Topic 3. Personal and property rights and duties o f spouses

Topic 3 of 16 · Semester 1

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Chapter

In family legislation, the personal non-property and property rights and duties of spouses constitute one of the most fundamental legal institutions. Upon the conclusion of marriage, distinct legal relations arise between spouses. In this lesson, we examine the equality of spouses in the family and their personal non-property rights, such as the free choice of surname, occupation, and place of residence. In addition, the lesson provides a detailed analysis of matrimonial property relations, including the statutory and contractual legal regimes of marital property. The disposal of joint common property, the concept of separate property, the specific characteristics of a marriage contract, and the procedure for determining shares upon division of property will be considered. Particular attention is devoted to the priority of the interests of minor children and guarantees of their rights. This knowledge serves as a robust foundation for correctly resolving family disputes and developing legal advisory skills in future practice.

AT A GLANCE

- 1 year — Limitation period for seeking invalidation of an unconsented sale of immovable property (Family Code, art. 24)
- 3 years — Limitation period for claims concerning the division of marital property (Family Code, art. 27)
- 267.1 thousand — Number of marriages registered in 2025 (National Committee on Statistics)

3.1 Personal non-property rights of spouses and equality in the family

Spousal rights and duties arise from the moment a marriage is registered with the civil registry office (Family Code, art. 18). Personal non-property rights are rights directly connected with the person themselves and devoid of economic content. One of the fundamental principles of family legislation is that husband and wife enjoy equal rights and bear equal duties in the family (Family Code, art. 19). This rule is grounded in

the principles of voluntary consent and protection against domestic violence. Earning the primary family income or assuming financial maintenance does not confer the right to veto the personal decisions of the other spouse. Even if the husband is the sole breadwinner of the family, he cannot curtail his wife's rights. A ny aspiration to superiority in family relations is contrary to law.

- Spousal rights and duties arise from the moment of marriage registration (Family Code, art. 18).
- Husband and wife enjoy absolute equality of rights and duties in the family (Family Code, art. 19).

> **KEY INSIGHT**
> Earning the primary family income does not grant a right of veto over personal decisions. The principle of equality prevails in all circumstances.

3.2 The right of spouses to choose a surname

Upon entering into marriage, spouses may at their own discretion choose the surname of one spouse as their common surname, or each may retain their premarital surname (Family Code, art. 20). This right ensures individual identity and voluntary consent. A change of surname by one spouse does not entail a change in the surname of the other. For example, upon marrying, Anvar and Malika decided to retain their respective premarital surnames. If Anvar subsequently changes his surname, this does not mean that Malika's surname changes automatically. This rule guarantees the absolute independence of personal r ights and preserves each individual's identity.

- Spouses may choose a common surname or retain their premarital surnames (Family Code, art. 20).
- A change of surname by one spouse does not affect the surname of the other (Family Code, art. 20).

> **EXAM FOCUS**
> The right to choose a surname is an inalienable personal non-property right and cannot be restricted even by a marriage contract.

3.3 Choice of occupation, place of residence, and resolution of family matters

Each spouse is free to choose their type of pursuit, occupation, profession, and place of stay and residence (Family Code, art. 22). No one may compel a spouse to engage or refrain from engaging in a particular profession. Furthermore, questions of child upbringing and other matters of family life are resolved by spouses jointly (Family Code, art. 21). In this process, the priority of the child's best interests must be safeguarded. For instance, if the family plans to relocate to another city, this matter must be resolved through mutual agreement between husband and wife, taking into account the educational and developmental interests of the child. If disagreements arise, this must not lead to a restriction of personal freedom. The adoption of every decision on the basis of mutual respect and voluntary consent is the cornerstone of family stability.

- Spouses are free in choosing an occupation, profession, and place of residence (Family Code, art. 22).
- Child upbringing and family matters are resolved jointly (Family Code, art. 21).

> **COMMON PITFALL**

> The notion that a wife requires her husband’s permission to work is entirely contrary to the law. Everyone i s free to choose their profession.

3.4 Statutory legal regime of matrimonial property

Property acquired by spouses during marriage is their joint common property unless otherwise provided by law or a marriage contract (Family Code, art. 23). Joint property encompasses wages, income derived from entrepreneurial activities, pensions, and allowances. Regardless of the spouse in whose name the property is registered, it is deemed joint. A spouse who was engaged in housekeeping, caring for children, or did not have an independent income for other valid reasons nonetheless enjoys equal rights in respect of the common property. The value of family labour is not measured solely in monetary terms. This rule is designed to ensure economic justice in the family and prevents one party from exercising economic dominance over the other.

- Property acquired during marriage is joint common property (Family Code, art. 23).
- A spouse engaged in childcare also enjoys equal rights in the property (Family Code, art. 23).

> **CASE LINK**
> Suppose a flat was purchased from the husband's salary and registered in his name. During this period, the wife was engaged in caring for children. Under the law, this flat is still their joint common property.

3.5 Disposal of joint common property

Spouses enjoy equal rights in possessing, using, and disposing of property that forms their joint common property. When a transaction involving the disposal of common property is concluded by one spouse, it is presumed to be carried out with the consent of the other. In jurisprudence, this is known as the presumption of consent. However, for a spouse to conclude a transaction disposing of common immovable property registered in their name, the notarially certified consent of the other spouse must be obtained (Family Code, art. 24). If such consent is not obtained, the spouse whose rights have been infringed is entitled to demand that the court declare the transaction invalid within one year from the day they knew or ought to have known of the transaction's completion. This mechanism protects family members against covert transactions contrary to the interests of the family.

