

Chapter Two: Objects of Property

2.1 Definition

2.2 Classification of Objects of Property

2.2.1 Movables – vs- Immovables

2.2.2 Corporeal –vs- Incorporeal

2.2.3 Intrinsic elements -vs-Accessories

2.2.4 Private Domain vs. Public Domain

Objects of property are things or materials up on which economic rights are exercised.

2.2 Classification of Objects of Property

The main reasons for classification:

- the economic and social values attached to things are not the same. eg: movable vs immovable (requirement of registration and written agreement)
- classification of things in to various categories helps the legislator to enact special rules governing the particular category of things which will in turn enable students, judges and other legal professionals to easily understand the law and apply relevant rules to resolve various disputes involving the particular object of

Movable things are things which can move by themselves or be moved by man without losing their individual character. Hence, an ox, a car, table, a book ...etc

Special Movable Things

These are movable things by nature but to which the law attaches characteristics of immovable things. The law does so mainly because of the importance attached to these types of things. See Art 1185 and 1186 of the Civil Code

Movables By Anticipation

According to Art 1133(2) of the Civil Code

- trees and crops which are considered as intrinsic elements of land will be considered as distinct movable things or chattels where they are the subject to contracts for their separation
- doors, windows and other component parts of a building on which a contract agreement is concluded

A. Immovables By Nature

According to article 1130 of the Civil Code, **land** and **buildings** are considered as immovable things by nature. Nowadays, however, buildings have become capable of being removed from the land without being destroyed and therefore, the only immovable by nature is only land.

B. Immovables By Destination

are movable things that are placed permanently with an immovable thing for the latter's economic exploitation. The law considers as immovable things because they are placed or attached to a land for its economic exploitation. For example, horses, cattle, tractors and other movable things, which are intended to facilitate the use and exploitation of a

classification of things into those that can be perceived by the senses and those which cannot be so perceived.

Corporeal things are things that have material or physical existence and unity and hence, can occupy space and can be seen or touched. Hence, things such as a house, a car, an ox, and a watch are corporeal things. (Art. 1127)

Incorporeal things are things that do not have a material or physical existence, that cannot occupy space and hence that cannot be perceived by the senses. For example, copyrights and patents, checks, promissory notes, bills of exchange, shares, bonds, warehouse goods' deposit certificates and bills of lading are also examples of this category of things. See Arts 715, 325, 345, 429-444, 570, 610 of the Commercial Code, and Arts 2806-2824 of the Civil Code.

2.2.3 Intrinsic elements -vs-Accessories

Intrinsic elements

Art 1132 of the Civil Code defines intrinsic elements of goods as things, movable or immovable, which are regarded by custom as forming part of a thing, or which is materially united to a thing and cannot be detached there from without destroying or damaging such thing. For instance, a hay-tucker attached to a tractor, a windshield of a vehicle, Water pipes in a building...

The treatment of things as intrinsic elements other things will have the following effects.

➤ Rights on or dealings relating to the principal thing shall include the intrinsic elements unless the parties have agreed expressly that such right or dealings shall not apply to them. For instance, a contract of sale of a land rights or mortgage of a land shall include the houses and trees that are considered as its intrinsic elements, unless the parties have expressly agreed that the sale or mortgage relates only to the principal and not to the intrinsic elements.

(Art 1132/1/

➤ A thing that becomes an intrinsic element of another thing ceases to exist as a distinct movable thing. For instance, a water pipe fitted in a building or a newly bought windshield glass fitted to a vehicle ceases to exist as a separate thing or object of property.

Hence, the right, which third parties previously had on such thing, shall be extinguished; and an owner or a person who has any other right in relation to such thing cannot recover the object from the owner of the principal thing.

However, such person may claim reimbursement of the value of such thing and compensation for damages based on the rules of unlawful enrichment. See Arts 1134 and 2162-2163 of the Civil Code

Accessories

Art. 1136 of the Civil Code defines an accessory as anything, movable or immovable, which the owner or the possessor of the thing has permanently destined for the use of another thing. For instance, if an owner of a car puts a jack permanently for the use of his car the jack shall be considered as the accessory of the car. Other examples include: speakers of a desktop computer, chargers and earphones of a mobile phone etc...

The treatment of things as accessories of another thing shall have the following effects.

- In the absence of an express provision to the contrary, rights on and dealings relating to the principal thing shall apply to the accessory.
- Temporary separation of the thing shall not, in any way, terminate the character of accessories. See Art 1137.

rights of an owner or possessor of a thing, which is considered as an accessory of another thing shall not be affected by its treatment as such. Hence, the owner of the principal may not raise the treatment of a thing as an accessory to another thing against the owner or possessor of the accessory. See Art 1138/1/. Note that this provision governs the relationship between the owner/possessor of the principal thing and the owner or other right holder of the thing treated as an accessory.

➤ However, the owner or possessor of the accessory may not claim it from third parties in good faith who have acquired the principal together with the accessory unless his rights to the accessory are evidenced by a deed dated prior to date when it is so destined. See Art 1138/2/.

➤ Finally, the owner/possessor of a principal thing may terminate the character of accessory of such thing at any time, but he cannot do so if a third party has already acquired a right in relation to the principal thing with the belief that he will benefit

2.2.1 Private Domain vs. Public Domain

Properties owned by the state are subject to different rules of law. Some of them form part of the public domain while others form the private domain of the state. Things or property forming part of the private domain of the state are treated in the same manner as the private property of individuals and are governed by the rules governing privately owned property.

For instance, properties owned by the public enterprises such as the Commercial Bank of Ethiopia, Muger Cement Factory, Harar Brewery...etc are considered as the private domain of the Ethiopian government. On the other hand, property forming part of the public domain of the state are governed by the rules dealing with collective exploitation of property rather than the rules governing privately owned property.

Art 1445 of the Civil Code, defines public domain as a property belonging to the state or its various administrative units or organs and which is directly placed at the disposal of the public or which is destined to public service. Furthermore, Arts 1446, 1147 and 1148 enumerate things that are considered as public domain where they are owned by the state;

- Roads, streets, canals and railways and public parks;
- Seashores, port installations and light houses;
- Buildings specially adapted for public services such as fortifications, bomb shelters, museums, halls, churches and mosques;
- Waterways, lakes and underground accumulations of water;
- Land and other natural resources/ Art 40 of the Constitution of the Federal Democratic Republic of Ethiopia/;
- Movable things that are placed at the disposal of the public by a public service or entrusted to the custody of a public service such as city buses, manuscripts, artifacts and various other chattels of historical and archeological importance kept in museums ;
- National libraries and museums, manuscript collections, books, medal, stamps, paintings, statues & other movables are also considered as public domain.

Properties forming part of the public domain cannot be transferred by sale or inheritance or donation or any other mode of transfer unless they are declared that they no longer form part of the public domain. See Art 1454 of the Civil Code.

In addition, properties forming part of the public domain may not be acquired by possession in good faith or usucaption or acquisitive or extinctive prescription. (Art 1455). Finally, properties forming part of the public domain may not be occupied by a private person without the authorization of a competent public authority. See Art 1456 of