

Civil Law IV

Code: 102238
ECTS Credits: 6

Degree	Type	Year	Semester
2500786 Law	OB	3	2

Contact

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Use of languages

Principal working language: spanish (spa)
Some groups entirely in English: No
Some groups entirely in Catalan: Yes
Some groups entirely in Spanish: Yes

Teachers

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Prerequisites

A good follow-up of the course of Civil Law IV requires a good knowledge of the bases of Roman Law, Civil Law I, Civil Law II and Civil Law III. Is also relevant the correct use of legal terminology.

Objectives and Contextualisation

Civil law IV is a subject taught in the first semester (ADE + Law) and second semester (Law) of the third year. The student acquires basic notions of real rights and Property Registry.

Civil Law IV has a great academic use because contains the general concepts of real rights that will be developed in various subjects of Civil Law, especially in the optional subjects . Consequently, Civil Law IV is the basis for the following elective subjects: Family Law, Law of Successions, Civil Liability, Consumer Law.

The objectives are as follows:

- Identify the fundamental concepts of the general theory of property law and legal-real relationships.
- Know the system of acquisition and transmission of property and other rights in our legal system differentiating it from the compared models.
- Understand the basic elements of real rights and connect them with the obligations and contract law

Content

REAL RIGHTS

GENERAL PART AND PROPERTY REGISTRY

LESSON 1. THE REAL RIGHT. ACQUISITION AND TRANSMISSION

1. The real right: concept, types. The intermediate situations
2. Sources of creation of real rights
3. The double system of acquisition and transfer of real rights
4. *Traditio*: concept and types

LESSON 2. THE PROPERTY REGISTRY (I)

1. The Property Registry: concept. The registration systems. The Spanish registry system and its regulations
2. The situations that enter the registry. The inscribable titles
3. The registered property: concept and types. Access to the Registry and modification of the registered property
4. Agreement and coincidence between Property Registry and land register
5. The record. Concept, types and non-valid record

LESSON 3. THE PROPERTY REGISTRY (II). THE MOVABLE PROPERTY REGISTRY

1. The registration of property. Concept, means of registration. Double registration
2. Inaccurate registration rectification
3. Effects of registration publicity:
 - 3.1. Material and formal publicity
 - 3.2. Legitimation
 - 3.2. The third-party effectiveness
4. The Movable property Registry: regulations, sections and fundamental characteristics

LESSON 4. POSSESSION

1. Concept. Possession and detention
 - 1.1. Subjects. Capacity. Co-possession and the concurrence of possessions
 - 1.2. Object
 - 1.3. Content
2. The possessory concept. Continuity
3. Possession of good and bad faith
4. Modes of acquisition of possession. Capacity. Clandestinely Possession and with violence
5. End of possession: Causes
6. Effects of possession:
 - 6.1. Possession and title. Acquisition in good faith of movable goods
 - 6.2. Settlement of the possessory situation
7. Judicial protection of possession. The *publiciana* action

LESSON 5. DONATION

1. Donation: legal nature
2. The donation act:
 - 2.1. Structure
 - 2.2. Capacity of the donor and the donee
 - 2.3. Object
 - 2.4. Disposal effects limitation: Conditional and term donations. Donation with reversal clause. Donation with right to dispose reservation
3. The liberality cause:
 - 3.1. The *modalis* donation. The remuneratory donation. Indirect donation
 - 3.2. Effects derived from the liberality cause
 - 3.3. The revocation of donations
4. The lucrative title:

- 4.1. Form
- 4.2. Acceptance of the donee
- 4.3. Efficacy of the donation
5. Donations with a charitable nature

LESSON 6. THE USUCAPIO

1. Concept, subjects and object
2. Requirements:
 - 2.1. Possession to give rise to usucapio
 - 2.2. The terms. Interruption. Suspension
3. The liberating usucapio
4. Usucapio renounce
5. Usucapio and Property Registry

LESSON 7. EXTINCTION OF REAL RIGHTS

1. Difference between extinction and causes of extinction of the real right
2. The loss of the good. Real subrogation
3. The consolidation. Real rights of proprietary
4. The renunciation

