Unjust enrichment

Art 741.

A party who has no legal ground to retain the benefit from another's property or service must return the benefit to the latter if the latter sustained loss as the result.

2. Types of unjust enrichment

A. Benefit resulting from a party's discharge of a 'duty' where the duty turns out to be invalid:

- Disgorgement to be done only between the parties to the transaction (ie., discharge of the purported duty).
- 94Da54641: A property belonging to the state was leased by the plaintiff to the defendant. Defendant failed to pay rent and the plaintiff terminated the lease. Defendant alleged, but could not prove, that the property was reclaimed by the state or that the defendant was otherwise prevented from using the property. Plaintiff may seek (1) payment of unpaid rent for the duration of the lease; and (2) disgorgement of benefit, which is equal to the rent, for the period the defendant was in possession of the property (after the lease was terminated until the property is returned). [State may not seek disgorgement from the lessee.]
- If the plaintiff's property was actually being used by the defendant, D must disgorge the benefit of using it even though D need not return the property until P tenders the lease deposit (which must be returned to the defendant simultaneously with the return of the property). 80Da1495
- 99Da66564: A co-owner of a building contracted with a builder to refurbish the windows. The builder completed the work which resulted in substantial increase of the value of the building. The builder may not demand

disgorgement of benefit from the co-owners of the building. [The builder must seek contractual remedies against the counterpart of the contract. If the latter becomes bankrupt, the risk must be borne by the builder. The co-owner who contracted the refurbishment may seek reimbursement from the other co-owners on the basis of negotiorum gestio or mandate, if the remaining co-owners had requested the refurbishment.]

- Claim need not be based on ownership. For example, X sold and delivered the property to Y and the sale turns out to be invalid. Then X can demand the return of the property even if X is not the owner.
- However, a good faith possessor may resort to Art. 201(1) and keep the fruit. To this extent, Art 748(1) (the party who received the benefit in good faith shall return the 'benefit that still remains') does not apply.

B. Benefit resulting from appropriation without legal ground or from infringement on other's entitlement.

- Claimant must show (1) his exclusive entitlement and that (2) the entitlement is infringed upon by the defendant.
- Defendant may put forward a defence showing that there is a legal ground for him to enjoy the benefit.
- 98Da2389: If a person owning a building on another person's land without an authority or a legal ground to use the land shall be, in the absence of special circumstances, deemed to have unjustly benefited from using the land in the amount equivalent to the rent and thereby causing corresponding loss to the land-owner.
- Exclusive entitlement needs to be shown. 2001Da8493: Plaintiff's land had already been used for passage of the public. P may not seek disgorgement of benefit from D who began to occupy the land. P may evict D.
- 2000Da57375: P's land had already been used for irrigation channels by a local government. P may not

seek disgorgement of benefit merely because the irrigation channels were converted to a car park.

- 92Da51280: D completed the required period of possession to claim title on the basis of adverse possession. While D has not, however, registered his ownership, the owner claimed the property back and sought disgorgement of benefit (of using the property). D successfully claimed that he has a legal ground to enjoy the benefit. [If D can show a valid contractual ground to enjoy the benefit, the owner would not have been able to claim disgorgement of benefit from D in the first place (even if D's possession did not amount to the required length.]
- 99Da32905: D secured property (or a receivable) on the basis of a judgment which was obtained through fraudulent means. But the judgment became final and the petition to quash it failed. D has a valid legal ground to retain the property (or the receivable) in view of res judicata.
- 2003Da8862: A embezzles B's money and used it to repay A's debt which is owed to C. C shall not be required to disgorge the benefit if C was merely negligent in not knowing A's embezzlement. C, in such a case, has a valid legal ground to retain the benefit (C has the right to demand, receive and retain the payment from A). If, however, C knew or grossly negligent in not knowing A's embezzlement, C may not plead that he had a legal ground to retain the benefit. [C is, in this case, viewed as appropriating B's money. The risk of A's bankruptcy is shifted to C.]

C. Benefit resulting from another's mistaken investment or efforts

- Embellishment of a property believing that it is one's own. Art. 203

3. Just/unjust benefit

- Where the party unjustly enjoying the benefit of an object (respondent) disposed of the object, the proceeds at the time of the disposal must be returned [with interests, presumably]. If the respondent generated profit using the object, he may keep the profit generated by his own operation. However, the profit which would have accrued ordinarily without the respondent's particular intervention must be returned to the claimant (94Da25551). If the respondent suffered loss from operating the object, the loss must be borne by the respondent [just as the profit may be kept by the respondent] (96Da47568)
- The claimant seeking disgorgement of benefit from the respondent who has received the benefit in good faith, must prove that the respondent has unconsumed benefit (69Da2171). However, if the benefit received was money or monetary gain, the benefit is presumed to exist regardless of whether it was actually consumed or not (96Da32881)

4. Disputes arising from official auctions

- 97Da32680: If movables which do not belong to the debtor are sold in an official auction, the successful bidder would usually acquire the title as a good faith purchaser. The proceeds from sale, however do not belong to the debtor and, in that case, the creditor's receipt of the proceeds would not have the consequence of extinguishing the claims. The creditor must return the proceeds to the original owner of the movables who lost the title to the successful bidder.
- 2001Da3054: If a party who is entitled to participate in the distribution of proceeds could not in fact do so because of an erroneously finalised distribution schedule, the party may seek disgorgement [from the parties who received more than they ought to have].
- 99Da53230: If sales proceeds were erroneously

distributed to those who have no right to participate in the distribution, the party who may claim disgorgement is the creditor who would have received more if the proceeds were not erroneously distributed to those who have no right. Only when there is no such creditor, may the debtor exercise the disgorgement claim.