Reviewer in Obligations and Contracts

Consolidated Study Guide

Sources: Atty. Linsangan
Hector de Leon Book on Obligations and Contracts
Edgardo I. Paras Book on Obligations and Contracts

Section 1-I

SAN BEDA COLLEGE OF LAW
Mendiola, Manila

FOREWORD

This study guide was especially created for the Block 1-I. The questions here are not actually sequentially arranged according to the provisions of Obligations and Contract, however are based and separated by each of their chapter. Furthermore this will serve as basic guide to the subject Obligations and Contracts. Answers are not guaranteed to be absolutely right, in case of doubt, kindly resolve this by reading comprehensively the books and jurisprudence to strongly support your legal basis. If you have comments & suggestions or any form of reaction and even corrections, kindly send it to my e-mail: baces.josephdemesa@gmail.com

Thank You!
Title I – Obligations

Chapter 1

General Provisions

Q: What is an obligation?

An obligation is a juridical necessity to give, to do or not to do. (Art. 1156)

Q: Why are obligations under Civil Code a juridical necessity?

Obligation is a juridical necessity because in case of noncompliance, the courts of justice may be called upon by the aggrieved party to enforce its fulfillment; obligor may also be made liable for the damages suffered by the creditor or obligee.

Q: What is meant by damages in the preceding question?

Damages are which represents the sum of money given as compensation for the injury or harm suffered by the creditor or obligee.

Q: Distinguish civil obligations from natural obligations.

Civil obligations are those which give to the creditor or oblige a right under the law to enforce their performance in courts of justice.

Natural obligations do not grant a right of action to enforce their performance.

Q: Where are civil obligations based?

Civil obligations are based on positive law.

Q: Where are natural obligations being based?

Based on equity and natural law.

Q: What are the essential requisites of an obligation?

A passive subject (debtor), active subject (creditor), object or prestation (subject matter of the obligation) and a juridical or legal tie (efficient cause).

Q: What are the obligations according to prestation?

To give, to do or not to do.

Q: Distinguish Obligation, Right and a Wrong or Injury

Obligation is the act or performance which the law will enforce.

Right is the power which a person has under the law, to demand from another any prestation.

A wrong or injury is an act or omission of one party in violation of the legal right or rights of another.

Q: What are the requisites in order that a person may acquire a right of action in court against another to enforce the performance of the latter’s obligation?

(1) a legal right in favor of a person (creditor)

(2) a correlative legal obligation on the part of another (debtor)

(3) an act or omission by the latter in violation of said right resulting to injury

Q: When does a wrong or cause of action arises?
The moment a right has been transgressed or violated.

**Q: Distinguish real obligation from personal obligation**

Real obligation is the obligation to give or deliver to the creditor.

Personal obligation is the obligation to do or not to do.

**Q: What are the sources of obligation?**

1. Law;
2. Contracts; (Art. 1305)
3. Quasi-contracts; (Art. 2142)
4. Act or omissions punishable by law (Art. 1161)
5. Quasi-delicts (Art. 2176)

**Q: Are obligations arising from law presumed?**

No

**Q: Why?**

Because they are considered burden upon the obligor.

**Q: Is this an absolute rule?**

No. This rule is the exception. For it to be demandable, they must be clearly set forth in the law.

**Q: Jerry hired a lawyer to sue Joseph who caused him injury while he’s in the performance of his duties. He then paid the legal assistance. Thereafter, Jerry demands to recover the amount he has paid the lawyer hired by him from his employer. Is the claim of Jerry tenable?**

No. An employer has no obligation to furnish free legal assistance to his employees because no law requires this.

**Q: Debtor borrowed P100,000 from Creditor. On due date of the loan, D could not pay C because he lost to a robber the P100,000 intended for C. In addition, he suffered financial reverses, and he was short of cash even for his current family needs. Is D legally justified to refuse to pay C?**

No. Mere pecuniary inability or poverty is not an excuse for the non-fulfillment of an obligation.

**Q: What is a contract?**

A contract is a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render some service. (Art. 1305)

**Q: Can Selma and Paul enter a contract where one has to slap a public officer?**

No. A contract should not be contrary to law, morals, good customs, public order and public policy. From the facts is an act considered as against morals hence void. (Art. 1306)

**Q: Lia and Bianca entered into an agreement. It was agreed that if Lia will attend mass for four consecutive Sundays, Bianca will give Lia the amount of P100,000. Is Lia’s obligation legally enforceable?**

Yes. It has complied with the essential requisites of a contract and involves money.

