

3. When it results either from the nature of the contract or of the thing which is the object of it, or from the end proposed by it, that the intention of the contracting parties was that the obligation should not be performed in parts.

In the first case, he who possesses the thing due,—in the second case, he who is alone charged,—and in the third case, each of the coheirs or legal representatives, may be sued for the whole thing due; saving in all cases the recourse of the one sued against the others.

14. That article 154 be struck out and the following inserted instead thereof :

154. The amount of the penalty cannot be reduced by the court.

But if the obligation have been performed in part to the benefit of the creditor, and the time fixed for its complete performance be not material, the penalty may be reduced; unless there be a special agreement to the contrary.

15. That article 168 be struck out and the following inserted instead thereof :

168. A debtor cannot compel his creditor to receive payment of his debt in parts, even if the debt be divisible.

Nor can the court in any case by its judgment order a debt actually payable to be paid by instalments without the consent of the creditor.

16. That article 174 be struck out and the following inserted instead thereof :

174. Subrogation is conventional :

1. When the creditor, on receiving payment from a third person, subrogates him in all his rights against the debtor. This subrogation must be express and made at the same time as the payment.

2. When the debtor borrows a sum for the purpose of paying his debt, and of subrogating the lender in the rights of the creditor. It is necessary to the validity of the subrogation in this case, that the act of loan and the acquittance be notarial or be executed before two subscribing witnesses; that in the act of loan it be declared that the sum has been borrowed for the purpose of paying the debt, and that in the acquittance it be declared that the payment has been made with the moneys furnished by the new creditor for that purpose. This subrogation takes effect without the consent of the creditor.

If the act of loan and the acquittance be executed before witnesses, the subrogation takes effect against third persons from the date only of their registration, which is to be made in the manner and according to the rules provided by law for the registration of hypothecs.

17. That article 175 be struck out and the following inserted instead thereof :

175. Subrogation takes place by the sole operation of law and without demand :