

# Accord and satisfaction

## 1. Manner of discharge

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Parties agreed that in lieu of money payment, the debtor shall convey a property. They registered the agreement to convey the property. The debtor subsequently paid money. The registered agreement to convey the property is null and void.

## 2. Accord executed is satisfaction

- Only when there is an accord that the substitute performance is in lieu of the original obligation, will the substitute performance fully discharge the original obligation.
- If the substitute performance is towards satisfaction of the original obligation, any shortfall after the substitute performance still remains.

## 3. Accord without satisfaction is

- of no effect to the creditor
- debtor may discharge the debt either by providing the performance as originally agreed (ignoring the according the alter the manner of performance) or by providing the altered performnace as agreed by the accord to provide the alternative performance in lieu of the original performance.

## 4. Interpretation

- accord
- novation
- Agreement to provide a security

Art 607:

- 91Da25574: If the debt has already fallen due, when the accord was made, then the accord and satisfaction between the debtor and the creditor is not regulated by Art. 607

Act Regarding Registered Option to Secure a Debt

97Da43543

Building contractor had a money claim against the owner. The contractor and the owner agreed that the owner's property shall be transferred to the contractor in lieu of the payment of the money. The contractor's creditor attached the contractor's money claim. The validity of the attachment? (accord or novatio). If the agreement between the owner and the contractor was an accord which was not yet satisfied, the owner may not perform to the contractor (as the debt was attached). The owner has a defence against the contractor's creditor (owner may rely on the validity of the accord) and the owner can insist on handing over the property, rather than the money. If the agreement was novation, the attachment is void (as it is in respect of a claim which no longer existed.)