**Q: Selma entered an agreement with Paul to render domestic service gratuitously until his loan to Paul is paid. Is this a valid contract?**
Void as being contrary to law or morals.

Q: On November 20, 2012, Dioms entered into an agreement with Chiz. Among other things, the parties agreed that: (a) Dioms will borrow P50,000 from Chiz due for payment on January 20, 2013, (b) in case of non-payment, Dioms will render free service as a servant to Chiz. Is the agreement valid?

Not a valid obligation. A violation of Art. 1306.

Q: What do the law means in “compliance in good faith?”

This means compliance or performance in accordance with the stipulations of terms of the contract or agreement.

Q: What is a quasi-contract?

A juridical relation resulting from lawful, voluntary and unilateral acts by virtue of which the parties become bound to each other to the end that no one will be unjustly enriched or benefited at the expense of another.

Q: What is negotiorum gestio?

Any voluntary management of the property or affairs of another without the knowledge or consent of the latter; such is abandonment or neglect be done by the owner. (Art. 2144)

Q: Vanessa about 1:00 pm saw a child alone in the shopping mall. The child who strayed from Nissa, her mother, was very hungry. Vanessa out of pity took the child to a restaurant to eat which she spent P 100.00. Is Vanessa entitled to be reimbursed by Nissa for the amount of P100.00.

Yes. Even though consent was not given by Nissa, Vanessa’s act qualified as solution indebiti making her entitled for the reimbursement.

Q: Loi owns a Kikiam Business in Morayta. He went to market to buy cooking oil. After getting back to his Kikiam Stall he saw Moya handling his kikiam business. Moya then asked to get reimbursed. Is Moya’s claim tenable?

No. There was no pre-existing contract or obligation between Loi and Moya.

Q: Can Moya invoke negotiorum gestio?

It cannot be considered negotiorum gestio because the property or business is not neglected or abandoned.

Q: You went to the bank and let the teller change your P1,000.00 bill. By error, the teller gave you P1,100.00. What is your obligation?

Obligation to return the amount in excess of the 1,000.00. This is a case of solutio indebiti.

Q: What is solutio indebiti?

It is the juridical relation which is created when something is received and there is no right to demand it and it was unduly delivered through mistake.

Q: Kenneth ordered 13-year old Carlo to climb a high and slippery santol tree, and promised to give the boy 2 kilos of the santol he will be able to pick. While climbing the tree, however, Carlo’s foot slipped. As a result, Carlo fell from the tree to the ground and died instantaneously. Will Kenneth be liable in damages for the death of Carlo?
The facts show that Kenneth was negligent enough to let the boy climb the tree, as such person in bad faith may be liable to pay for the expenses that might be incurred upon the boy who died. This is a case of indemnification for consequential damage. (Art. 104 of RPC)

Note: Check 1161 & 1173

Q: While Tin and her friends were playing football, the football kicked by Tin hit and broke the glass of the neighbor. The neighbor asked Tin to pay the damages. Tin insisted that she should not be liable because there were no pre-existing contractual relation between them and it was just an accident. Decide.

Tin is under the obligation to pay the damage because she is guilty of fault or negligence hence a quasi-delict arose.

Q: What is a quasi-delict?

It is an act or omission by a person which causes damage to another in his person, property or rights giving rise to an obligation to pay for the damage done, there being fault or negligence but there is no pre-existing contractual relation between the parties. (Art. 2176)

Q: Can you distinguish crime from quasi-delict?

(1) Crime has malicious intent or criminal negligence while quasi-delict is only negligence;

(2) Purpose of crime is punishment while quasi-delict is indemnification;

(3) Crime affects public interest, quasi-delict concerns private interest;

(4) Crime carries civil and criminal liability while quasi-delict only carries civil liability.

(5) Criminal liability can not be settled by the parties themselves while the liability in quasi-delict may be compromised.

(6) The guilt of the accused must be proved beyond reasonable doubt in crime. The fault or negligence may be proved by preponderance of evidence in quasi-delict.