- The presumption of consent applies when disposing of common property (Family Code, art. 24).
- Notarially certified consent is mandatory for the sale of immovable property (Family Code, art. 24).

> **EXAM FOCUS**
> Where notarially certified consent has not been obtained, the limitation period for an action seeking to declare the transaction invalid in court is one year.

3.6 Separate property of each spouse

Property belonging to each spouse prior to entering into marriage, as well as property received during marriage by gift, inheritance, or under other gratuitous transactions, constitutes the separate property

of that spouse (Family Code, art. 25). Furthermore, items of individual use (clothing, footwear), with the exception of jewellery and luxury items, are deemed separate property even if purchased with common funds (Family Code, art. 26). However, if it is established that during the marriage investments were made from common funds or the labour of the spouses that substantially increased the value of the separate property (such as capital renovation, reconstruction, or re-equipment), such property may be declared joint property by a court. For instance, if a second storey is built on an inherited residential property using the spouses' common funds, the other spouse is entitled to claim that the property be recognised as common p roperty. Routine cosmetic redecoration does not alter the property regime.

- Premarital property and property received by gift or inheritance constitutes separate property (Family Code, art. 25).
- Items of individual personal use are considered separate property (Family Code, art. 26).
- Separate property whose value increased substantially due to capital renovation may be declared joint property (Family Code, art. 25).

> **COMPARE**
> Distinguish an inherited house (separate property) from a motor vehicle purchased during the marriage (common property). The source of acquisition is decisive.

3.7 The marriage contract: form, content, and restrictions

An agreement between persons entering into marriage or between spouses determining their property rights and duties during the marriage and (or) in the event of divorce is recognised as a marriage contract (Family Code, art. 29). It must be drawn up in writing and notarially certified (Family Code, art. 30). By means of a marriage contract, spouses may alter the statutory regime of joint property established by law and establish a regime of fractional ownership or separate ownership in respect of particular categories of property. However, a marriage contract cannot limit the legal capacity or dispositive capacity of spouses, nor their right to apply to court. Furthermore, it cannot regulate personal non-property relations or rights and obligations concerning children (Family Code, art. 31). These restrictions serve to safeguard fundamental human rights and the best interests of children.

- A marriage contract must be concluded in writing and notarially certified (Family Code, art. 30).
- It regulates property rights and duties exclusively (Family Code, art. 29).
- It cannot govern rights concerning children or personal non-property relations (Family Code, art. 31).

> **COMMON PITFALL**
> A marriage contract cannot stipulate with whom children will reside or determine a spouse's choice of occupation. Such terms are null and void.

3.8 Amendment, termination, and invalidity of a marriage contract

A marriage contract may be amended or terminated at any time by mutual agreement of the spouses. An amendment or termination of a marriage contract must be executed in the same form as the contract itself, namely in writing and with notarial certification (Family Code, art. 32). Unilateral refusal to perform

a marriage contract is impermissible. If the terms place one of the spouses in an extremely unfavourable position or contradict the norms of family legislation, the court may declare the marriage contract invalid in whole or in part upon the application of either spouse (Family Code, art. 33). Furthermore, a spouse is obliged to notify their creditors of the conclusion, amendment, or termination of a marriage contract (Family Code, art. 35).

- Amendment and termination of the contract must be notarially certified (Family Code, art. 32).
- Unilateral refusal of performance is not permitted (Family Code, art. 32).
- Terms that place a spouse in an extremely unfavourable position may be declared invalid by a court (Family Code, art. 33).

> **KEY INSIGHT**
> The obligation to notify creditors constitutes a vital guarantee for the protection of third-party property interests.

3.9 Division of common property and determination of shares

The division of the common property of spouses is effected pursuant to their mutual agreement or, in the event of a dispute, through judicial proceedings (Family Code, art. 27). As a general rule, the shares of the spouses upon division of property are deemed equal (Family Code, art. 28). However, the court is entitled to depart from equality of shares taking into account the interests of minor children and (or) the noteworthy interests of one of the spouses. For instance, if a spouse failed to earn an income for unjustified reasons or squandered common property to the detriment of family interests, their share may be reduced. Where property whose value exceeds their rightful share is allocated to one spouse, corresponding monetary or other compensation may be awarded to the other. A three-year limitation period applies to claims by divorced spouses for the division of common property.

- Shares of spouses upon division of property are generally presumed equal (Family Code, art. 28).
- The court may depart from equality of shares under specific circumstances (Family Code, art. 28).
- The limitation period for claims on the division of property is three years (Family Code, art. 27).

> **CASE LINK**
> If, upon division of property, a wife is awarded a motor vehicle and a flat whose total value exceeds the husband’s share, she must compensate the husband for the difference in value in monetary terms.

3.10 Guarantees of minor children's rights and debt obligations

In the process of dividing property, priority protection for the interests of minor children is strictly upheld. Items acquired to satisfy the needs of minor children (clothing, school supplies, musical instruments) are not subject to division and are transferred without compensation to the parent with whom the children reside (Family Code, art. 27). Similarly, bank deposits made in the name of children are deemed to belong exclusively to the children and are excluded from the division of spousal property. Regarding debt obligations, common debts of the spouses are distributed in proportion to the shares awarded to them (Family Code, art. 28). If it is established by the court that everything acquired under the obligations of one

spouse was used for family needs, execution may be levied on the common property (Family Code, art. 34). These rules insulate children from the adverse consequences of property disputes between adults.

- Items acquired for the needs of children are not subject to division (Family Code, art. 27).
- Deposits opened in the name of children are not taken into account upon division of property (Family Code, art. 27).
- Common debts are apportioned proportionally to the property shares (Family Code, art. 28).