LESSON 8. THE PROPERTY RIGHT

1. The private property
 - 1.1. Concept, characters and social function. The right to housing Act
 - 1.2. Content. Temporary property
 - 1.3. Prohibitions to dispose
2. Restrictions on property right:
 - 2.1. Concept
 - 2.2. Restrictions in the public interest
 - 2.3. Restrictions in the private interest. Neighborhood relations
- 2.4. State of necessity
3. Immissions: concept, types and legal regime. Case Laws doctrine and special reference to the environment
4. Modes of acquisition of property right:
 - 4.1. The accession General rules. The movable accession. The immovable accession.
 - 4.2. Occupancy. Legal status of findings and objects of extraordinary value
5. The property abandonment
6. Protection of property right
 - 6.1. The reivindicatoria action: concept. Requirements Effects
 - 6.2. Exclusion actions: negatoria action, closing, delimitation and demarcation farms actions.

LESSON 9. COMMUNITY PROPERTY SITUATIONS

1. Community and co-ownership. Community situations. Society and community Regulation
2. Joint ownership: concept and constitution
 - 2.1. Individual rights over the community
 - 2.2. Rights and duties on the object of the community
 - 2.3. Extinction: the community division
3. The Horizontal property
 - 3.1. Configuration. Constitution and legal regime. Governing bodies of the community of owners.
 - 3.2. Simple Horizontal property
 - 3.3. Complex Horizontal property
 - 3.4. Communities and sub-communities for garages and storage rooms
 - 3.5. Horizontal property by parcels: concept and legal configuration. The private and common elements. Title of incorporation. Extinction
4. Time sharing or Community by turns: Concept and legal configuration. Constitutive

title. Content. Extinction. Law 42/1998

5. Dividing Walls Community: concept, classes and legal regime

6. Shared ownership. Concept, object. Constitution. Content. Extinction

REAL PARTICULAR RIGHTS

LESSON 10. REAL RIGHTS OF GUARANTEE (I): RETENTION, PLEDGE, ANTICRESIS

1. Real rights of guarantee: concept and characters. Types and general legal effectiveness

2. Right of retention:

2.1 Concept. Constitution

2.2 Legal regime. Effects

2.3 Retention of low value personal property

3. The pledge:

3.1. Concept. Constitution

3.2. Legal regime. Effects

3.3. The pledge without displacement: legal regime

4. Antichresis:

4.1. Concept. Constitution

4.2. Legal regime. Effects

LESSON 11. RIGHTS OF GUARANTEE (II): MORTGAGE

1. Legal and doctrinal concept

2. Object of the mortgage

3. Subjects: mortgagor debtor, non-debtor mortgager and third possessor of the mortgaged property, mortgagee

4. The constitution of the mortgage: voluntary and legal

5. Legal Regime of mortgage credit. Mortgage types based on credit. Subrogation and modification of mortgage loans

6. Efficiency of the mortgage:

6.1. Security phase.

6.2. Execution phase. The foreclosure

6.2.1. Judicial procedure

6.2.2. Extrajudicial procedure

6.2.3. Legal effects of the execution. Special reference to the habitual residence

7. Termination of the mortgage. Cancellation of the registration

8. The movable mortgage. Legal regime

LESSON 12. LIMITED REAL RIGHTS OF ACQUISITION

1. Limited Real Rights of acquisition: concept, types. Title of incorporation. Extinction

2. Voluntary real rights of acquisition: general legal regime

2.1. Option: constitution, content and exercise

2.2. First refusal and redemption: constitution, content and exercise

3. First legal refusal and redemption

4. Collision and preference among real rights of acquisition

ITEM 13. USUFRUCT. USE. HABITATION. REAL RIGHT OF PARTIAL EXPLOITATION

1. Usufruct: concept and constitution

2. Object. Subject and co-ownership

3. Content: rights and duties of the usufructuary and the bare owner

3.1. Charges before taking possession. Expenses

3.2. Provision of the right. Usufruct with power of disposition

- 3.3. The fruits and improvements
4. Extinction, liquidation and protection
5. Use and Habitation: common legal regime.

6. Real Right of partial exploitation: concept. Constitution and legal regime. Extinction

LESSON 14. EASEMENTS

1. Easements: concept and constitution
2. Content: general and accessory. Light and views easements
3. Easement on own property
4. Termination. Modification of farms and extinction of easements
5. Protection: confesoria action

LESSON 15. SURFACE RIGHT. RIGHT TO OVERHANG. CENSUS

1. The surface right. Concept and legal regime
2. The right to overhan. Concept and legal regime
3. The right of census. Concept, types and legal regime