Chapter 2

Nature and Effect of Obligations

Q: Distinguish specific or determinate to generic or indeterminate. Expound

Determinate thing is identified by its individuality. The debtor cannot substitute it with another although the latter is of the same kind and quality without the consent of the creditor. (Art. 1244)

A generic thing is identified only by its specie. The debtor can give anything of the same class as long as it is of the same kind.

Q: Supposing Nikki promised to deliver Alvin a female horse named Chechee, what are the duties of Nikki in obligation to deliver Chechee?

(1) To preserve the thing;

(2) Deliver the fruits of the thing; (Art 1164)

(3) Deliver the accessions and accessories (Art. 1166)

(4) Deliver the thing itself
(5) Answer the damages in case of breach or non-fulfillment (Art. 1170)

Q: How about in a case of a generic thing?

(1) To deliver a thing which is of the quality intended by the parties. (Art. 1246)

(2) To be liable for damages in case of fraud, negligence, or delay in the performance of his obligation, or contravention of tenor thereof. (Art. 1170)

Q: Distinguish Natural Fruits, Industrial Fruits and Civil Fruits and example.

Natural fruits are the spontaneous products of the soil, and the young and other products of animals. Grass, trees and plants produced without intervention of human labor.

Industrial fruits are those produced by lands of any kind through cultivation or labor. Rice, sugar cane and vegetables brought by reason of human labor.

Civil fruits are those derived by virtue of a juridical relation. Rents of buildings, price of lease of lands and other property.

Q: When does the creditor receive personal right over the thing?

The moment the obligation to deliver arises.

Q: When does the obligation to deliver arises.

Generally, after the perfection of the contract.

Q: What if the obligation is subject to a suspensive condition or period?

It arises upon the fulfillment of the condition or arrival of the term.

Q: In a contract of sale?

Obligation arises from the perfection of the contract even if the obligation is subject to a suspensive condition or a suspensive period where the price has been paid.

Q: How about in obligations to give arising from law, quasi-contracts, delict and quasi-delicts?

The time of performance is determined by the specific provisions of the law applicable.

Q: Soliva sold his cow to Bennet for P20,000. No date or condition was stipulated for the delivery of the horse. While still in the possession of Soliva, the cow gave birth to a calf. Who has the right over the calf?

All fruits shall pertain to the vendee from the day on which the contract was perfected. Hence, Bennet is entitled to the calf.

Q: What if it’s in suspensive condition and Bennet has paid the price?

Same

Q: What is a personal right?

It is the right or power of a person to demand from another.

Q: How about real right?

It is the right or interest of a person over a specific thing, like ownership, against whom the right may be personally enforced.

Q: If Andrea sold a horse to Flores without having it delivered yet. Then sold and delivered the same horse to Alvin, acting in good faith. Who then acquires the ownership of the horse?
Alvin receives the real right over the horse thus entitled to the ownership.

Q: The horse was already paid by Flores, shouldn’t it belong to Flores?

No. Flores only acquired the personal right to demand from Andrea, however, it makes Andrea liable for the damages.

Q: Supposing Romeo agreed to deliver pair of Jordan 11 to Zhon for the amount of P 12,000 paid by the latter. However Romeo failed to deliver the shoes on the due date. Zhon to demand his rights over the shoes sent his assistant Jethro to coerce Romeo by pointing a gun. Was the demand properly executed?

No. Use or force or violence upon the debtor is not what the law requires but to bring the matter to the court.

Q: In case the debtor fails to comply with his obligation, what are the creditor’s remedies?

(1) Demand specific performance with a right to indemnity for damages

(2) Demand rescission or cancellation with a right to recover damages.

(3) Demand payment of damages only, where it is the only feasible remedy.

Q: Cha obliges herself to deliver to Pau 200 sacks of rice on December 4 for P80,000. However, Cha did not deliver it on time, as a consequence, Pau bought from another on the amount of P85,000. If Pau has not yet paid Cha, can she recover 5,000 from the latter?

Yes.

Q: If in case Cha is obliged to deliver rice to Pau, however was destroyed due to the fortuitous event, can Cha be exempted from the responsibility?

No. Genus nunquam perit or “genus never perishes” explains that an indeterminate thing cannot be the object of destruction by a fortuitous event.