> **KEY INSIGHT**
> The priority of the interests of minor children is strictly preserved upon division of property. Items and deposits belonging to a child are not apportioned between the parents.

KEY TAKEAWAYS

1. Spouses possess equal personal non-property and property rights in the family.
2. The choice of profession, occupation, and place of residence is an absolute personal right of each spouse.
3. Property acquired during marriage constitutes joint common property, even if one party did not earn an income.
4. Notarially certified consent of the other spouse is required for the disposal of immovable property.
5. Property received by inheritance or gift, as well as items of personal use, constitutes separate property.
6. A marriage contract regulates property relations exclusively and must be notarially certified.
7. Items purchased for the needs of children and bank deposits held in their names are excluded from division.

Summary

Personal non-property and property relations between spouses are rigorously regulated in family law. Upon marriage registration, rights and duties based on equality arise between spouses. Personal non-property rights encompass the free choice of surname, profession, and place of residence, as well as the joint resolution of family matters. Property relations are classified into statutory and contractual regimes. Under the statutory regime, all property acquired during marriage constitutes joint common property. A spouse engaged in housekeeping or childcare enjoys equal rights in the property. Property owned prior to marriage, gifted, or inherited constitutes separate property. By entering into a marriage contract, spouses may modify their property rights; however, such an agreement cannot restrict personal non-property rights or the interests of children. In dividing property, the best interests of minor children take precedence, and goods acquired for their needs are not divided. These rules ensure fairness in the family, protect voluntary consent, and foster the civilised settlement of disputes.

KEY PRINCIPLES

1. Absolute equality of spouses in the family.
2. Inviolability and freedom of personal non-property rights.

3. Joint common property regime for assets acquired during marriage.
4. Childcare and domestic labour preserve equal rights to marital property.
5. Presumption of consent and requirement of notarial consent for disposal of common immovable property.
6. Priority of the interests of minor children.
7. Inadmissibility of restricting personal rights in a marriage contract.

KEY TERMS

Personal non-property rights · Joint common property · Separate property · Statutory legal regime · Contractual legal regime · Marriage contract · Presumption of consent · Notarially certified consent · Limitation period · Compensation

EXAM CHECKLIST

- What do the personal non-property rights of spouses encompass?
- Is a wife who was unemployed due to childcare entitled to a share in common property?
- Under what circumstances may premarital property be declared common property?
- What is the procedure for disposing of common immovable property of spouses?
- Which terms are prohibited from being included in a marriage contract?
- How are the rights of minor children safeguarded upon the division of property?
- How are spousal debt obligations apportioned upon the division of property?

Cases (IRAC)

Case 1 · Mortgaged Flat Acquired in the Name of One Spouse

FACTS

During the marriage, a flat was acquired in the name of Umid through a mortgage loan. Part of the initial down payment was financed using proceeds from the sale of a motor car owned by Umid prior to the marriage, whilst the remainder was paid from the spouses' joint savings. His wife, Gulruh, did not engage in paid employment as she was caring for their two children. Upon divorce, Umid asserted that both the flat and the mortgage loan were registered solely in his name, refusing to recognise Gulruh's share. The bank objected to any judicial modification of the loan agreement in its absence.

ISSUE

The issue of determining the legal regime of the flat, apportioning the loan obligations, and judicial determination of shares.

RULE

Under Article 23 of the Family Code, property acquired by spouses during the marriage, as well as property acquired prior to registration of the marriage using joint funds of the prospective spouses, constitutes their joint common property unless otherwise provided by law or a marriage contract. Where one spouse was engaged in managing the household, caring for children, or did not possess an independent wage or other income due to other valid reasons, that spouse shall retain an equal right to the joint property. Concurrently, pursuant to Article 25, property owned by each spouse prior to the marriage constitutes their separate property. In accordance with Article 28, upon the division of joint property, the joint debts of the spouses shall be allocated between both parties in proportion to their awarded shares.

ANALYSIS

1) In determining the legal regime of the flat, the portion of the down payment derived from the sale of the motor car owned by Umid prior to the marriage constitutes his separate property. Since the remainder was financed from the spouses' savings, that portion of the flat falls under the regime of joint common property. The fact that Gulruh did not work and had no independent income because she was caring for their two children does not extinguish her right to an equal share in the joint property. Article 23 of the Family Code strictly protects the property rights of a spouse occupied with domestic duties and childcare.
2) Partitioning the title to the flat constitutes a property right, whereas altering the credit obligation owed to the bank falls under the law of obligations. A judicial division of the flat does not automatically modify the loan agreement entered into with the bank. The loan agreement cannot be altered without the participation of the bank, as this affects the rights of the creditor. Under Article 34 of the Family Code, satisfaction of claims in respect of the joint obligations of spouses is levied against their joint property; therefore, the bank must be joined as a third party in the division of the debt.
3) In establishing the shares, the court must require documentary evidence demonstrating the sale of the vehicle, the deposit of funds into the bank, bank certificates confirming the level of joint income earned during the marriage, and the outstanding balance of the loan. Furthermore, the current market valuation of the flat must be established to resolve any potential issue of compensation. If the flat is retained by Umid, he may be ordered to pay Gulruh fair compensation commensurate with her share and assume sole responsibility for discharging the remaining mortgage balance.

CONCLUSION

The flat possesses a mixed legal regime: following the deduction of Umid's personal capital, the remaining equity is divided equally between the spouses. Gulruh is fully entitled to her share notwithstanding her absence from employment due to childcare. In apportioning the debt, the interests of the bank must be taken into account, and obligations must be allocated in proportion to the awarded shares.

