

← **Object of the Contract**

- **Definition**

- o It is the respective obligations of the contracting parties
 - o It is different from the thing over which the contract is made and the subject matter of the Contract
- Freedom of Contract (Art. 1711): freedom of contract with regard to choice of object
- This shows a liberalist capitalist economy which leaves an ample space for the parties initiative
- This freedom is both to:
 - o nominate: already named contracts
 - o innominate : contracts which may be created/produced by human ingenuity
- Article 1711: parties are free to determine the object of their undertaking
- But there are exceptions to this freedom: limitations and restrictions provided by the law
- The object could be an obligation:
 - o **to give:** an obligation to transfer ownership
 - o **to do:** to perform/procure a certain advantage
 - o **not to do:** refrain from doing something
- **Article: 1713**
 - o Article 1712 requires the parties to state the object of their undertaking clearly. But it is unlikely for the parties to state everything and the obligation of the parties may be determined by incidental effects attached to the obligation by custom, equity, good faith and the nature of the contract
 - o The object of the contract may be determined globally and the parties are deemed to have agreed on all the obligations derived from custom, equity and good faith. In other words it leaves ample room for the initiative of the parties, the evolution of the contract overtime, the evolution of habits and interpretations by courts (1732 of the civil code)

- o So the agreement articulated by the parties should be supplemented incidental effects that obviously follow from it as a result of custom, equity and good faith
- o accessory obligations are imposed by the virtue of the custom and good faith, although the contract is silent in this respect.
- o Therefore, we will not make the contract void for the mere fact that the parties fail to provide or specify the object of their undertaking
- o ***Example: Transfer of risk and the duty to preserve and protect the thing***

← **Criterion of object**

- Clarity: the object must be sufficiently defined
- Possible: the obligation of the parties should be possible
- Lawfulness and morality: it should be moral and lawful

← **Article 1714: Object must be defined**

- The object of the contract should be determining and or at least determinable (Art. 1679 with 1695)
- If the object is not determined or is not determinable it is void
- But it does not require the parties to list out all the terms of the contract.
- But If, after consideration of all the implied terms, there remains a gap, then the contract is void
 - o Example: An obligation to transfer ownership and pay the price-determined
 - o An obligation to give some one with “best award”-void
- The court cannot make a contract for the parties under the guise of interpretation-contractual security

← **Article 1715: Object must be possible**

- The obligation should be possible at the time of the contract
- It is about initial possibility
- Only absolute and insuperable impossibility
 - o Absolute: is general and not only in relation to a given contract. This must be a contract which some other person could perform
 - o Insuperable/undefeatable impossibility is some thing which is impossible to overcome

- Impossibility is objective and should be the same for any one finding himself in the same situation