Q: What are accessions and accessories?

Accessions are the fruits of a thing or additions to or improvement upon a thing (principal).

Accessories are things joined to or included with the principal thing for the latter’s embellishment or completion.

Q: Is the right of the creditor over the accessions and accessories an absolute rule?

No. The exception is where there is a stipulation to that effect.

Q: What is the principle why the creditor has the right over the accessions and accessories?

Accessory follows the principal.

Q: What are the remedies of creditor if debtor fails to do his obligation?

(1) To have the obligation performed by himself or another at the debtor’s expense

(2) Damages

Q: If I ask Eroll to buy 2 cavans of rice in exchange for 4,000 then he failed to deliver the cavans of rice, may I claim damages against Eroll?

No. Damages alone cannot substitute the performance if owners can do it; if purely personal or special.
Q: What if Eroll, a well-known painter, entered into agreement with you to paint but fails to do it, may you claim damages?

Yes, as this is purely personal or special thing to be rendered.

Q: Lenin bought a land from Francis. It was stipulated that Francis would not construct a fence on a certain portion of his land adjoining that sold to Lenin. A week passed and Francis constructed a fence. Lenin asked Francis to remove the fence. Francis asked for the expense of the removal. Does Lenin have the obligation to pay the expense of the removal of the fence?

No. It was stipulated that Francis may not construct a fence thus the liability for removal should only be borne to him.

Q: Jopet should deliver a pig to Lenin on November 30 but delivered it on December 2 instead, is Jopet already mora accipiendi?

No. Jopet has just incurred ordinary delay since there was no demand done by Lenin.

Q: Distinguish ordinary delay from legal delay or default.

Ordinary delay is merely the failure to perform an obligation on time.

Legal delay or default is the failure to perform an obligation on time which failure constitutes a breach of obligation.

Q: What are the kinds of default or mora

(1) Mora Solvendi or delay on the part of the debtor to fulfill his obligation (to give or to do)

(2) Mora accipiendi delay on the part of the creditor to accept the performance or obligation

(3) Compensatio Morae or delay of the obligors in reciprocal obligations.

Q: What are the requisites of mora solvendi?

(1) Failure to perform his obligation on the date agreed upon

(2) Demand made by the debtor

(3) Failure of the debtor to comply with such demand

Q: What is the demand required to make debtor liable?

A demand that may be judicial or complaint is filed in court or extra-judicial which is made in writing or in oral manner. (Not mere reminder or notice)

Q: Is the demand only the thing that put the debtor liable in default or mora?

No.

Q: What are the exceptions?

(1) When the obligation so provides

(2) When the law so provides

(3) When time is of the essence

(4) When demand would be useless

(5) When there is performance by a party in reciprocal obligations.

Q: Nino obliged himself to deliver to Nina 20 bottles of wine, of a particular brand. Subsequently, Nino delivered 20 bottles knowing that they contain cheaper wine. Did
Nino’s performance incur a liability? What is it?

Nino is guilty of fraud and liable for damages to Nina in accordance with Art. 1170.

Q: What is fraud?

It is the deliberate or intentional evasion of the normal fulfillment of an obligation.

Q: What are the two kinds of fraud referred in 1170?

Incidental fraud (dolo incidente) and Causal fraud (dolo causente).

Q: Distinguish the two.

Incidental fraud is committed in the performance of an obligation already existing because of a contract while causal fraud is the false representation or inducement of another to enter the contract.

Q: Pam is a passenger of a taxi driven by Lawrence. Along Espana, Lawrence drove at an unjustified rate of speed then entered a one-way street, an accident occurs, as a result of which Pam is injured. Can Pam claim for damages?

Yes. Since there is a negligence of Lawrence made and is in violation of Art. 1170.

Q: What is negligence or culpa?

It is any voluntary act or omission, there being no malice, which prevents the normal fulfillment of an obligation.

Q: Edgar leased the apartment of Rina for P8,000.00 a month. On the second month, Edgar failed to pay the rent. Is Rina entitled to eject him from the premises as a contravention of the terms?

No. It is necessary that Rina follows the proper procedure to eject Edgar by giving notice or demand against the latter and seeking the action of the court regarding the case.

Q: What is the contravention of the terms of the obligation?

The violation of terms and conditions stipulated in the obligation.