DISCUSSION QUESTIONS

1. How are premarital funds, joint savings, and dedication to childcare evaluated when determining the legal regime of a flat?
2. What is the difference between partitioning rights to a flat and modifying a mortgage credit obligation owed to a bank?

3. What evidence must the court demand in order to determine the shares, the outstanding debt, and potential monetary compensation?

Family Code of the Republic of Uzbekistan (30.04.1998) — https://lex.uz/docs/104720

Case 2 · Personal Restrictions in a Marriage Contract

FACTS

Dilshod and Mohira concluded a notarially certified marriage contract. It stipulated that all property acquired during the marriage would belong exclusively to Dilshod, that Mohira would not undertake employment without his written consent, and that in the event of divorce, the children would reside with the father under all circumstances. Additionally, a clause was inserted whereby Mohira waived her right to challenge the contract before a court. Three years later, Mohira challenged these clauses. Dilshod maintained that the notarial certification rendered all terms of the contract lawful and binding.

ISSUE

The lawfulness of incorporating clauses into a marriage contract that restrict personal non-property relations, the place of residence of children, and the constitutional right of access to justice.

RULE

Under Article 29 of the Family Code, an agreement between persons entering into marriage, or between spouses, which defines their property rights and duties during the subsistence of the marriage and (or) upon its dissolution, is recognised as a marriage contract. In accordance with Article 31, spouses are entitled to stipulate terms concerning mutual financial support, bearing family expenses, and other rules governing property relations. However, the legislation imposes strict prohibitions: a marriage contract cannot limit the right of spouses to apply to the courts for protection of their rights, regulate personal non-property relations between spouses, determine rights and duties in respect of children, nor include other conditions which place one of the spouses in an extremely unfavourable position or contradict the general principles of family legislation. Pursuant to Article 33, conditions that contravene these statutory requirements may be declared void in whole or in part by a court.

ANALYSIS

1) The regulation in a marriage contract of personal relations (such as prohibiting a wife from working without her husband's written permission), the place of residence of children (mandating that they remain with the father under all circumstances), and the right of access to the courts is strictly prohibited. Article 31 of the Family Code explicitly precludes the inclusion of such terms, as they directly breach fundamental constitutional rights (the right to labour, the right to judicial protection) and the principle of the paramountcy of the best interests of the child.
2) Although a clause allocating all property to one party falls within the ambit of freedom of contract, it is unlawful if it places the other party in an extremely unfavourable position. Depriving Mohira of any entitlement to property acquired during the marriage renders her economically destitute and places her in an extremely disadvantageous position. In adjudicating this condition, the court will evaluate the

complete reservation of property rights in favour of one party (Dilshod) and rule the provision unfair and contrary to public policy.
3) The invalidity of specific terms may affect the entire agreement or lead to partial invalidity. Under Article 33 of the Family Code, clauses that violate legal requirements shall be declared void in part. Thus, other provisions of the contract that comply with the law may remain valid, but personal restrictions, rules concerning children, and property clauses placing Mohira in an extremely unfavourable position will be unequivocally invalidated by the court.

CONCLUSION

The clauses of the marriage contract between Dilshod and Mohira restricting personal relations, the residence of the children, and the right to apply to court are void per se. The term transferring all matrimonial property to one party is subject to mandatory judicial invalidation on the grounds that it places Mohira in an extremely unfavourable position.

DISCUSSION QUESTIONS

1. Is it permissible to regulate personal relations, the residence of children, and the right to apply to court within a marriage contract?
2. How are the criteria of freedom of contract and the prohibition against placing a party in an extremely unfavourable position applied when evaluating a clause conferring all property on one spouse?
3. How does the invalidity of individual clauses affect the validity of the marriage contract as a whole?

Family Code of the Republic of Uzbekistan (30.04.1998) — https://lex.uz/docs/104720

Case 3 · Unauthorised Sale of a Motor Vehicle and Debt Obligations

FACTS

During the marriage, a passenger car was purchased using joint marital funds and registered in the name of the husband, Botir. The vehicle was primarily used for family needs. Several years later, Botir sold the vehicle to a close personal friend at a price slightly below its market value without obtaining the consent of his wife, Malika. The proceeds of the sale were not spent on family requirements, but solely on his personal desires, specifically the purchase of a luxury wristwatch. Upon discovering this transaction, Malika asserted that the vehicle constituted joint common property, demanded the rescission of the contract of sale, and claimed her share. Botir contended that because the vehicle was registered solely in his name, he was fully entitled to dispose of it freely and independently.

ISSUE

The legality of an unauthorised transaction disposing of movable property that constitutes joint common property, and the mechanisms for protecting the non-consenting spouse's rights.

RULE

Under Article 24 of the Family Code, spouses possess equal rights to the possession, use, and disposal of property that constitutes their joint common property. When one spouse enters into a transaction

disposing of joint property, it is presumed that they act with the consent of the other spouse. A transaction executed by one spouse in disposal of joint property may be declared invalid by a court on the ground of lack of consent only upon the claim of the other spouse, and solely in cases where it is proved that the third party to the transaction knew or ought to have known of the other spouse's objection. Under Article 28, if one spouse has disposed of joint property contrary to the will of the other spouse and not in the interests of the family, such property or its value shall be taken into account in the division of the marital estate.

