General Property Law
Individual Ownership

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Property Rights…. A. INDIVIDUAL OWNERSHIP

(1151-1256)(106 articles)

I. Meaning (1204)

- It is the widest and the ultimate property right.
- It is said to be absolute b/c the owner may do as he likes with the thing that is his own.

II. Form (1204)

- ULTIMATE O/P
  - Somebody using it
  - But will be returned to ultimate owner
- COMPLETE/BENEFICIAL O/P
  - Owner is using it

III. Scope of O/P Right

- USUS:
  - Detain, use as one thinks fit
- FRUCTUS:
  - Collects the fruits
- ABUSES:
  - Sale or donate
  - Mortgage, pledge
  - Destroy
  - Transform…

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IV. Restriction of O/P Right

- RULE: O/P right may *not* be divided *nor* restricted except in accordance with law
- GROUNDS OF RESTRICTION
- Public Policy:
  - Limitation on exercise of o/p rights b/c of health, safety and security: animals with contagious diseases (2369 & 2373), Sale of medicines, alcohol, tobacco, dynamites,
  - Restriction on acquisition of o/p right: land and natural resources, cultural heritages, antiquities, narcotics, guns,
- Contractual ground:
  - Right of preemption, promise of sale, contractual servitude
- Mutual interest of neighborly estate
  - excavations or ditches (1210 and 1225)
  - nuisances to a neighbor by noise, smoke, gases odor (1225/26)
  - use of water (1245, 1246 (1))
  - allowing access to land (1217-24, 1249(2), 1252, 1253)

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IV. Acquisition of O/P Right (1184-87)

- DERIVATIVE ACQUISITION
  - Through transfer from one person to another. It can happen by:
    - Transfer by juridical acts
      - Sale (2266-2426)
      - Donation inter vivos (2427-2470)
      - Donation mortis causa (Will) (826-1125)
    - Legal (E.g. intestate succession)
    - Judicial (E.g., attachment for execution of judgment)
  - Right of the transferee is dependent on the right of the transferor.
  - *Nemo dat quod non habet*

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IV. Acquisition of O/P Right

- ORIGINAL ACQUISITION
- Creates a new property right, independent of any preexisting rights over the same thing.
- *Nemo dat quod non habet* does not apply here
- It includes:
  - occupation,
  - possession in good faith,
  - accession and
  - usucaption/ acquisitive prescription

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IV. Acquisition of O/P Right

OCCUPATION (1151-1160)

- Taking possession
- Intent to become an owner
- The thing must have no master (*res nullus or res derelicate*)
- This acquisition doesn't apply to immovable (an immovable without master belongs to the state….1194)
- Specific acquisitions by Occupation
  - Tamed/Captive Animals except *equine, asinine, camels, and bovine animals become* ***res derelicate***…
    - if attempt to recapture wasn't made within a month
    - if attempt to recapture was ceased for a month
  - Bees swarms…where they left their hives become ***res derelicate***
  - Lost and found objects

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IV. Acquisition of O/P Right

POSSESSION IN GOOD FAITH (1161-67)

- Good faith…
  - genuinely though transferor was owner…
  - Good faith must exist at the time when possession was acquired
- Contract of sale
- Possession of the thing must have been taken
- Applicable to ordinary movables only
- RECLAIMING:
  - STOLEN THING: must be claimed within 3 years (5 years in the AmV)
  - If voluntary relinquished it cannot be reclaimed
  - Currency or Securities to bearer cannot be reclaimed

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IV. Acquisition of O/P Right

ACCESSION (Accessio) (1170-83)

- Union of two or more things belonging to two or more persons.
- NATURAL PRODUCES (1170-71)….*fruits, breeding*
- MOVABLE to IMMOVABLES
  - Crops (1172-74)
  - Plantation (1175-77)
  - Buildings (1178-80)
- MOVABLE to MOVABLE
  - Adjunction (1183(2))
  - Transformation (1182)
  - Commingling (Fusion) (1183(1))

Accessio cedit principali applies here
"the owner of the principal owns the new thing")

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IV. Acquisition of O/P Right

USUCAPTION/ ACQUISITIVE PRESCRIPTION (1168-69)

- Must have possessed for 15 consecutive years (includes junction of possession (1150))
- Paid taxes relating to o/p thereof
- Immovable thing
- Doesn’t apply to land jointly held by family members according to custom
- Rules of USUCAPTION doesn’t affect the rules on POSSESSION (1140-50)

SCOPE OF RIGHT

- right of use and enjoyment, right of possession and exclusion of others and the right to transfer a thing or to charge it with pledge or mortgage exercised jointly by several persons.
  - Use and manage - control of property
  - Income - right to receive it
  - Capital - use for production of income
  - Possession - physically occupy
  - Security - borrow against it
  - Absence of term - rights don’t terminate
  - Prohibition of harmful use - can’t create hazards or nuisances
  - Residuary character - owner has all rights not specifically excluded

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V. Transfer of O/P

Refer Rules of Derivative acquisition

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OWNERSHIP (1151-1256)(106 articles)

1. Meaning:
   - when you exercise actual control over a thing, you're a possessor. (1140)
2. Acquisition: xxxxx
3. Utilization (Scope of right): xxxxx
4. Transfer: xxxxx
5. Protection: xxxxx
6. Extinction: xxxxx