Q: Distinguish fraud from negligence

<table>
<thead>
<tr>
<th>Fraud</th>
<th>Negligence</th>
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<tbody>
<tr>
<td>There is deliberate intention to cause damage or injury</td>
<td>There is no intention to cause damage or injury</td>
</tr>
<tr>
<td>Waiver of the liability for future fraud is void</td>
<td>Waiver is permissible</td>
</tr>
<tr>
<td>Must be clearly proved</td>
<td>There is a presumption on the violation of contractual obligations</td>
</tr>
<tr>
<td>Liability for fraud cannot be mitigated by courts</td>
<td>Liability may be reduced by the courts’ discretion</td>
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Q: Romeo promised to deliver 120 bottles of champagne of particular brand and quality to Maximo at the rate of 10 bottles a week. Romeo made an agreement with Maximo whereby Maximo may not file an action against Romeo, should Romeo commit to do fraud. Is this contract valid?

No. In the case at bar, there shows the waiver of action for future fraud hence is a void contract.
Q: May an action arising from fraud be waived?
Yes, but only waiver of action for future fraud.

Q: Why is a waiver of action for future fraud void?
It is against the law and public policy as it would also encourage the perpetration of fraud because it would be easy for the facilitation of escape from liability.

Q: A jeepney driver, Erap, entered an agreement with Gloria that he will give a ride from Manila to Tagaytay and any accident that would happen will not make Erap liable. Is the contract valid? Why?
No. Waiver of action arising from negligence from common carriers may not be stipulated hence void.

Q: What are the kinds of negligence according to source of obligation?
(1) Contractual Negligence or Culpa Contractual
(2) Civil Negligence or Culpa Aquiliana
(3) Criminal Negligence or Culpa Criminal

Q: If Carlo entered into a contract of sale with Lenin to deliver a 3 and half feet great dane dog on a certain day. It got sick and was not brought by Carlo to the veterinarian. Consequently the dog died. Should Carlo be liable?
Yes for having failed to fulfill a pre-existing obligation because of his negligence which is culpa contractual.

Q: Suppose the creditor is also guilty of negligence, can he recover damages?
When the plaintiff’s own negligence was the immediate and proximate cause of his injury, he cannot recover damages. But if his negligence was only contributory, the immediate and proximate cause of the injury being the defendant’s lack of due care, the plaintiff may recover damage, but the courts shall mitigate the damages to be awarded. (Art. 2179)

Q: Flores is a passenger in a carefully driven bus. Without warning, she jumped off the bus, as a result of which, she suffered injuries. Should the bus company be liable for the damages? Why?
The bus company is not liable for damages because the cause of Flores’ injuries is her own negligence.

Q: Supposing Joey was standing on the running board of the bus and was repeatedly told by the conductor to go inside but he did not pay attention. Suddenly, the bus swerved to avoid collision with another vehicle; as a result, Joey was thrown off the bus. At the time of the mishap, the driver was driving recklessly at the very high speed. May Joey demand for damages?
Yes. Even if there is the existence of contributory negligence, Joey still observed diligence of a good father of a family. The proximate cause of the damage was done arising from the negligence of the common carrier. However the amount of damages shall be equitably reduced.

Q: Suppose in the above example, the bus rounded a curve causing Joey to lose his balance and fall off the platform, sustaining
injuries. The bus at the time of the accident was travelling at a moderate rate of speed. May Joey be entitled for the recovery of damages?

No. He should have been on his guard against a contingency as natural as that of losing his balance to a greater or lesser extent when the bus rounded the curve.

Q: It is said that negligence is a question of fact and its existence is dependent on the particular circumstances, what are the following factors that should be considered?

(1) Nature of the obligation
(2) Circumstances of the person
(3) Circumstances of time
(4) Circumstances of the place

Q: If Maximo contracted with Fernando to deliver 12,000 copies of paper. Then on the designated date, 12,000 copies of paper was not delivered resulting to the loss of profit which consequently causes Maximo’s heart attack for which he was hospitalized for 1 week. Is there a breach of obligation and should Fernando be liable for the expenses?

The answer would depend whether Fernando acted in good faith or bad faith. When in fact he has committed it in good faith, he is only liable to the extent of Maximo’s profit. In case he acted in bad faith, the hospitalization expenses shall also be included.