ANALYSIS

1) In the disposal of joint property, the law establishes a presumption of consent. Consequently, when Botir sold the vehicle, the law presumed that Malika consented to the transaction. Given that a motor vehicle constitutes movable property, notarised consent is not mandatory for its alienation (Family Code, art. 24). However, this presumption does not deprive the non-consenting spouse of the right to legal protection where genuine consent was absent.
2) Malika is entitled to initiate court proceedings to have the contract of sale declared invalid. To succeed, however, she must prove not merely her own lack of consent, but that the buyer (Botir's friend) knew or ought to have known of Malika's objection. If the buyer acted in good faith and was unaware of any spousal dispute, the transaction cannot be rescinded, and title remains with the buyer.
3) Even if the transaction is not declared invalid, Malika can fully protect her property interests during the partition of marital assets. Under Article 28 of the Family Code, since Botir expended joint property contrary to Malika's will and not in the family's interests (for the purchase of an expensive personal watch), the full value of the vehicle will be credited to the total marital estate upon division. Consequently, an amount equal to half the value of the motor vehicle will be deducted from Botir's allocated share of other marital assets in favour of Malika.

CONCLUSION

Botir's argument that he possessed sole authority to dispose of the vehicle merely because it was registered in his name is entirely unfounded in law. Malika may seek the rescission of the transaction or, alternatively, protect her infringed property rights by claiming half of the vehicle's market value as compensation during the division of joint property.

DISCUSSION QUESTIONS

1. How does the presumption of spousal consent operate in the disposal of joint property?
2. Is Malika entitled to have the contract of sale set aside by a court, and what standard of proof is required?
3. If the transaction is not rescinded, how is the value of the alienated vehicle accounted for in the division of property?

Family Code of the Republic of Uzbekistan (30.04.1998) — https://lex.uz/docs/104720

Quiz

MULTIPLE CHOICE

1. Which of the following is the correct legal rule regarding spouses' choice of profession and occupation?

- A. The wife may choose her profession only with the husband's consent
- B. The profession is determined by the family elders
- C. Each spouse is free to choose their profession and occupation
- D. Changing one's profession after the conclusion of marriage is prohibited

> CORRECT: C
> Under Article 22 of the Family Code, each spouse is free to choose their occupation, profession, and place of residence. Pursuant to the principle of equality in family relations, a wife's choice of profession is not contingent upon the consent of her husband or family elders. Furthermore, changing professions during marriage is not restricted. The other options are contrary to statutory law and impermissibly restrict individual liberty.

2. As a general rule, to whom does property acquired during marriage using joint funds belong?

- A. To the joint common property of the spouses
- B. Solely to the person named in the title document
- C. Exclusively to the party who earned the greater income
- D. To the parents of the spouses

> CORRECT: A
> Under Article 23 of the Family Code, property acquired during the marriage constitutes the joint common property of the spouses, even if title is registered in the name of only one spouse. Registration in a single name or earning a higher income does not transform the asset into separate property. Parents have no legal claim to such property.

3. A wife cared for the children during the marriage and earned no independent income. What are her rights in respect of the joint property?

- A. Her rights arise only with the consent of her husband
- B. Her rights arise only when the children attain the age of majority
- C. She possesses no rights in respect of the joint property
- D. Her rights to the joint common property are retained in full

> CORRECT: D
> Under the third paragraph of Article 23 of the Family Code, a spouse who was occupied with housekeeping, caring for children, or who did not have an independent income for other valid reasons

> enjoys an equal right to the joint property. This right is independent of the husband's consent and does not depend on the children reaching majority.

4. As a general rule, what is the legal classification of property inherited by a husband during marriage?

- A. Joint property of the children
- B. Separate property of the husband
- C. Equal-share ownership of both spouses
- D. Property of the testator's family

> **CORRECT: B**
> Under Article 25 of the Family Code, property received by either spouse during marriage as a gift, by way of inheritance, or through other gratuitous transactions constitutes that spouse's separate property. Therefore, such property does not become equal-share tenancy between spouses or the property of the children; it belongs directly to the heir.

5. In what form must a marriage contract be concluded?

- A. Solely in oral form
- B. In the form of a mahalla resolution
- C. In written form with mandatory notarial certification
- D. Exclusively formulated in a court hearing

> **CORRECT: C**
> Under Article 30 of the Family Code, a marriage contract must be executed in writing and certified by a notary. An oral agreement, a mahalla record, or formalisation solely before a court does not confer legal validity. Notarial certification ensures voluntary consent and guarantees that the parties' legal rights have been properly explained.

6. When does a marriage contract concluded prior to the state registration of marriage enter into legal force?

- A. From the date of state registration of the marriage
- B. From the date of the engagement ceremony
- C. From the commencement of cohabitation
- D. From the date the first child is born

> **CORRECT: A**
> As provided in the second paragraph of Article 30 of the Family Code, a marriage contract concluded prior to the state registration of marriage enters into force only from the date of the state registration of the marriage. Engagement, cohabitation, or the birth of a child do not constitute legal grounds for the entry into force of the contract.

7. Which of the following matters is permissible to determine within a marriage contract?

- A. Prohibiting the wife from applying to court
- B. Determinatively stipulating with whom the children must reside
- C. Monitoring the husband's personal correspondence
- D. Establishing a separate property regime for the spouses' assets

CORRECT: D
In accordance with Article 31 of the Family Code, spouses may use a marriage contract to govern their property relations, including establishing separate, fractional, or joint property regimes. Restricting personal non-property rights, prohibiting judicial applications, or predetermining custody rights regarding children are expressly prohibited by law.

8. Which of the following conditions is prohibited from being included in a marriage contract?

- A. Determining the procedure for bearing joint family expenses
- B. Restricting either party's right to apply to court
- C. Allocating income generated from marital property
- D. Specifying the property to be transferred upon divorce

CORRECT: B
Pursuant to the fifth paragraph of Article 31 of the Family Code, a marriage contract cannot restrict the right of a spouse to seek judicial protection of their rights. Regulating family expenses, distributing investment income, and allocating property upon divorce are legitimate subjects of a marriage contract and are lawful.

