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**ERASMUS+ STRATEGIC PARTNERSHIPS IN
RESPONSE OF THE COVID-19 SITUATION
„EDULAW“**



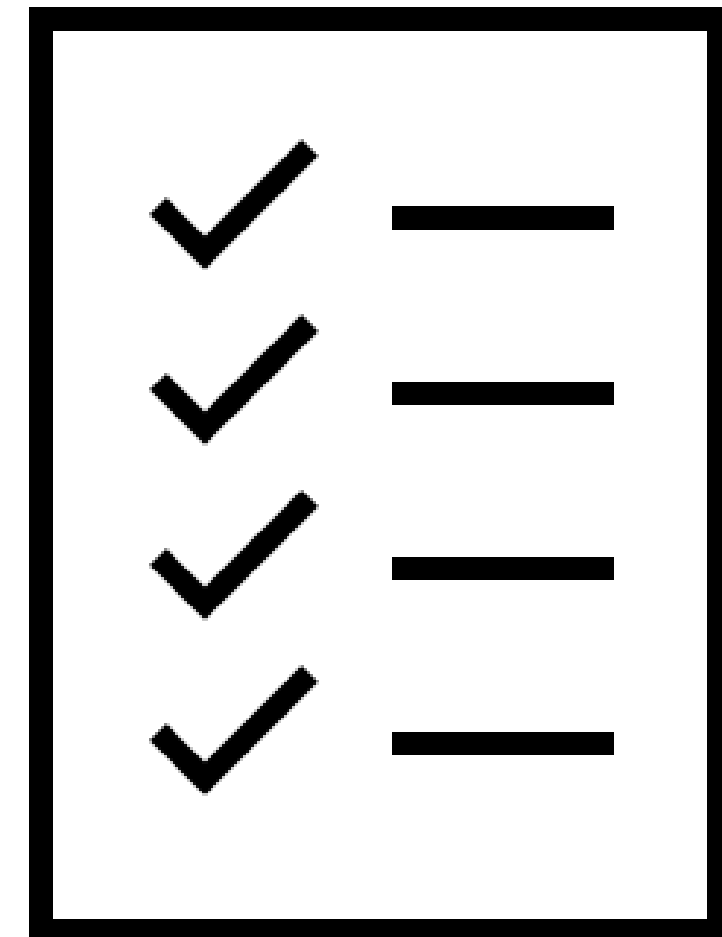
Agrarian law – ownership (Rights in REM)

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Program

1. Definition of the property
2. Content of Civil Legal Relationships
3. Rights in REM
4. Ownership
 - 4.1. Acquisition of ownership
 - 4.2. Termination of ownership
 - 4.3. Joint ownership
 - 4.4. Co-ownership



Program

5. Tenancy by the entirety

6. Property settlement

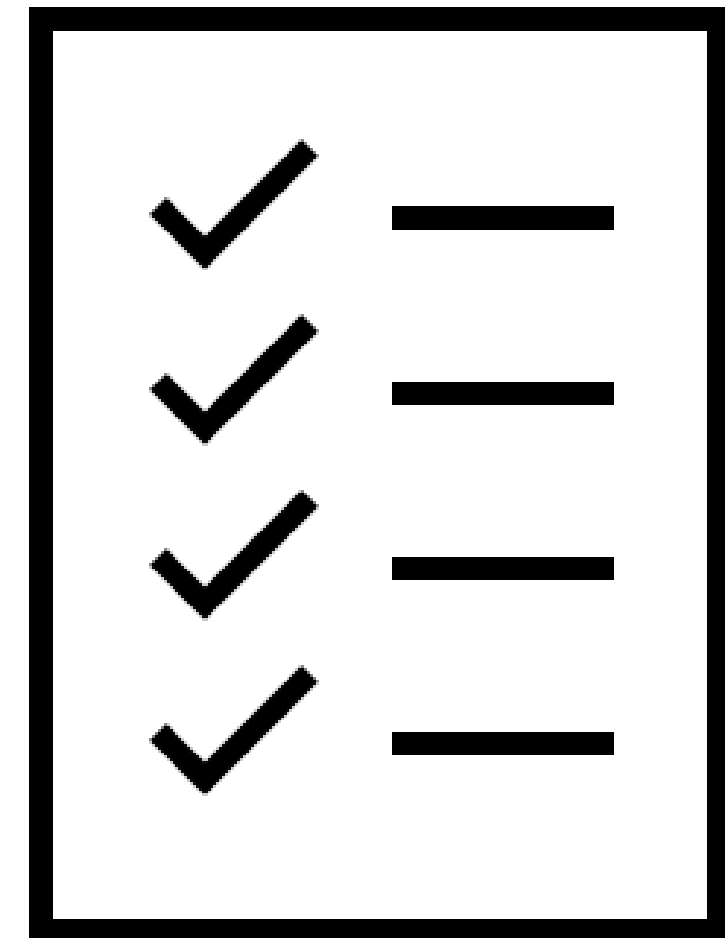
7. Proprietary rights in re aliena (Rights in the property of another)

