2. The period described in Paragraph 1 shall not be less than two weeks.
3. Should the creditor fails to submit the document described in Paragraph 1 within the period described thereunder, the court shall, upon motion of the debtor, cancel the ruling of preservative disposition.
4. Where the document described in Paragraph 1 had been submitted after the action on the merits was discontinued or dismissed, such document shall be deemed to have not been submitted.
5. In the application of Paragraphs 1 and 3, should there be an arbitration agreement relating to the merits of the case, the procedure of commencement of arbitration proceedings shall be deemed to be the filing of an action on the merits.
6. Should the arbitration proceedings described in Paragraph 5 conclude without an arbitration award, the creditor shall file an action on the merits within the same period as that stipulated under Paragraph 1 counting from the day of the conclusion of the arbitration proceedings.
7. The provisions of Paragraph 3 shall apply *mutatis mutandis* to cases where a creditor fails to file an action on the merits in accordance with Paragraph 6, and the provisions of Paragraph 4 shall apply *mutatis mutandis* to cases where the action on the merits described in Paragraph 6 had been filed after its discontinuance or dismissal. The provisions of **Article 543 Service** shall apply *mutatis mutandis* to rulings under Paragraph 3 and Paragraph 7.

558. Cancellation of a ruling of preservative disposition due to a change of circumstances

1. Where the rights or legal relationship to be preserved, or the necessity of preservative disposition, have been extinguished or where the circumstances have otherwise changed, the court that issued the ruling of preservative disposition or the court hearing the merits case may, upon motion by the debtor, cancel such ruling.
2. The debtor shall establish *prima facie* showing of the change of circumstances described in Paragraph 1.
3. The provisions of **Article 543 Service** and Paragraph 2 of **Article 554 Ruling on motion of objection to a ruling of preservative disposition** shall apply *mutatis mutandis* to rulings on motions under Paragraph 1.

559. Cancellation of ruling of provisional disposition due to special circumstances

1. Where there exist special circumstances such as the risk that the ruling of provisional disposition would cause irreparable damage, the court that issued the ruling of provisional disposition or

- the court hearing the merits case may, upon motion of the debtor, cancel such ruling, subject to the condition of posting security.
2. The debtor shall establish *prima facie* showing of the special circumstances described in Paragraph 1.
 3. The provisions of **Article 543 Service** shall apply *mutatis mutandis* to rulings on motions under Paragraph 1.

560. *Mutatis mutandis* application of provisions concerning objection to a ruling of preservative disposition

1. The provisions of **Articles 551 Decision to stay execution of preservative disposition through Article 553 Conclusion of trial, Article 555 Ruling to order restitution, and Article 556 Effect of ruling of cancellation of ruling of preservative disposition** shall apply *mutatis mutandis* to decisions on cancellation of rulings of preservative disposition. This shall not apply to decisions under Paragraph 1 of **Article 557 Cancellation of ruling of preservative disposition due to failure to file an action on the merit.**
2. Where a motion for cancellation of preservative disposition has been filed with the court of the merits action and such is not the court that issued the ruling of preservative disposition, and the case record is kept in the court that issued the ruling of preservative disposition, that court may also render a decision under Paragraph 1 of **Article 551 Decision to stay execution of preservative disposition**, which is applied *mutatis mutandis* by Paragraph 1 of this Article.