9. As a general rule, how are shares determined upon the division of joint common property of spouses?

- A. Two-thirds is invariably awarded to the husband
- B. No share is granted to the non-earning spouse
- C. The shares of the spouses are deemed equal
- D. Determined solely by the duration of the marriage

CORRECT: C
Under Article 28 of the Family Code, unless otherwise stipulated in a marriage contract, the shares of the spouses upon the division of joint property are deemed equal. A non-earning spouse has equal rights. The court may deviate from equality of shares only in the interests of minor children or the noteworthy interests of one of the spouses.

10. What legal claim may be raised if the separate property of one spouse was substantially increased in value during the marriage using joint funds?

- A. Claiming recognition of the asset as joint common property
- B. Mandatory escheat of the property to the state
- C. Classifying the property exclusively as the children's asset
- D. Automatic dissolution of the marriage

CORRECT: A

Under the second paragraph of Article 25 of the Family Code, if it is established that during marriage investments were made from joint funds or personal labour that significantly increased the value of separate property (such as major overhauls or structural renovations), the court may recognise such property as joint common property. Escheat to the state or divorce are irrelevant to this determination.

11. Rustam wishes to sell a house acquired during the marriage and registered in his name. Malika objects. Under the law, what is the procedure for selling the house?

- A. Since the house is registered in Rustam's name, he may sell it independently
- B. Rustam must obtain Malika's notarially certified consent to sell the house
- C. Only the written consent of the mahalla committee is required to sell the house
- D. Rustam may sell the house, but must remit half the proceeds to Malika

CORRECT: B

Under Article 24 of the Family Code, a spouse wishing to enter into a transaction for the disposal of joint immovable property registered in their own name must obtain the notarially certified consent of the other spouse. Even though registered in Rustam's name, the house constitutes joint property because it was acquired during marriage; selling it without Malika's consent is unlawful.

12. Anvar and Nargiza are divorcing. There is an expensive piano acquired because their minor daughter attended music school. How is the fate of this piano resolved during property partition?

- A. Because the piano is valuable, it must be divided equally between the spouses
- B. The piano must be sold and the proceeds deposited in a bank account in the daughter's name
- C. The piano is not subject to division and is transferred without compensation to the spouse with whom the child resides
- D. The piano belongs exclusively to the father because he purchased it

CORRECT: C

Pursuant to Article 27 of the Family Code, items acquired solely to satisfy the needs of minor children, including musical instruments, are not subject to division. In accordance with the best interests of the child, such items are transferred without monetary compensation to the spouse with whom the child resides. Therefore, Anvar cannot demand a share of the piano's value.

13. During marriage, Jasur gifted expensive gold jewellery to his wife, Umida, purchased using joint funds. Upon divorce, what is the legal regime governing this jewellery?

- A. Because it is an item of personal use, it constitutes Umida's separate property
- B. The jewellery is recognised as property of the children
- C. Because it comprises luxury items and jewellery, it constitutes joint common property of the spouses
- D. Because Jasur purchased it, it must be returned in full to him

CORRECT: C

> Article 26 of the Family Code provides that items of individual personal use constitute separate property. However, precious items, luxury goods, and jewellery are an explicit exception to this rule. Although intended for individual use, if acquired with joint funds, they constitute joint common property and are subject to equal division upon divorce.

14. Botir took out a bank loan for his private business without the knowledge of his wife, Nodira, and subsequently became insolvent. How is the debt recovery resolved under the law?

- A. Recovery may be levied solely against Botir's separate property and his share in the joint property
- B. The bank may directly garnish Nodira's monthly salary to repay the debt
- C. Even if the loan was not used for family needs, the joint house is seized in full
- D. The obligation to satisfy Botir's debts automatically transfers to the state

> **CORRECT: A**
> Under Article 34 of the Family Code, recovery under obligations of one spouse may be levied only against that spouse's separate property. If such property is insufficient, the creditor is entitled to demand the partition of the debtor spouse's share in the common property in order to levy execution against it. Because the loan was not used for family needs, Nodira's share is protected.

OPEN QUESTIONS

15. Where the down payment for a house purchased in the name of one spouse during marriage was made from premarital assets, and subsequent payments were drawn from joint income, how should the ratio between separate and joint property be determined?

> **MODEL ANSWER**

In accordance with Articles 23 and 25 of the Family Code, the legal regime of an asset is determined by the nature of the funds used for its acquisition. If the initial down payment for a residential house was made from the personal premarital funds of one spouse, the proportionate share of the property corresponding to that initial sum constitutes that spouse's separate property. If the subsequent mortgage installments were discharged using joint marital income (wages, entrepreneurial earnings), the corresponding portion of the house falls under the regime of joint common property of both spouses.

To establish the exact ratio, the court calculates the percentage share of personal premarital capital against joint marital investments relative to the total acquisition cost. For instance, if the premarital down payment represented 30% of the purchase price, 30% of the house is classified as separate property, and the remaining 70% is deemed joint common property. The 70% joint portion is then subject to equal division between the spouses (35% each).

Alternative approach: If the parties entered into a valid marriage contract (Family Code, art. 29), the legal regime of the property is governed strictly by the terms stipulated therein. Furthermore, if substantial structural modifications (such as capital renovation or expansion) were carried out using joint funds so as to significantly augment the asset's value, the separate property portion may judicially be converted, in whole or in part, into joint common property (Family Code, art. 25).

16. Where a notarially certified marriage contract vests all marital assets in one spouse, how is the boundary drawn between freedom of contract and the necessity to protect the other spouse from an extremely unfavourable position?

