

19 GCA PERSONAL RELATIONS  
CH. 40 TRANSFER OF PROPERTY

CHAPTER 40  
TRANSFERS OF PROPERTY - IN GENERAL

- Article 1. Definition of Transfer.
- Article 2. What May Be Transferred.
- Article 3. Mode of Transfer.
- Article 4. Interpretation of Grants.
- Article 5. Effect of Transfer.

ARTICLE 1  
DEFINITION OF TRANSFER

- § 40101. What is a *Transfer*.
- § 40102. Voluntary Transfer.

**§ 40101. What is a *Transfer*.**

*Transfer* is an act of the parties, or of the law, by which the title to property is conveyed from one living person to another.

SOURCE: CC §1039.

**§ 40102. Voluntary Transfer.**

A voluntary transfer is an executed contract, subject to all rules of law concerning contracts in general, except that a consideration is not necessary to its validity.

SOURCE: CC §1040.

NOTE: CC §§1041 through 1043 did not exist in the Civil Code.

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ARTICLE 2  
WHAT MAY BE TRANSFERRED

- § 40201. What may be Transferred.
- § 40202. Possibility.
- § 40203. Right of Reentry Transferrable.
- § 40204. Owner Ousted, May Transfer.

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**§ 40201. What may be Transferred.**

Property of any kind may be transferred, except as otherwise provided by Titles 18 through 21 of this Code.

**SOURCE:** CC §1044.

**NOTE:** The Titles of the Guam Code Annotated which constitute the former Civil Code of Guam are substituted here for the term, *this Code*, in the original, which there referred to the Civil Code of Guam.

**§ 40202. Possibility.**

A mere possibility, not coupled with an interest, cannot be transferred.

**SOURCE:** CC §1045.

**§ 40203. Right of Reentry Transferrable.**

A right of reentry, or of repossession for breach of condition subsequent, can be transferred.

**SOURCE:** CC §1046.

**§ 40204. Owner Ousted, May Transfer.**

Any person claiming title to real property in the adverse possession of another may transfer it with the same effect as if in actual possession.

**SOURCE:** CC §1047.

**CROSS-REFERENCES:** For definition and rules relating to claiming by adverse possession, see 7 GCA Chapter 11, Article 2. Adverse possession cannot be had where real property is registered, 21 GCA §29136.

**NOTE:** CC §§1048 through 1051 did not exist in the Civil Code.

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**ARTICLE 3  
MODE OF TRANSFER**

§ 40301. When Oral.

§ 40302. What is a *Grant*.

§ 40303. Delivery Necessary.

§ 40304. Date.

§ 40305. Deliver to Grantee Absolute.

§ 40306. Delivery in Escrow.

§ 40307. Surrendering Grant not Reconveyance

§ 40308. Constructive Delivery.

**§ 40301. When Oral.**

A transfer may be made without writing, in every case in which a writing is not expressly required by law.

SOURCE: CC §1052.

**§ 40302. What is a *Grant*.**

A transfer in writing is call a *grant*, or conveyance, or bill of sale. The term *grant*, in this and the next two Articles, includes all these instruments, unless it is specially applied to real property.

SOURCE: CC §1053.

**§ 40303. Delivery Necessary.**

A grant takes effect, so as to vest the interest intended to be transferred, only upon its delivery by the grantor.

SOURCE: CC §1054.

**§ 40304. Date.**

A grant duly executed is presumed to have been delivered at its date.

SOURCE: CC §1055.

**§ 40305. Deliver to Grantee Absolute.**

A grant cannot be delivered to a grantee conditionally. Delivery to him, or to his agent as such, is necessarily absolute, and the instrument takes effect thereupon, discharged of any condition on which the delivery was made.

SOURCE: CC §1056.

**§ 40306. Delivery in Escrow.**

A grant may be deposited by the grantor with a third person, to be delivered on performance of a condition and, on delivery by the depositary, it will take effect. While in possession of the third person, and subject to condition, it is called an escrow.

SOURCE: CC §1057.

**§ 40307. Surrendering Grant not Reconveyance.**

Redelivering a grant of real property to the grantor, or cancelling it, does not operate to retransfer the title.

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**SOURCE:** CC §1058.

**§ 40308. Constructive Delivery.**

Though a grant be not actually delivered into the possession of the grantee, it is yet to be deemed constructively delivered in the following cases:

1. Where instrument is, by agreement of the parties at the time of execution, understood to be delivered, and under such circumstances that the grantee is entitled to immediate delivery; or,

2. Where it is delivered to a stranger for the benefit of the grantee, and his assent is shown, or may be presumed.

**SOURCE:** CC §1059.

**NOTE:** No CC §§1060 through 1065 existed.

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**ARTICLE 4  
INTERPRETATION OF GRANTS**

- § 40401. How Grants are Interpreted.
- § 40402. Limitations, How Controlled.
- § 40403. When Recitals Resorted to.
- § 40404. Interpretations against Grantor.
- § 40405. Irreconcilable Provisions.
- § 40406. Meaning of Heirs, Issue, Remainders.
- § 40407. Words of Inheritance Unnecessary.

**§ 40401. How Grants are Interpreted.**

Grants are to be interpreted in like manner with contracts in general, except so far as is otherwise provided in this Article.

**SOURCE:** CC §1066.

**§ 40402. Limitations, How Controlled.**

A clear and distinct limitation in a grant is not controlled by other words less clear and distinct.

**SOURCE:** CC §1067.

**§ 40403. When Recitals Resorted to.**

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If the operative words of a grant are doubtful, recourse may be had to its recitals to assist its construction.

**SOURCE:** CC §1068.

**§ 40404. Interpretations against Grantor.**

A grant is to be interpreted in favor of the grantee, except that a reservation in any grant, and every grant by a public officer or body, as such, to a private party is to be interpreted in favor of the grantor.

**SOURCE:** CC §1069.

**§ 40405. Irreconcilable Provisions.**

If several parts of a grant are absolutely irreconcilable, the former part prevails.

**SOURCE:** CC §1070.

**§ 40406. Meaning of *Heirs, Issue, Remainders*.**

Where a future interest is limited by a grant to take effect on the death of any person with heirs, or heirs of his body, or without issue, or in equivalent words, such words must be taken to mean successors, or issue living at the death of the person named as ancestor.

**SOURCE:** CC §1071.

**§ 40407. Words of Inheritance Unnecessary.**

Words of inheritance or succession are not requisite to transfer a fee in real property.

**SOURCE:** CC §1072.

**CROSS-REFERENCES:** See 15 GCA §615 (Words of Inheritance not Necessary).

**NOTE:** No CC §§1073 through 1082 existed.

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**ARTICLE 5  
EFFECT OF TRANSFER**

§ 40501. What Title Passes.

§ 40502. Incidents of Title.

§ 40503. Grant May Inure to Benefit of Stranger.

**§ 40501. What Title Passes.**

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A transfer vests in the transferee all the actual title to the thing transferred which the transferor then has, unless a different intention is expressed or is necessarily implied.

**SOURCE:** CC §1083.

**§ 40502. Incidents of Title.**

The transfer of a thing transfers also all its incidents, unless expressly excepted; but the transfer of an incident to a thing does not transfer the thing itself.

**SOURCE:** CC §1084.

**§ 40503. Grant may Inure to Benefit of Stranger.**

A present interest, and the benefit of a condition or covenant respecting property, may be taken by any natural person under a grant, although not named a party thereto.

**SOURCE:** CC §1085.

**NOTE:** No §§1086 through 1090 existed in the Civil Code.

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