

OWNERSHIP OF REAL ESTATE

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REAL ESTATE

- ◉ Plot of land
- ◉ Lot
- ◉ Construction
 - licenced construction x unauthorized construction
- ◉ Component parts of a thing
- ◉ Accessories to a thing

OWNERSHIP TITLE

- ◉ Elasticity of the ownership title
- ◉ Ownership titles of all owners have the same legal content and protection (Article 11 of the Charter of Fundamental Rights and Freedoms)
- ◉ Ownership triad:
 - the right to use a thing and enjoy its fruits and proceeds
 - the right to dispose of a thing
 - the right to hold a thing

ACQUISITION OF OWNERSHIP

- ◉ original acquisition (confiscation, separation of fruits, creation of a new thing...)
- ◉ derivative acquisition (inheritance, purchase and sale, donation, exchange...)
- ◉ No one can transfer more rights to any other person that he or she actually has.
- ◉ Forms of acquisition of ownership - Section 132 CCC

ACQUISITION ON THE BASIS OF CONTRACT

- ◉ Immovable things - entry to the real estate registry!!!
- ◉ Purchase contract
 - must be in writing and the declarations of the wills of the parties must be on the same document.
 - the subject matter and the price are the essential elements of the purchase contract.
 - duties of the buyer and of the seller.
- + pre-emptive right of purchase
 - personal pre-emptive right of purchase
 - material pre-emptive right of purchase

ACQUISITION BY INHERITANCE

- ◉ Section 460 and subsequent sections of CCC
- ◉ Principle of descent x hereditas iacens

ACQUISITION BY MEANS OF A DECISION OF A STATE AUTHORITY

- ◉ E.g. Decision to cancel and settle common property (Section 142 of CCC) or order to transfer ownership title to an unauthorised construction (Section 135c (2) of CCC)
- ◉ The ownership is acquired on the day stated in the decision or on the day when the decision comes into legal effect.

ACQUISITION ON THE BASIS OF OTHER FACTS SPECIFIED BY LAW

- ◉ Accretions of a thing
- ◉ Prescription (*usucapio*) - requirements:
 - a competent subject
 - a competent subject matter
 - lawful possession
 - the passage of the period of prescription period (3 years movables, 10 years immovables)
 - uninterrupted possession for the entire length of the prescription period
- ◉ Processing
- ◉

TERMINATION OF OWNERSHIP TITLE

- ◉ Absolute termination (destruction or consumption of the thing)
- ◉ Relative termination (termination for the former owner, acquisition for the new one)
- ◉ Termination on the basis of a manifestation of the will of the existing owner (by contract, by dereliction of a thing, by destruction of a thing, by consumption)
x
- ◉ Termination independent of the will of the existing owner (by cessation of existence of a thing, by loss of a thing, by death of the owner, by prescription, by decision of a state body)

PROTECTION OF OWNERSHIP TITLE

- ⦿ Action for the recovery of a thing (real action)
- ⦿ Action to repel a claim (*actio negatoria*)

COMMON PROPERTY

- ◉ „,apportioned“ common property x „,unapportioned“ (joint) common property
- ◉ ideal common property x real common property

THANK YOU FOR YOUR ATTENTION!