

PROPERTY LAW

Degree in Legal Studies (Solicitors)

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Code: 16607

Main Scientific Area: Private Law

Lecturer: Carlos Gabriel da Silva Loureiro

Language of Instruction: Portuguese

Regime: S2

Contact Hours: 60h Total Workload: 108h

ECTS: 6,0

Objectives

The curricular unit of Property Law aims to:

1. Provide an overview of Property Law.
2. Allow the distinction and identification of the possession and of the rights in rem and the knowledge of key aspects of their legal status.
3. Develop the ability to analyze and articulate the different sources of law.
4. Develop the skills required to solve complex cases.

Learning Outcomes

At the end of the semester, students should demonstrate proficiency in the following items:

1. The identification of the rights in rem, distinguishing them from other subjective rights.
2. Understanding the location of Property Law in the context of Private Law.
3. Acknowledging the general principles ruling the domain of things and the essentials of the legal regime of the main rights in rem.
4. Understanding the differences between ownership and possession and the functions of the latter, namely the adverse possession.
5. Identifying the role of legal doctrine and case law in the study of Property Law.
6. Ability to properly analyse and synthesize cases and materials.
7. Applying the knowledge and skills acquired in the resolution of complex cases.

Course Contents

Section I

I – Introduction

1. The Property Law in the context of Private Law
2. Terminology

II - The object of rights in rem

1. Basic concepts
2. Types of things

III - General Principles of Property Law

1. Principles concerning the use of property
2. Principles concerning the enforcement of rights in rem

IV - Characteristics of the rights in rem

1. Sequel
2. Prevalence

Section III – Possession

1. Explanation of the Institute
2. Characteristics of possession
3. Acquisition of possession
4. Enforcement of possession
5. Adverse possession

II – Rights (in rem) to use

1. Ownership
2. Other rights in rem
 - 2.1 Usufruct
 - 2.2. Right(s) of Use and Housing (usus and habitatio)
 - 2.3 Surface Right (superficies)
 - 2.4 Easements (servitudes)
 - 2.5. Time Sharing
 - 2.6. Long duration Housing
 - 2.7. Abolished rights in rem

III - Rights in rem of guarantee (Security interests)

1. Concept
2. Types

IV – Rights in rem of acquisition

1. Concept
2. Types

Recommended Bibliography

- LEITÃO, Luís Manuel Teles de Menezes , Direitos Reais, 10.^a ed., Almedina, 2022
- DUARTE, Rui Pinto, Curso de Direitos Reais, 4.^a ed., Principia, 2020
- JUSTO, A. Santos, Direitos Reais, 8.^a ed., Quid Juris, 2023
- TRIUNFANTE, Armando, Lições de Direitos Reais, 2.^a ed., Almedina, 2024
- VENÂNCIO, Pedro Dias, Lições de Direitos Reais, Editora Primeira Edição, 2022

LOUREIRO, Carlos, Sumários de Direitos Reais (2024) (disponibilizados no Moodle).

Learning and Teaching Methods

Section I is intended to provide students with a global and integrated vision of the Property Law, in order to achieve Objective 1, which is essential for the understanding of each subsequent Right in rem.

In Portuguese law, the possession plays a central role in the Property Law, so it comes at the beginning of Part II (Objective 2).

Through the study of the system of rights in rem in particular (Part II), with intense analysis of case law, objectives 2, 3 and 4 will be fulfilled.

Altogether, the syllabus should provide to the students the essential skills to achieve objective 4.

Assessment Methods

Continuous Assessment

The continuous assessment will consist of the following elements:

1. A mini-test (MT)
2. A written test (T)
3. A group project (GP) to be presented in class (GPP)
4. Class attendance (A).

Formula for calculating the final grade (FG):

$$FG = MT \times 1/4 + T \times 1/2 + GP \times 1/8 + GPP \times 1/10 + A \times 1/40$$

It is mandatory to complete the assessment elements referred to in 1 and 2.

The minimum grade for the test is 7.

All assessment elements will be graded from 0 to 20, with 2 decimal places.

Attendance grade is proportional to the number of classes attended.

The mini-test and test dates will be announced by the Course Direction.

Group projects will be carried out in groups of 3 or 4 students.

The composition of the groups should be communicated no later than March 9th, through a form that will be available for this purpose and must be submitted through Moodle.

The themes of the projects will be communicated to the groups by March 15th.

The presentation of the projects will take place throughout the semester, starting April 4th, according to a calendar to be defined (one or two projects per class), depending on the number of projects. The projects must be submitted by June 1st via Moodle. During the presentation, questions may be asked to any member of the group.

The projects must be submitted in pdf format and should not exceed 6 A4 pages (excluding cover and bibliography), in 12-point font, with a 1.5 spacing.

Exam Assessment

In the exam periods (second semester exam period, special period, and exceptional period), the assessment will consist solely of a written exam.

Improvement of grade

The grade improvement exams will consist solely of a written exam.

Mobility students ERASMUS and other incoming students who do not speak Portuguese may choose to be evaluated by carrying out a research paper (50%) and an oral exam (50%), to be held in English or French.