Section VI. *Chomtoah Appeals*

561. *Chomtoah Appeals*

1. A *Chomtoah Appeal* may be filed against any of the following rulings, within two weeks from the date of service thereof. This shall not apply to a decision on a motion of objection to a ruling of preservative disposition issued by a *Chomtoah Appeal* court:
 - (a) a ruling concerning a motion of objection to a ruling for preservative disposition, or a motion to cancel a ruling of preservative disposition;
 - (b) a ruling pursuant to **Article 555 Ruling to order restitution**; or
 - (c) a ruling pursuant to **Article 555 Ruling to order restitution** that is applied *mutatis mutandis* through **Article 560 Mutatis mutandis application of provisions concerning objection to a ruling of preservative disposition.**
2. The period described in Paragraph 1 may not be extended.
3. The provisions of **Article 543 Service** and Paragraph 2 of **Article 554 Ruling on motion of objection to a ruling of preservative disposition** shall apply *mutatis mutandis* to a ruling on a *Chomtoah Appeal*, the provisions of Paragraph 1 **Article 551 Decision to stay execution of preservative disposition, Article 552 Trial for objection to a ruling of preservative disposition, Article 553 Conclusion of trial and Article 555 Ruling to order restitution** shall apply *mutatis mutandis* to decisions in *Chomtoah Appeals*, and the

provisions of **Article 317 Motion for retrial concerning a ruling** shall apply *mutatis mutandis* to cases where a decision against which a *Chomtoah Appeal* could have been filed has become final and binding.

4. Decisions under Paragraph 1 of **Article 551 Decision to stay execution of preservative disposition**, which is applied *mutatis mutandis* by Paragraph 3 of this Article, may also be made by the original court if it holds the case record.

Chapter Three EXECUTION OF PRESERVATIVE DISPOSITION

562. Requirements for execution of preservative disposition

1. Execution of preservative disposition shall be implemented on the basis of a true copy of the ruling of preservative disposition. Preservative disposition execution against or for persons other than the parties indicated in the ruling of preservative disposition shall be implemented on the basis of a true copy of the ruling of preservative disposition bearing an execution clause.
2. Execution of preservative disposition shall not be carried out once 2 weeks have passed since the date the ruling of preservative disposition was served on the creditor.
3. Execution of preservative disposition may be carried out before the ruling of preservative disposition is served on the debtor.

563. Special rules for courts with jurisdiction over third party objection actions

A third party objection action against preservative disposition execution implemented by an appellate court as the Preservative Disposition Execution Court shall be subject to the jurisdiction of the court of first instance having jurisdiction over the place in which the object to be provisionally attached or the property in dispute is located, notwithstanding Paragraph 2 of **Article 365 A third party objection action**.

564. *Mutatis mutandis* application of provisions of Book VI

Except where specially provided in this Chapter, the following provisions shall apply *mutatis mutandis* to the execution of preservative disposition:

Article 338 Ensuring performance of duties by bailiffs through Article 345 Chomtoah Appeal against cancellation ruling, Article 348 Appointed representative for the proceedings of compulsory execution, Paragraphs 2 and 3 of Article 349 Method for motions for compulsory execution, Paragraphs 1 of Article 351 Scope of persons who can be parties to compulsory execution, Paragraph 2 of Article 354 Requirements for execution clause and organs granting such clause, Paragraph 1 and 3 of Article 355 Motion for granting of execution clause, Paragraphs 2 through 4 of Article 356 Special execution clause, Article 357 Matters to be stated in an execution clause through Article 359 Recording on original Title of Execution, Article 362 Filing of an objection to the granting

of execution clause, Article 364 Motion objecting to grant of execution clause, Article 365 A third party objection action, and Article 367 Decision of stay of execution upon the filing of a motion objecting to a claim through Article 370 Stay and cancellation of compulsory execution.

565. Execution of provisional attachment over Movables

1. Execution of provisional attachment over Movables shall be carried out through the bailiff who belongs to the court of the first instance having jurisdiction over the location of the subject taking possession of such subject property.
2. The bailiff shall make a court deposit of the provisionally attached money with the court to which he/she belongs.
3. Where there is a risk of a severe devaluation of the provisionally attached Movables, or where incommensurate costs are required for the storage of such Movables, the bailiff shall, upon motion of the provisional attachment creditor or the debtor, sell such Movables in accordance with the sales proceedings for execution against Movables as stipulated in the provisions of BOOK VI, Chapter II, Section II of this Code, and make a court deposit of the sales proceeds with the court to which he/she belongs.
4. The provisions of Paragraph 2 of **Article 384 Commencement of execution against Movables**, and **Article 385 Attachment of Movables in the possession of the Debtor-in-Execution** through **Article 392 Prohibition of attachments with no prospects for producing a residual** shall apply *mutatis mutandis* to the execution of provisional attachment over Movables.