7.1. Lien

7.2. Pledge

7.3. Easements

8. Contractual relationship



Definition „Thing“ (Property)

- All corporeal things and natural powers, if they are:
 - manageable
 - useful for human needs
 - it is not excluded from the legal system
- also flats and non-residential premises may be subject to civil legal relationships
- **real estate property** (lands and buildings connected with the ground by a firm foundation)

- **Component of a property**

- all that appertains to the thing according to its nature and can not be separated from the thing without devaluation of the thing

- **a building shall not be component of land** („superficies solo cedit“)

- **Accessories of a thing**

- things that belong to the owner of the main thing and are designed by the owner to a permanent use with the main thing

Content of Civil Legal Relationships

= **subjective rights and duties**

- **Subjective rights**
- absolute rights – take effect „erga omnes“ (ownership)
- relative rights – take effect „inter vivos“ (in particular commitment rights)

Rights in rem

- **Division**
- ***Ownership rights, possession***
- ***Proprietary rights in re aliena (rights in the property of another)***
 - Lien
 - Easements
 - Right of retention



Ownership

- *the widest legal lordship over the thing*
- Within the limits of law, the owner shall be entitled:
 - **to occupy** the subject of his/her ownership,
 - **to utilise** the property and a **to use its fruits and benefits**
 - **to dispose** of the property
- protection of ownership (petitotry actions)
- limitation of ownership
 - temporary
 - expropriation

Acquisition of ownership

1. *Original*

2. *Derivative*

- Based on **contract** (purchase, donation, exchange)
- **Legal succession**
- **Decision of state authority**
- **Based on other legal facts** (usucapio, winnings, licitation)



Moment of acquisition

1. *transferred on the basis of contract*

➤ ***Moveable thing***

- the ownership shall be acquired by taking over the thing

➤ ***Real estate thing***

- the ownership shall be acquired by entering it in the Land Register according to special regulations

2. *acquired on the basis of a decision of a state authority*

- ownership shall be acquired on the day specified therein

Termination of ownership

a. Legal act

b. Legal occurrences

-destruction of the thing

-death of an owner

-the loss of property

-expiration of time for usucapion

c. Decision of a state body

Joint ownership

- **Definition**
- kind of ownership where ownership belongs to more than one subject

- **Types of co-ownership**
- Co-ownership
- Tenancy by the entirety
- Combination of a. and b.



The legal regime of joint ownership

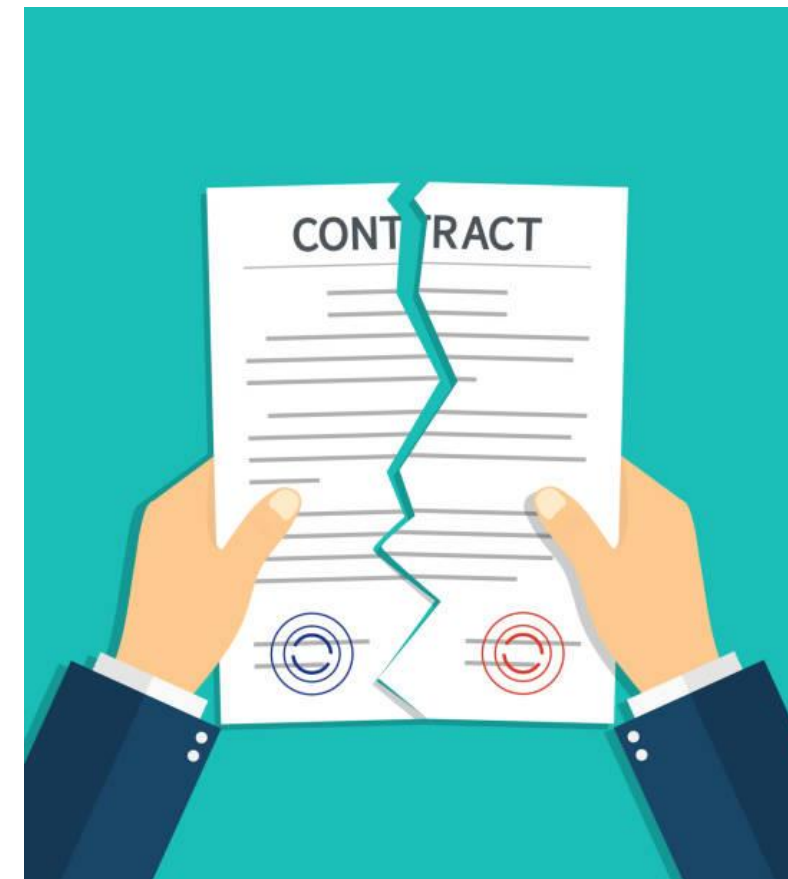
- management of common property (***principle majorization***)
- rights and obligations in relation to third parties (***solidarity rights and obligations***)
- everyone has the right to dispose of the share of ownership (***pre-emptive right***)