Q: What are the requisites of a fortuitous event?

(1) Event must be independent of the will of the debtor
(2) Event could not be foreseen, or if foreseen, is inevitable;
(3) Event must be of such character as to render it impossible for the debtor to render his obligation in a normal manner;
(4) Debtor should be free from any negligence

Q: Is it safe to say that when a debtor’s thing to be delivered suffered loss or damage from a fortuitous event, his obligation to deliver is extinguished?

Yes

Q: Is this rule absolute?

No

Q: What are the exceptions?

(1) When expressly specified by law
(2) When declared by stipulation
(3) When the nature of the obligation requires the assumption of risk.

Q: Can you give examples on those exceptions for fortuitous event under the law?

(1) The debtor is guilty of fraud, negligence, or delay, or contravention of the tenor of the obligation. (Art. 1170)
(2) The debtor has promised to deliver the same (specific thing) to two or more persons who do not have the same interest.
The obligation to deliver a specific thing arises from a crime. (Art. 1268)

The thing to be delivered is generic. (Art. 1263)

Q: Lia is obliged to deliver an specific african elephant to Tin on December 10. Lia did not deliver the horse on said date. On December 11, the elephant died from the typhoon. Should Lia be liable for the damages?

No. There was no demand made by Tin therefore the obligation is extinguished.

Q: What if in the preceding case, the demand was made by Tin, should the obligation to deliver the horse also extinguished?

Yes, but it is converted into monetary obligation to pay damages. (Art. 1165)

Q: If James promised to deliver a Mitsubishi Monterro to Seth and Barsuchel separately, should James be liable even for a fortuitous event? Explain.

Yes. It is because it would still be impossible for James to comply with his obligation to both Seth and Baruschel even without any fortuitous event taking place.

Q: Don stole the carabao of Julius. Later Julius was informed that his carabao was in the hands of Don. Julius asked for the carabao to be returned however Don said that the carabao was devoured by the fissure created by the earthquake in Bohol. Can Don still be liable for damages?

Yes. Don is responsible for the results of whatever cause which flow from his criminal act.

Q: Cynthia is obliged to deliver 20 sacks of sugar to Fely. Cynthia failed to deliver it because their warehouse was said to have been ransacked. Can Cynthia still be compelled to deliver?

Yes. It is in accordance to the principle that “genus never perishes.” Cynthia may still comply with her obligation by deliver another thing of the same kind.

Q: In order that interest may be recovered, the following requisites must be present.

(1) The payment of interest must be expressly stipulated (Art. 1956)

(2) The agreement must be in writing;

(3) The interest must be lawful (Art. 1957)

Q: Define Simple loan or mutuum

It is a contract whereby one of the parties delivers to another, money or other consumable thing, upon the condition that the same amount of the same kind and quality shall be paid.

Q: Gerry borrowed 20,000 from Madeja payable after one year. Is Gerry liable to pay interest? Why?

No. There was no stipulation of interest in the stated facts.

Q: Sabrina, lessor, issued a receipt that Adjiele, lessee, has paid the rent for the month of March, 2013. Can R still collect from Adjiele the rents for January and February 2013?

Yes. Provided that no receipt was presented by Adjiele, however, such case only shows the presumption that Sabrina already
paid the March rentals thus receipt was issued. It may be rebuttable in the absence of any receipt from January or February.

Q: What is presumption contemplated under Art. 1176?

By presumption is meant the inference of a fact not actually known arising from its usual connection with another which is known or proved.

Q: What are the two kinds of presumption? Describe.

(1) Conclusive presumption which cannot be contradicted like Art. 3 of Civil Code.

(2) Disputable presumption which can be contradicted like Art. 1176.

Q: In case the debtor does not comply with his obligation, how would the creditor avail himself of the remedies to satisfy his claim?

(1) Exact fulfillment with the right to damages

(2) Pursue the leviable property of the debtor

(3) Exercise all the rights and bring all the actions of the debtor like the right to collect of the debtor.

(4) Ask the court to rescind or impugn acts or contracts which the debtor have done for your recovery.

Q: All rights acquired in virtue of an obligation are generally transmissible, what are the exception?

(1) Prohibited by law (contract of partnership, contract of agency, contract of commodatum)