566. Execution of provisional attachment over claims and other property rights

1. Execution of provisional attachment over claims as stipulated in **Article 402 Meaning of execution of claims and Execution Court** shall be carried out by Preservative Disposition Execution Court issuing a ruling enjoining the Third Party Debtor from paying the debtor.
2. The court that issued the provisional attachment ruling shall have jurisdiction as the Preservative Disposition Execution Court over the execution of the provisional attachment described in Paragraph 1.
3. In cases where provisional attachment has been executed against a claim whose subject is the payment of money, should the Third Party Debtor have made a court deposit of the amount of such claim with the court, such deposited money shall be deemed as having been deposited by the debtor with the court as the money amount described in **Article 547 Money for release from provisional attachment**. This shall not apply to the portion of the money paid by the Third Party Debtor that exceeds such amount.
4. The provisions of Paragraphs 1 and 2 shall apply *mutatis mutandis* to the execution of provisional attachment over other property rights.
5. The provisions of Paragraphs 2 and 3, Paragraphs 6, 7 and 8, and Paragraphs 10 and 11 of **Article 403 Attachment ruling, Articles**

404 Scope of attachment through Article 408 Notice of withdrawal of motion, Article 411 Court deposit by Third Party Debtor and Article 416 Compulsory execution against other property rights, shall apply *mutatis mutandis* to the execution of provisional attachment over claims described in Paragraph 1 and other property rights.

567. Execution of provisional attachment over immovables

1. Execution of provisional attachment over immovables as stipulated in Paragraph 1 of **Article 417 Subject and method of compulsory execution against immovables** shall be carried out through the method for registering the provisional attachment.
2. The court that issued the provisional attachment ruling shall have jurisdiction as the Preservative Disposition Execution Court over the execution of the provisional attachment.
3. The court clerk shall be entrusted with the registration of the provisional attachment.
4. The provisions of Paragraph 2 of **Article 420 Entrustment for registration of attachment**, the first sentence of Paragraph 3 of **Article 421 Effect of attachment**, Paragraphs 1 of **Articles 424 Double ruling for commencement, Article 425 Double ruling for commencement in the enforcement of real security right and execution against an immovable, Article 427 Cancellation of compulsory sale proceedings for reasons including destruction or loss of the immovable** and **Article 428 Entrustment for striking out of registration of attachment**, shall apply *mutatis mutandis* to the execution of provisional attachment over immovables.

568. Execution of provisional attachment over Vessels

1. Execution of provisional attachment over Vessels shall be carried out through the method of registration for provisional attachment or via the method for ordering the bailiff to confiscate the certificate of registry of the vessel and other matters, and shall submit such to the Preservative Disposition Execution Court. These two methods may be used concurrently.
2. When provisional attachment is executed by means of registration of provisional attachment, the court that issued the ruling of provisional attachment shall have jurisdiction as the Preservative Disposition Execution Court; on the other hand, when provisional attachment is executed by means of ordering the confiscation of the certificate of registry of the vessel and other matters, the court of first instance having jurisdiction over the location of the vessel shall have jurisdiction as the Preservative Disposition Execution Court.
3. The court clerk shall entrust the relevant government agency to register the provisional attachment.
4. The provisions of Paragraphs 2 and 3 of **Article 455 Motion for and method of compulsory execution against Vessels, Article 465 Cancellation of compulsory execution proceedings for reason of destruction or loss of vessel and Article 466 Entrustment for the striking out of the attachment registration** shall apply *mutatis mutandis* to the execution of provisional attachment carried out

by means of the registration of provisional attachment, and the provisions of Paragraph 3 of **Article 455 Motion for and method of compulsory execution against Vessels**, Paragraph 7 of **Article 457 Ruling for commencement**, **Article 460 Appointment of custodian** and **Article 462 Permission to sail** shall apply *mutatis mutandis* to the execution of provisional attachment carried out via the ordering of the confiscation of the certificate of registry of the vessel and other objects.