Co-ownership

- Participation of particular co-owners is expressed by a **share**, which expresses the rate in which the co-owners share the rights and duties resulting from the joint ownership to the same thing (fraction, %)
- **Size of a share** is determined by
 - legal act
 - legal act
 - decision of the court
 - if it is not determined, shares are equal

Termination of co-ownership

- *Extinction of co-ownership*
 - the same reasons as for the termination of ownership
 - agreement co-owners
 - judgment
- *Property settlement*
 - fragmentation/division of the thing
 - commandment to the thing to one owner
 - the sale of the thing and the distribution of proceeds



Tenancy by the entirety

- conceptual features:
 - *the existence of a marriage*
 - *no shares (undivided ownership)*
- ***everything that can be subject of ownership and which is acquired by one of the spouses during the marriage belongs to the tenancy by the entirety***
- Exceptions:
 - thing obtained prior to the formation of marriage
 - thing acquired by inheritance
 - thing acquired by donation
 - thing acquired by property restitution
 - thing serving the personal needs of 1 spouse
 - thing belong to profession of the 1 spouse

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- **Formation:** marriage
 - **Termination**
 - **by law** (divorce, marriage annulment, death, final decision on the declaration of death)
 - **during lasting the marriage**
 - based on the proposal of one spouses when tenenacy of the entirety is in contrary to morality (reasonable grounds)
 - one of the spouses obtained authorization to business
 - bankruptcy

Property settlement

- comprehensive solution to property relations between the former co-owner

➤ *agreement*

➤ *judicial decision*

➤ *passage of time*



Proprietary rights in re aliena

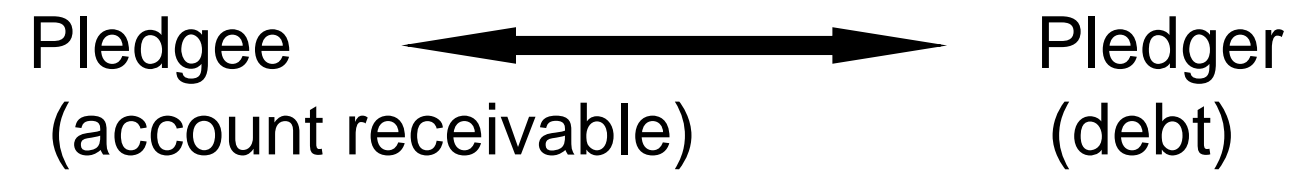
(Rights in the property of another)

- Lien
- Easements
- Right of retention

Lien

- The lien serves for securing account receivable and its civil fruits by entitling the pledgee to satisfy his/her claim or seek satisfaction of the account receivable from the pledge if the account receivable is not fulfilled timely and duly.
- Subsidiarity
- Accessories feature
- **Functions:**
 - Security
 - satisfaction of the account receivable





- Loan = 1000 euro, till: 31/12/2017
- Lien to secure the loan (Accessories feature)

Pledge

- thing, right, another property value, flat and non-residential premises (need to be transferable)

A red, rectangular stamp with rounded corners and a double-line border. The word "PLEDGE" is written in bold, uppercase, sans-serif letters across the center of the stamp.

Acquisition of lien – a)

1. lien contract

- moveable property
- real estate property

2. inheritance approved agreement

3. decision of the court / administrative body

4. act

Acquisition of pledge – b)

a) **Legal title**

b) **Another legal fact:**

- **Land Registry-** deposit in the Land Cadaster
- **Movable things-** transfer or registration in the Central Notary Register of Pledges
- **and other property rights:** registration of pledge or another special register

Content of pledge

- Obligations of the pledgee / pledger
- Can not reduce value of debt

Termination of pledge

- extinction of the debt
- exercise of the lien
- destroying of the pledge
- if the pledgee waives of the lien
- passage of time

