

#### PART IV. NOVATION.

**346[349].** – When the parties concerned have concluded a contract changing the essential elements of an obligation, such obligation is extinguished by novation.

If a conditional obligation is made unconditional, or a condition is added to an unconditional obligation, or if a condition is changed, it is regarded as a change of an essential element of such obligation.

A novation by a change of the creditor is governed by the provisions of this Code concerning transfer of claims.

*(J. 513 c/p J. 515, 516; c/p Fr. 1271; S.O. 116, 117; A. 1408).*

**347[350].** – A novation by a change of the debtor may be effected by a contract between the creditor and the new debtor, but this cannot be done against the will of the original debtor.

*(J. 514; Fr. 1274, 1275, 1277; G. 414–9).*

**348[351].** – If the obligation resulting from a novation does not come into existence, or is annulled, because of an illegality in its ground or because of some reason unknown to the parties, the original obligation is not extinguished.

*(J. 517).*

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