569. Cancellation of execution of provisional attachment via deposit to court of money for release from provisional attachment

1. Once the debtor has made a court deposit of money of the amount described in **Article 547 Money for release from provisional attachment** with the court, the Preservative Disposition Execution Court or the court of first instance to which the bailiff belongs shall cancel the execution of the provisional attachment.
2. The ruling issued in accordance with the provisions of Paragraph 1 shall come into effect immediately, notwithstanding Paragraph 2 of **Article 345 Chomtoah Appeal against cancellation ruling** as applied *mutatis mutandis* by **Article 564 Mutatis mutandis application of provisions of Book VI**.

570. Execution of provisional disposition

Execution of provisional disposition shall be implemented following the example for execution of provisional attachment or compulsory execution.

571. Effect of provisional disposition prohibiting transfer of possession

1. Where, in order to preserve a claim right for the delivery of an object, a ruling of provisional disposition has been issued that prohibits the debtor from transferring possession of the object and orders the debtor to relinquish such possession and deliver the object to the bailiff who shall take the object into custody, the bailiff shall give public notice of the fact that the debtor is prohibited from transferring possession and that the bailiff has custody over the object by posting said notice on a public notice board from which it cannot be easily removed, or by other appropriate means.
2. Where execution of the provisional disposition described in Paragraph 1 has been carried out, the creditor may effect compulsory execution of the delivery of the object based on the Title of Execution of the merits action. Such compulsory execution may be allowed only against a person who took possession of the object with the knowledge that the provisional disposition had been executed.
3. A person who takes possession of such object after the provisional disposition described in Paragraph 1 has been executed shall be presumed to have done so with knowledge of said execution of provisional disposition.

BOOK EIGHT TRANSITIONAL PROVISIONS

Chapter One TRANSITIONAL PROVISIONS

572. Principle of transitional measures

With regard to an action filed before the application of this Code, the proceedings for such action after the application of this Code shall be completed in accordance with this Code, except where specifically provided by this **Book VIII Transitional provisions**. In such case, the effect of the proceedings arising before the application of this Code shall not be hindered by this provision.

573. Transitional measures with regard to jurisdiction

The jurisdiction and transfer of actions currently pending at the time of application of this Code shall be determined as heretofore.

574. Transitional measures with regard to distribution of cases

- 1 After the filing of an action, should this Code come into effect prior to the appointment of the judge in charge of investigation or settlement proceedings for the action (hereinafter referred to as the Investigating Judge), such action shall be deemed to have been filed at the time this Code came into effect, and the provisions of **Article 26 Distribution of cases** shall apply.
- 2 After the appointment of the Investigating Judge, if this Code comes into effect prior to the appointment of the presiding judge or other judges for the principal hearing, the Investigating Judge shall be deemed have received the case as assigned under the provision of **Article 26 Distribution of cases** of this Code.
- 3 With regard to cases under Paragraph 2 above, if the case is a case set forth in Paragraph 2 of **Article 23 Single judge systems and panel systems in the court of first instance**, such case shall, notwithstanding the provisions of Paragraph 2 of this Article, be deemed to be filed at the time that this Code came into effect and the provisions of **Article 26 Distribution of cases** shall apply.
- 4 After the *Uttor* appellate court has received the case, if this Code comes into effect prior to the appointment of the judges of the principal hearing, the case shall be deemed to have been received at the time of the application of this Code and the provisions of **Article 26 Distribution of cases** shall apply.
- 5 The provisions of Paragraph 4 shall apply *mutatis mutandis* to the distribution of cases in the *Satuk* appellate court.

