

# 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!