

## **BUSINESS LAW**

### **PARTNERSHIP**

- By the contract of partnership two or more persons bind themselves to contribute money property or industry to a common fund with the intention of dividing the profits among themselves.
- Two or more persons may also form a partnership for the exercise of a profession.

### **CHARACTERS OF A PARTNERSHIP**

1. **BILATERAL** - It is entered by two or more persons and the rights and obligations arising therefrom are reciprocal.
2. **ONEROUS** - Each of the parties aspires to procure for himself a benefit through the giving of something.
3. **NOMINATE** - It has a special name or designation in our law.
4. **CONSENSUAL** - Perfected by mere consent upon the express or implied agreement of two or more persons.
5. **COMMUTATIVE** - The undertaking of each of the partners is considered as the equivalent of that of the others.
6. **PRINCIPAL** - It does not depend for its existence or validity upon some other contracts.
7. **PREPARATORY** - It is entered as a means to an end, i.e. to engage in business or with a specific venture for the realization of profits with the view of dividing them among the contracting parties.

### **ESSENTIAL REQUISITES OF PARTNERSHIP**

- a. It must have a valid partnership contract
- b. It must have a lawful object or purpose
- c. It must have a mutual contribution of money property or industry to a common fund
- d. It must be established for the common benefit or the interest of the partners

which is to obtain profits and then to divide the profits among the partners.

### **PARTNERSHIP CONTRACT**

**CONTRACT** - It is a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render service. (Art. 1305)

**ARTICLE 1318.** There is no contract unless the following requisites concur:

1. Consent of the contracting parties;
2. Object certain which is the subject matter of the contract;
3. Cause of the obligation which is established.

\*\*\*Consent is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract. (Art. 1319)

\*\*\*The object of a contract is its subject matter. It is the thing, right, or service which is the subject matter of the contract.

### **OBJECT OR PRESTATION**

- It refers to the promise or conduct to be performed in the fulfillment or rendition of the obligations of contract and it may consist of giving, doing or not doing.
- Requisites of an object of a contract (prestation):
  1. Must be within the commerce of men;
  2. Must be licit, or not contrary to law, morals, good customs, public policy, or public order;
  3. Must be possible;
  4. Must be determinate as to its kind.

**CONSENT** - It is the conformity of wills and with respect to contracts, it is the agreement of the will of one contracting party with that of another or others, upon the object and terms of the contract.

\*\*\*It is the meeting of minds, i.e., the concurrence of offer and acceptance between the parties which expresses their intent in entering into the

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**Michael Rajnik**



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## **Table of Contents Personal Law Handbook T A Buslaw Today**

1. Understanding the eBook Personal Law Handbook T A Buslaw Today
  - The Rise of Digital Reading Personal Law Handbook T A Buslaw Today
  - Advantages of eBooks Over Traditional Books
2. Identifying Personal Law Handbook T A Buslaw Today
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Personal Law Handbook T A Buslaw Today
  - User-Friendly Interface
4. Exploring eBook Recommendations from Personal Law Handbook T A Buslaw Today

- Personalized Recommendations
  - Personal Law Handbook T A Buslaw Today User Reviews and Ratings
  - Personal Law Handbook T A Buslaw Today and Bestseller Lists
5. Accessing Personal Law Handbook T A Buslaw Today Free and Paid eBooks
- Personal Law Handbook T A Buslaw Today Public Domain eBooks
  - Personal Law Handbook T A Buslaw Today eBook Subscription Services
  - Personal Law Handbook T A Buslaw Today Budget-Friendly Options
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- ePub, PDF, MOBI, and More
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  - Personal Law Handbook T A Buslaw Today Enhanced eBook Features
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  - Highlighting and Note-Taking Personal Law Handbook T A Buslaw Today
  - Interactive Elements Personal Law Handbook T A Buslaw Today
8. Staying Engaged with Personal Law Handbook T A Buslaw Today
- Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Personal Law Handbook T A Buslaw Today
9. Balancing eBooks and Physical Books Personal Law Handbook T A Buslaw Today
- Benefits of a Digital Library
  - Creating a Diverse Reading Collection Personal Law Handbook T A Buslaw Today
10. Overcoming Reading Challenges
- Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Personal Law Handbook T A Buslaw Today
- Setting Reading Goals Personal Law Handbook T A Buslaw Today
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Personal Law Handbook T A Buslaw Today

- Fact-Checking eBook Content of Personal Law Handbook T A Buslaw Today
- Distinguishing Credible Sources

13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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