575. Transitional measures with regard to decision on disqualification or challenge

Where a court of first instance does not have enough judges to hear and decide via a panel a motion for disqualification or challenge, the provision of paragraph 1 of **Article 30 Judicial decision of disqualification or challenge** shall apply for the time being by changing the phrase "the panel of the court to which the judge belongs" to "other

judge of the court to which the judge belongs”.

576. Transitional measures on investigating procedure or procedure subsequent to investigating procedure

- 1 Should this Code come into effect during the investigation procedure, the court shall immediately terminate such procedure and promptly set a date for preparatory proceedings and summon the parties.
- 2 After the conclusion of the investigating procedure, where this Code comes into effect prior to the date for the principal hearing, the court shall promptly set a date for preparatory proceedings and summon the parties. This shall not apply where preparatory proceedings are to be conducted in accordance with the provisions of paragraph 2 of **Article 578 Transitional measures on the date for the principal hearing**.
- 3 With regard to cases under paragraph 1 and paragraph 2 above, acts concerning actions conducted during the investigating procedure shall be deemed to have been conducted in the preparatory proceedings within the court’s authority described in **Article 106 Acts concerning the action at preparatory proceedings**.
- 4 Where this Code comes into effect after the date for the principal hearing was held, should a party offer to examine witnesses or parties in oral arguments who have been examined during the investigating procedure but not examined during the principal hearing, the court shall examine such witnesses or parties.

577. Transitional measures with regard to litigation costs

- 1 The fees and other costs for civil actions to be borne by the parties or other interested persons with regard to the case filed before this Code came into effect shall be determined as heretofore.
- 2 The provisions with regard to the security for litigation costs shall apply to cases that were filed prior to this Code coming into effect.

578. Transitional measures with regard to the date for the principal hearing

- 1 The date for the principal hearing that was already designated at the time when this Code came into effect shall be deemed to have been designated as a date for oral arguments according to the provisions of this Code.
- 2 In cases described in Paragraph 1, should the principal hearing date be the first date after the conclusion of the investigating procedure, the court may conduct the preparatory proceedings before commencing the oral arguments.
- 3 For cases described in Paragraph 2, should the court could not complete the preparatory proceedings, the court shall designate another date for preparatory proceedings, and cancel or delay the oral arguments.

579. Transitional measures with regard to sanctions in examination of evidence

- 1 The provisions regarding the civil fine stated in **Chapter 3 Evidence** of

Book II shall apply to cases where the examination of evidence is determined in accordance with the provisions of this Code, or where a party or the party's agent denies the authenticity of a document after this Code comes into effect.

- 2 The previous paragraph shall equally apply to provisions regarding the civil fines stated in **Chapter 3 Evidence of Book II**, which are applied *mutatis mutandis* by **Article 273 Mutatis mutandis application of provisions regarding court proceedings at the court of first instance** and **Article 286 Mutatis mutandis application of provisions regarding Uttor appeal**.

580. Transitional measures with regard to default judgment

The procedure should the plaintiff or defendant fail to appear on the date for which they were summoned prior to the application of this Code shall be determined as heretofore.

581. Transitional measures with regard to possibility of appeal and the period for appeal

- 1 The possibility of appeal and the period for the appeal against a judgment based on a trial concluded prior to the application of this Code shall be determined as heretofore.
- 2 The possibility of a *Satuk* appeal and the period of *Satuk* appeal against the judgment re-rendered by the *Uttor* appellate court with regard to the case which the Supreme Court remanded before the application of this Code, shall be determined as heretofore.
- 3 With regard to cases where the Supreme Court reversed the judgment that the *Uttor* appellate court had rendered based on the trial concluded before the application of this Code, and remanded the case to the *Uttor* appellate court, the possibility of a *Satuk* appeal and the period for a *Satuk* appeal against the judgment re-rendered by the *Uttor* appellate court shall be determined as heretofore.
- 4 With regard to decisions other than judgments that have been notified prior to this Code coming into effect, the possibility for appeal and the period of appeal shall be determined as heretofore.

