

## CORPORATION AND BASIC SECURITIES LAW

### I. FORMATION AND ORGANIZATION OF CORPORATIONS

#### A. GENERAL PRINCIPLES

##### 1. History of Business Organizations

- Spanish Regime
  - The Code of Commerce governed business organizations:
    - a) Sociedad en comandita (limited partnership)
    - b) Sociedad regular colectiva (General partnership)
    - c) Sociedad anonima (Corporation)
    - d) Sociedad de cuentas en participacion (Joint accounts)
- Provisions on Sociedad en comandita and Sociedad regular colectiva were repealed by the New Civil Code while the provisions on Sociedad anonima were earlier repealed by Sec. 191 of the Old Corporation Law or Act No. 1459. Only the provision on Sociedad de cuentas en participacion remain in our statute books.

##### 2. Constitutional Basis: Art. XII, Sec. 16

- "The Congress shall not, except by general law, provide for the formation, organization, or regulation of private corporations. Government-owned or controlled corporations may be created or established by special charters in the interest of the common good and subject to the test of economic viability."

##### 3. Definition of Corporation: Corporation Code Sec. 2

- "A corporation is an artificial being created by operation of law, having the right of succession and the powers, attributes, and properties expressly authorized by law or incidental to its existence"

##### 4. Attributes of Corporation

- a. Artificial being
- b. Created by operation of law
- c. Having the right of succession
- d. Has the powers, attributes, and properties expressly authorized by law or incidental to its existence

- **Artificial Being**

- "Doctrine of Separate Legal Entity" has a legal personality separate and distinct from the people comprising it.
- it is a separate juridical entity
- as a juridical entity, the corporation has right and obligations under existing laws.
- has legal capacity to sue (Rule 3 Sec. 2)

# Basic Corporation Law

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## **Basic Corporation Law:**

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