MODEL ANSWER

Article 31 of the Family Code grants spouses the right to determine their property rights and duties through a marriage contract, including altering the legal regime to separate or fractional ownership. This reflects the principle of freedom of contract. However, the legislature has established a mandatory limitation on this freedom: a marriage contract cannot contain provisions that place one of the spouses in an extremely unfavourable position.

If a marriage contract allocates all property acquired during marriage exclusively to one spouse while leaving the other with no property or financial compensation, this is considered to establish an extremely unfavourable position. In judicial practice, this boundary is assessed by examining the overall material position of the parties, their capacity to work, and their involvement in childcare. Pursuant to Article 33 of the Family Code, upon the application of the aggrieved party, the court may declare such an unconscionable agreement void in whole or in part.

Alternative approach: In certain circumstances, the transfer of all property to one spouse may be accompanied by significant monetary compensation, periodic maintenance, or other alternative forms of financial security. If the property interests of the other spouse are equitably and adequately safeguarded through such alternative arrangements, the court may conclude that no extremely unfavourable position exists, thereby upholding freedom of contract.

17. If one spouse sells joint immovable property registered in their name without the notarised consent of the other spouse, how can the aggrieved spouse restore their rights, and how are the interests of a third party (a bona fide purchaser) protected?

> **MODEL ANSWER**
> Under Article 24 of the Family Code, a spouse must obtain the notarially certified consent of the other spouse in order to enter into a transaction disposing of joint immovable property registered in their sole name. Where such consent has not been obtained, the aggrieved spouse is entitled to claim the judicial invalidation of the transaction within one year from the day they knew or ought to have known of the transaction's execution.
>
> The aggrieved spouse enforces their rights by filing a statement of claim with the court. Because the statutory framework mandates a strict formal requirement (notarial consent) for transactions involving immovable property, a breach of this requirement provides valid legal grounds to declare the transaction void.
>
> Alternative approach and purchaser protection: Under civil law, if a third party (the purchaser) was genuinely unaware that the property was matrimonial assets and that spousal consent was lacking, they may plead bona fide purchaser status. However, in real estate conveyancing, the notary is legally required to verify spousal consent. If the property was alienated through misrepresentation or fraud (such as falsely declaring oneself unmarried), the transaction is rescinded and title is restored to the matrimonial estate. The bona fide purchaser is then entitled to claim full damages and restitution of the purchase price from the fraudulent selling spouse. This mechanism ensures an equitable balance between family rights and the security of civil commerce.

Glossary

> **JOINT COMMON PROPERTY OF SPOUSES**
> Property acquired by spouses during the subsistence of the marriage, as well as property acquired prior to registration of the marriage using their common funds. This includes earnings, pensions, benefits, and income derived from entrepreneurial activities (Family Code, art. 23).

Example: Rustam and Malika purchased an automobile during their marriage from their monthly salaries; this constitutes their joint common property.

Related: Separate property of spouses, Division of common property

SEPARATE PROPERTY OF SPOUSES

Property owned by each spouse prior to entering into the marriage, as well as property received during marriage by either spouse as a gift, by inheritance, or under any other gratuitous transaction (Family Code, art. 25).

Example: The house Jamila inherited from her aunt constitutes her separate property and is not subject to division upon divorce.

Related: Joint common property of spouses, Increase in property value

MARRIAGE CONTRACT

A written, notarially certified agreement between persons entering into marriage, or between spouses, defining their property rights and obligations during the marriage and (or) in the event of its dissolution (Family Code, art. 29).

Example: Anvar and Nodira executed a marriage contract prior to their wedding, regulating the distribution of their future income.

Related: Joint common property of spouses, Equality of citizens in family relations

EQUALITY OF CITIZENS IN FAMILY RELATIONS

The legal principle providing that all citizens enjoy equal rights in family relations without discrimination based on sex, race, nationality, or religion. Spouses enjoy equal rights and bear equal duties in family matters (Family Code, art. 19).

Example: Husband and wife possess an equal voice in decisions concerning child rearing and household expenditures.

Related: Personal non-property rights, Disposal of common property

PERSONAL NON-PROPERTY RIGHTS

The rights of spouses to freely choose their surname, occupation, profession, and place of residence, as well as to decide jointly all matters relating to child rearing and family life (Family Code, arts. 20-22).

Example: Sanjar's decision to change his profession and relocate to another city for employment is an exercise of his personal right of free choice.

Related: Equality of citizens in family relations, Marriage contract

DISPOSAL OF COMMON PROPERTY

The possession, use, and alienation of property constituting the joint common property of spouses. Disposing of immovable property requires the notarially certified consent of the other spouse (Family Code, art. 24).

Example: Botir obtained the notarially certified consent of his spouse, Ziyoda, to sell their jointly owned house.

Related: Joint common property of spouses, Division of common property

> **DIVISION OF COMMON PROPERTY**
> The partition of the joint property of spouses into specific shares, effected either by mutual agreement or by court proceedings. It may take place during marriage, upon divorce, or upon the claim of a creditor (Family Code, art. 27).

Example: During divorce proceedings, the spouses divided their jointly acquired flat into equal shares through the court.

Related: Joint common property of spouses, Marriage contract

> **MARRIAGE**
> A formalised, voluntary, and equal union between a man and a woman who have reached marriageable age and intend to found a family in accordance with law, giving rise to mutual personal and property rights and duties.

Example: The two young persons founded a family by having their voluntary legal marriage registered at the civil registry office (FHDYO).

Related: Family, Dissolution of marriage

> **FAMILY**
> A community and union of persons linked by marriage, conjugal relations, parenthood, or kinship, based on mutual care, mutual respect, and maintaining a joint household.

