D. Effects of contracts
1. Definition of “effects”
2. Force of effects
   A contract is the “law” between the parties. CC art. 1983. What does that mean, practically speaking? What’s required for “mutual rescission”? A new contract, with CCCO.
   Can a mutual rescission affect third parties?
   COH. 66. A sells tract of land to B. B leases farm to C. And and B then mutually agree to resolve the act of sale. Is C’s lease thereby resolved as well?
3. Range of effects: the relativity of contracts
   a. Effects as to the “parties”
      To begin with, what do we mean by the "parties" to a juridical act? Can it be someone other than the one who actually communicates the offer or the acceptance or who signs the instrument, if there is one? What about the possibility of representation?
   b. Non-parties (“third parties”)
      To begin with, what do we mean by the "non-parties" to a juridical act? Read CC art. 3506(32).
      1) General rule
         What's the general rule?
         2) Exceptions
            a) For certain kinds of rights: real rights
            b) For certain kinds of persons
               1] "Universal" successors
               Read CC arts. 1984 & 3506(28).
               COH 67. Not long before his death, Pascal, a widower with three children – Ti-Boy, Lil-Fille, and Gros-Boy, borrows $100,000 from Bayou Bank. At his death he has several assets: a tract of land worth $100,000, some shares of Microsoft stock worth $50,000, a car worth $10,000, and a painting worth $1,000. In his testament, he leaves the stock to Lil-Fille and “all the rest of my property” to Ti-Boy and Gros-Boy. All three children “accept” Pascal’s succession. Which, if any, of them is now liable for at least part of the $100,000 debt Pascal owed to Bayou Bank? Why?
               2] Third-party beneficiaries
               Can the parties to a contract stipulate that it shall have effects for non-parties? See Civ. Code art. 1978.
               a] Definition thereof
               What’s a stipulation pour autrui? Read CC art. 1978, par. 1.
               b] Prerequisites for the stipulation
               What’s required for an effective stipulation pour autrui?
               1] Substantive
                  a] Intent to benefit a third party
                  1/ Evidence of intent
                  How does one tell whether the parties have intended confer a benefit on some third party? Must the conferral be made expressly? Or is an merely implied conferral possible? What circumstances might support such an inference?
                  Read Andrepont v. Acadia Drilling Co. (Sup. 1969) [Levasssieur, Text, 281-88]; then read Spaht & Johnson, 37 La. L. Rev. 338-44.
                  Can you think of any contracts we’ve already studied in this course that necessarily or at least may entail stipulations pour autrui? See CC arts. 1821 & 1823; CC art. 1524
2/ Change of intent: revocation of the stipulation

a/ The possibility

Can the stipulation, once made, be revoked? Read CC art. 1979, par. 1.

b/ The temporal limit

Can the stipulation be revoked at any old time? Or is there some point after which revocation becomes no longer possible? Read CC art. 1978, par. 2 & art. 1979, par. 1.

c/ The party(ies) with power to revoke

Who can revoke? Can he act unilaterally? Or is the concurrence of the other party required? Read CC art. 1979, pars. 1 & 2.

What happens if the stipulation is revoked? Is the contract then ineffective? Or does it yet have some effect? Read CC art. 1980.

b} Acceptance of the benefit by a third party

Must the third party “accept” the benefit in order for the stipulation to be effective? Read CC art. 1980; then see Planiol & Ripert, Traité Élémentaire de Droit Civil Français n° 360, at 464 (“The benefit of the stipulation is acquired by the beneficiary without passing through the patrimony of the stipulator. But because this acquisition cannot be imposed on him, it is necessary for him to manifest the will to benefit from it.”)

How “late” may the acceptance come? What if the stipulator has already died? See Planiol & Ripert, Traité Élémentaire de Droit Civil Français n° 360, at 464-65 (“The acceptance can take place after the death of the stipulator, as after his insolvency. The successors and creditors of the stipulator cannot claim to appropriate for themselves a value that does not figure in his patrimony.”)

What happens if the third person rejects the benefit? Is the contract then ineffective? Or does it yet have some effect? Read CC art. 1980.

2] Formal


c] Effects of the stipulation

1} As between the third party and the promisor

a} The third parties’ rights

Read CC art. 1981, par. 1.

b} The promisor’s defenses

Read CC art. 1982, par. 2.

2} As between the stipulator and the promisor

Read CC art. 1981, par. 2.

4. Creditors’ special rights

Read CC art. 3182 & 3183.

a. Acts of conservation

b. Acts of re-collection

1) Revocatory action

Read CC arts. 2036-2043.

2) Oblique action

Read CC art. 2044.