



CC Art. 18

Presumption of Death

TITLE 01 — PERSONS · CHAPTER 05 — ABSENCE AND PRESUMPTION OF DEATH

- 1 Where a person has been declared absent and a further period of five years has elapsed without reliable information of their existence, any interested party or a public officer may apply to a competent authority for a decree of presumed death.
 - 2 Where a person has disappeared in circumstances of particular peril, including shipwreck, armed conflict, natural disaster, or other calamity, an application for a decree of presumed death may be made after two years from the date of the event, without a prior declaration of absence being required.
 - 3 Before making a decree of presumed death, the competent authority shall:
 - a. Cause public notice to be given, allowing a period of not less than six months for any person to come forward with information.
 - b. Consider all available evidence, including the circumstances of the disappearance, the age and health of the missing person, and the results of any searches conducted.
 - c. Hear any interested party who wishes to make representations.
 - 4 The decree shall fix a presumed date of death, being:
 - a. The date on which the person was last known to be alive, where the circumstances of death are uncertain; or
 - b. The date of the perilous event, where the person disappeared in circumstances of particular peril.
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- 5** A decree of presumed death has the same legal effects as a proven death for the purposes of:
- a. Succession: the estate of the person presumed dead is opened and distributed in accordance with the law of succession.
 - b. Marriage: the marriage is dissolved as if by death, and the surviving spouse is free to remarry.
 - c. Parental authority: parental authority of the person presumed dead is extinguished.
 - d. Contractual obligations: obligations personal to the deceased are extinguished; transmissible obligations pass to the estate.
 - e. All other civil matters: the decree produces the effects of death from the presumed date fixed therein.
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- 6** A decree of presumed death shall be recorded in the civil status register as a death entry, with a notation that it rests on a presumption.
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- 7** If the person presumed dead is subsequently found to be alive:
- a. They may apply to the competent authority for annulment of the decree. The annulment shall be recorded in the civil status register.
 - b. They are entitled to recover their property in the condition in which it is found, including:
 - a. Property still held by heirs or legatees, in its current condition.
 - b. The price or proceeds of any property that has been alienated, to the extent that such proceeds remain identifiable in the hands of the heirs.
 - c. Property acquired by heirs through reinvestment of the proceeds of the estate, to the extent traceable.
 - c. The person may not recover property from third parties who acquired it in good faith and for value from the heirs.
 - d. Any marriage contracted by the spouse of the person presumed dead after the decree remains valid. The former marriage is not revived, but either the returning person or the spouse may apply for such relief as equity requires.
 - e. The returning person resumes legal personality and civil capacity from the date of annulment of the decree. They are not liable for obligations incurred by the estate or the heirs during the period of presumed death, save to the extent that they have recovered property from the estate.

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