Example: Members of the extended family live together, managing their common household and domestic affairs in harmony.

Related: Marriage, Equality of citizens in family relations

> **INCREASE IN PROPERTY VALUE**
> A situation where the value of separate property increases substantially during marriage as a result of capital repairs, structural refurbishment, or significant labour financed from joint funds or the efforts of the other spouse (Family Code, art. 25).

Example: After a second storey was constructed on the wife's inherited house using the husband's funds, the court ruled the house to be joint common property.

Related: Separate property of spouses, Joint common property of spouses

Timeline

Development of legislation on family and property rights

1996 · ADOPTION OF THE CIVIL CODE
The Civil Code of the Republic of Uzbekistan was enacted, codifying primary civil law institutions such as common property, guardianship, and trusteeship.

Significance: Established the general legal foundations of property rights and obligations.

1998 · ADOPTION OF THE FAMILY CODE
The Family Code was adopted, introducing the personal non-property and property rights of spouses, as well as the institution of the marriage contract, into national legislation.

Significance: Family law was fully established as an independent legal branch.

2021 · AMENDMENTS TO THE FAMILY CODE
By Law No. ZRU-683 of 21 April, restrictions on the terms of marriage contracts and liability provisions for damage caused by minors were revised.

Significance: Strengthened the protection of children's interests and vulnerable parties.

2023 · NEW EDITION OF THE CONSTITUTION
In the new edition of the Constitution adopted on 30 April, it was explicitly established that the family forms the primary cell of society and is under the special protection of the state.

Significance: Provided the highest constitutional guarantees for the rights of the family and children.

Mind map

Rights of Spouses

- Personal Non-Property Rights: Personal freedoms of a non-economic nature.
- — Equality of Rights: Joint determination of family affairs (arts. 19, 21).
- — — Joint Decision-Making: Issues of child rearing and family life.
- — Choice of Surname: Right to choose one's surname freely (art. 20).
- — — Independent Modification: A change of surname by one spouse does not affect the other.
- — Profession and Residence: Free choice of occupation and place of residence (art. 22).
- — — Right of Free Choice: Neither spouse may coerce the other.
- Statutory Matrimonial Property Regime: Default statutory rules for property acquired during marriage.

- — Joint Common Property: Assets acquired during marriage (art. 23).
- — — All Income: Wages, pensions, and social benefits are classified as joint.
- — — Homemaking and Childcare: A non-earning spouse retains equal rights.
- — Separate Property: Individual property of each spouse (art. 25).
- — — Inheritance and Gifts: Premarital property or assets received gratuitously.
- — — Personal Effects: Clothing and footwear (excluding luxury items).
- — Appreciation of Property Value: Substantial capital appreciation of separate property.
- — — Capital Renovation: Refurbishment financed from joint marital funds.
- — — Judicial Reclassification: Recognition as joint common property by court order.
- Disposal of Property: Procedure for the use and alienation of joint property.
- — Equal Rights: Disposal by mutual agreement (art. 24).
- — — Presumption of Consent: Consent is presumed in ordinary everyday transactions.
- — Immovable Property: Special rules for the alienation of residential property or land.
- — — Notarised Consent: Written notarised consent of the other spouse is mandatory.
- — — One-Year Limitation Period: Limitation period to set aside unauthorised transactions.
- Division of Property: Procedure for partitioning joint property.
- — Grounds for Division: When and upon whose application partition occurs (art. 27).
- — — During Marriage or Upon Divorce: May be demanded at any point in time.
- — — Claim by Creditor: Demand for partition to enforce a personal debt.
- — Determination of Shares: Rules governing apportionment of assets (art. 28).
- — — Presumption of Equal Shares: Statutory baseline of 50/50 allocation between spouses.
- — — Deviation from Equality: Court may adjust shares in the interests of children.
- — Children's Property: Protection of the rights of minor children.
- — — Exclusion of Children's Items: Goods for children's needs are transferred without compensation.
- — — Inviolability of Bank Deposits: Monies deposited in a child's name are excluded from division.
- Marriage Contract: Contractual modification of the matrimonial property regime.
- — Definition and Formal Requirements: Property agreement between spouses (arts. 29-30).
- — — Written and Notarised: Executed strictly in writing and certified by a notary.
- — Contractual Terms: Permissible subjects of agreement (art. 31).
- — — Property Rights: Establishing separate or fractional ownership regimes.
- — — Sharing of Expenses: Setting terms for bearing family maintenance costs.
- — Statutory Prohibitions: Provisions that cannot be inserted into the contract.
- — — Personal Rights: No restrictions on choice of occupation or residence.
- — — Children's Rights: Cannot waive or limit duties toward children.
- — Modification and Termination: Procedure for amending or ending the contract (art. 32).
- — — Mutual Agreement: Amendment at any time via notarial certification.

- — — Judicial Procedure: Unilateral alteration or rescission strictly through court.

Walkthrough and diagram

Procedure for Disposing of Immovable Property and Challenging Unauthorised Transactions

RELATIONSHIPS IN THIS DIAGRAM

- Sale of Joint Immovable Property ’Statutory requirement ’Requirement of Notarised Consent
- Requirement of Notarised Consent ’Application submitted ’Notary Office
- Notary Office ’Upon certification ’Lawful and Valid Transaction
- Sale of Joint Immovable Property ’Where rule is breached ’Transaction Executed Without Consent
- Transaction Executed Without Consent ’Claim by aggrieved spouse ’Application to Judicial Authority
- Application to Judicial Authority ’Verification of limitation period ’One-Year Limitation Period
- One-Year Limitation Period ’If within limitation period ’Judicial Invalidation of Transaction

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