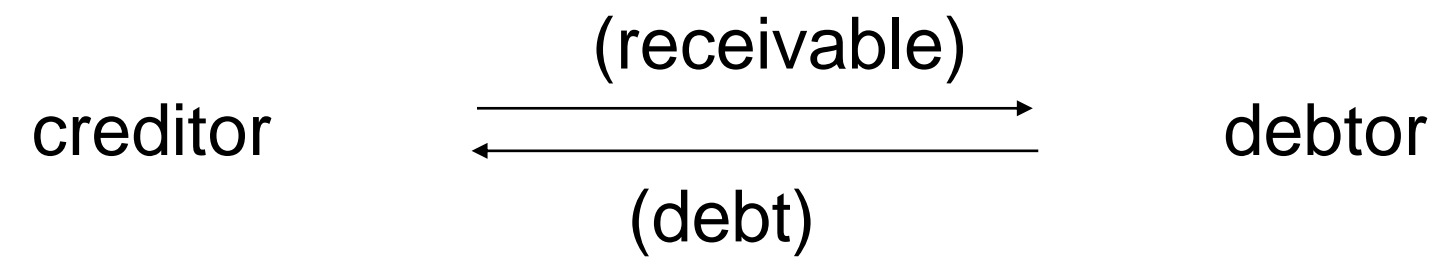
Easements

- Easements shall restrict the ***owner of a real estate property*** in favour of someone else in the manner that he/she must suffer something, omit something or do something
- Connected:
- with ownership of certain real estate property (in rem),
- belong to certain person (in personam).



Contractual relationship

= legal relationship from which the creditor is entitled to fulfil (receivable) and the obligation to fulfil the debtor (debt)



Content of contracts

- The object of obligation are:
 1. something to give (dare)
 2. to do something (facere)
 3. not to do something (omittere)
 4. to tolerate something (pati)

Purchase contract

- a **seller** commits *to deliver to a buyer things* determined individually, or at least according to kind, and to assign to the buyer the ownership
- a **buyer** commits *to pay the purchase price*
- must include the purchase price, or at least the method of determining such a price later



Obligations of the seller

- **to deliver thing** (deliver the goods in the *quantity, quality* and *execution* as stipulated by the contract and must arrange for the goods *to be packed and made ready for forwarding* in a manner stipulated in the contract)
- **to pass over the documentation related to the goods**
- **to enable the buyer to take ownership to the goods in accordance with the contract and this Act.**

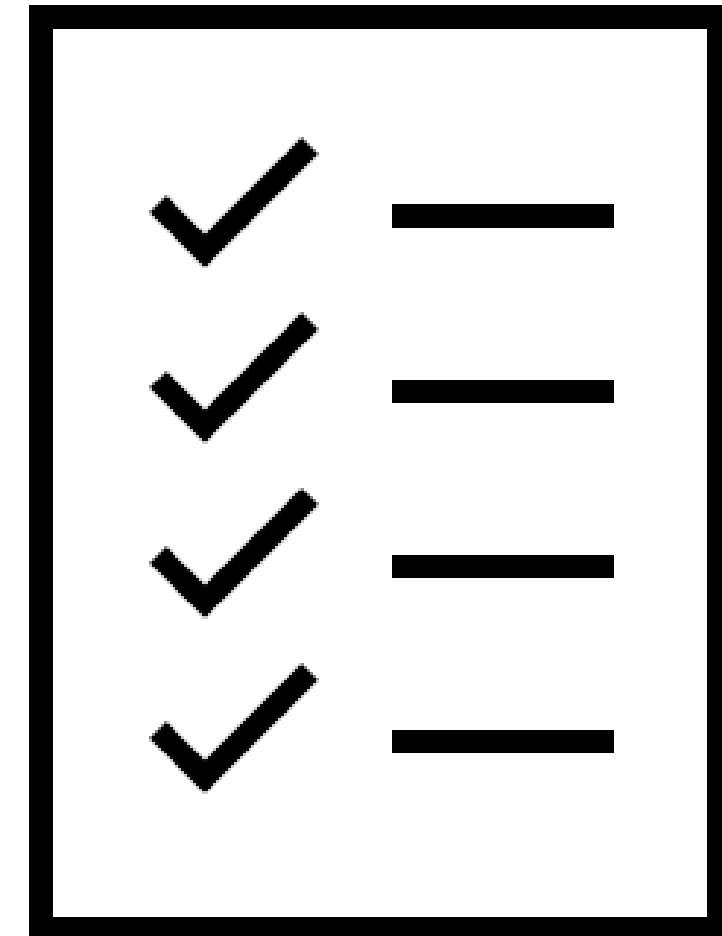
Obligations of the buyer

- **to pay the purchase price**
- **to take over the delivered goods in accordance with the contract**



Short Summary / key messages of the lecture

1. Define the main characteristics of the „thing“ (property).
2. What are the basic ways of acquisition the ownership (2)?
3. Define co-ownership.
4. Name at least 3 ways of the pledge termination.



Thank you for your attention

Any question? Doubts?
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