582. Transitional measures with regard to Satuk appeals and the court proceedings for the Satuk appeal

- 1 The *Satuk* appeals and the court proceedings for the *Satuk* appeal against the judgment of the *Uttor* appellate court based on the trial concluded prior to this Code coming into effect, shall be determined as heretofore.
- 2 The *Satuk* appeals and the court proceedings for the *Satuk* appeal against a judgment re-rendered by the *Uttor* appellate court with regard to a case that the Supreme Court remanded before this Code came into effect shall be applied as heretofore.
- 3 With regard to cases where the Supreme Court reversed the judgment that the *Uttor* appellate court had rendered based on the trial concluded before this Code became effective, and remanded the case to the *Uttor* appellate court, the *Satuk* appeals and the court proceedings for the *Satuk* appeal against the judgment re-rendered by the *Uttor* appellate court shall be determined as heretofore.

583. Transitional measures with regard to the binding effect of reverse judgment

Where the *Satuk* appeals and the court proceedings for the *Satuk* appeal shall be determined as heretofore in accordance with the provisions of **Article 582 Transitional measures with regard to *Satuk* appeals and the court proceedings for the *Satuk* appeal**, should the Supreme Court render a judgment that reverses the original judgment, and remands the case to the *Uttor* appellate court or transfers it to another court, the provisions of Paragraph 2 of **Article 299 Quashing and remand** shall not apply to such judgment.

584. Transitional measures with regard to retrial

The provisions of **Book IV Retrial** shall apply only to judgments that become final and binding after this Law comes into effect.

585. Transitional measures with regard to compulsory execution

- 1 Cases with regard to compulsory execution filed before this Code comes into effect shall be determined as heretofore. This shall not apply to the provisions of **Chapter 3 Detention by imprisonment of the Law on Procedure for Execution of Civil Judgments**.
- 2 The decision ordering detention by imprisonment that was issued pursuant to the provisions of **Chapter 3 Detention by imprisonment of the Law on Procedure for Execution of Civil Judgments** in court proceedings prior to this Code coming into effect shall lose its effect from the date of this Code becoming effective.
- 3 Once this Code comes into effect, should a debtor have been detained under the provisions of **Chapter 3 Detention by imprisonment of the Law on Procedure for Execution of Civil Judgments**, the presiding judge who ordered such detention or the President of the court shall immediately order the release of such debtor.

586. Transitional measures with regard to preservative disposition

- 1 With regard to provisional disposition cases filed prior to this Code coming into effect, if this Code comes into effect before a decision on the motion for preservative disposition is rendered, the remaining proceedings shall be completed in accordance with this Code. In such case, the effect of the proceedings arising before the application of this Code shall not be hindered by this provision.
- 2 For cases described in the previous paragraph, should this Code come into effect after a decision on the motion for preservative disposition has been rendered, the remaining proceedings shall be determined as heretofore.

BOOK NINE FINAL PROVISIONS
Chapter One FINAL PROVISIONS

587. Application of this Code

This Code shall come into effect one-year following one year after its promulgation.

588. Abrogation of other laws

- 1 The Laws mentioned as follows shall become null and void from the day of application of this Code:
 - a Law on Procedure for Execution of Civil Judgments promulgated by Decree No. 51 KR dated May 2, 1992; and
 - b Law on Litigation Costs promulgated by Decree No. 07 KR dated February 8, 1993.
- 2 The provisions of other laws that are in effect at the time of the application of this Code, but which are inconsistent with the provisions of this Code, shall become invalid to the extent of inconsistency from the date of the application of this Code.