

CIVIL LAW. PROPERTY

IE University

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Degree course: **SECOND**

Semester: **1º**

Category: **BASIC**

Number of credits: **6.0**

Language: **English**

PREREQUISITES

SUBJECT DESCRIPTION

Property rights play an important role in our social and economic relationships. People need property to satisfy their most basic needs (e.g., dwelling) and property rights are also involved in business. Property Law governs these relationships between persons and things.

These relationships have existed for centuries, although their features have evolved in accordance with the changing paradigms of history. Some institutions of Property Law come from Roman Law, only slightly adjusted to fit the present day. Other institutions appeared later in history to resolve specific needs of modern life and improve security and certainty in economic transactions, as is the case of the land registry.

The legal configuration of property rights varies considerably from one country to another. To begin with, common law and civil law have a different understanding of what property rights mean. Also within the civil law tradition, property presents considerable local differences. In spite of these differences, there is indeed a common core of property law, which is particularly relevant in today's integrated Europe and globalized world. Said common core, considered in its permanent dialogue with the local features of property law, constitutes the leitmotif of this course. The course adopts a comparative methodology that includes constant references to national Law as well as the main projects that tend to the harmonization of European Property Law.

OBJECTIVES AND SKILLS

This course aims at:

- Facilitating a general understanding of property law in common and civil law.
- Deepening in the meaning and function of the main institutions of property law.
- Analyzing the different forms of ownership in theory and practice.
- Exploring the benefits of property for others than owners: holders of easements, creditors.
- Describing the different systems of real estate transactions.
- Developing the main models of land registry, their organization, procedures, and legal effects in connection with property rights.
- Studying the context and status of the European process of unification and harmonization of property law, with particular emphasis on the Draft Common Frame of Reference (DCFR).

By the end of the course, students will be expected to be able to:

- Describe the main elements of property law in common and civil law and differences between both systems.
- Discuss about the legal configuration of property rights, their benefits and problems - Describe the key aspects of ownership and other property rights.
- Look into the legal framework of property law in different countries.
- Resolve cases related to property law and real estate transactions in different European countries.
- Resolve cases related to the effects of land registry in property rights in different legal systems.
- Critically analyze different property law systems.

METHODOLOGY

Participation of students will be a key aspect of the course. The Professor will lead their learning process through presentations and lectures, but students are expected to show an active attitude and demonstrate in the class their achievements through their interventions. Students will be involved in collaborative and competitive activities in order to obtain the maximum results. Answering questions and questioning will be also part of the methodology. Other important elements of the learning process are workshops and case study sessions, where students will have to reveal their progress. Finally, it is expected that students become familiar with the use of legal texts and case law.

Legal materials and discussions will help students to learn the essential elements of property rights. Real estate transactions and security in property rights are basic elements in legal traffic, and students will discover the essence by reading, thinking and discussing about all the topics included in this course.

Teaching methodology	Weighting	Estimated time a student should dedicate to prepare for and participate in
Lectures	24.0 %	36 hours
Discussions	0.0 %	0 hours
Exercises	0.0 %	0 hours
Group work	16.0 %	24 hours
Other individual studying	60.0 %	90 hours
TOTAL	100.0 %	150 hours

PROGRAM

SESSION 1

Introduction to the subject. Methodology. The subject matter of property rights

SESSION 2

Property Law: Concept and categories. Principles. Content of property rights

SESSION 3

Dynamics of property rights and conveyance systems (I)

SESSION 4

Dynamics of property rights and conveyance systems (II)

SESSION 5

Possession: concept and categories. Fact or right?

SESSION 6

Possession: presumptions and protection. Liquidation.

SESSION 7

Case study.

SESSION 8

Ownership: Approach in Common Law and Civil Law. Protection of ownership.

SESSION 9

Co-ownership. Apartment rights

SESSION 10

Protection of third parties who acquire *non domino*.

SESSION 11

Case study.

SESSION 12

Creation of property rights (other means, I). Acquisitive prescription (usucapio).

SESSION 13

Creation of property rights (other means, II). Accession, commingling, *specificatio*.

SESSION 14

Case study. The robot

SESSION 15

Mid-term exam.

SESSION 16

Usufruct, use and habitation.

SESSION 17

Servitudes.

SESSION 18

Case study.

SESSION 19

Security rights: concept, elements and categories

SESSION 20

Pledge

SESSION 21

Retention of title. Transfer of ownership for security purposes.

SESSION 22

Right of retention/lien.

SESSION 23

Mortgage/hypothec.

SESSION 24

Land Registration and Conveyancing (I).

SESSION 25

Land Registration and Conveyancing (II).

SESSION 26

Case study.

SESSION 27

Practical sessions at the Land Registry (Madrid).

SESSION 28

Practical sessions at the Land Registry (Madrid).

SESSION 29

Review session.

SESSION 30

Exam.

BIBLIOGRAPHY COMPULSORY

Title: Cases, Materials and Text on Property Law
Author: S. van Erp & B. Akkermans (Eds.)
Publisher / Edition / Year: Hart Publishing / 1st / 2012
ISBN / ISSN: 978-1-84113-750-6
Medium: PRINT

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RECOMMENDED

Title: Land Law Author:
Cooke. E.
Publisher / Edition / Year: Oxford University Press, Oxford, 2011 ISBN
/ ISSN:
Medium: PRINT

Title: Modern Land Law
Author: Dixon, M
Publisher / Edition / Year: Routledge, 2010
ISBN / ISSN:
Medium: PRINT

Title: Property
Author: Merrill, T. W. and Smith, H. E.
Publisher / Edition / Year: Oxford University Press 2010.
ISBN / ISSN:
Medium: PRINT

Title: Modern Studies in Property Law, 6 vols.
Author:
Publisher / Edition / Year: Hart Publishing, Oxford, 2001-201.
ISBN / ISSN:
Medium: PRINT

Title: Yiannopoulos Civil Law Property Coursebook
Author: Yiannopoulos, A. N.; Tooley-Knoblett, D.; Carriere, J. L.; Randall Trahan,
J.
Publisher / Edition / Year: Claitor's Publishing Division, Baton Rouge, 2009.
ISBN / ISSN:
Medium: PRINT

EVALUATION CRITERIA

6.1. GENERAL OBSERVATIONS

Students are expected to prepare the materials beforehand and to participate in class. Their interventions will be part of the final grade. Not only the frequency of interventions, but also the quality of the arguments will be taken into account. Therefore, an adequate preparation of the materials before every session will be required. Class preparation and class participation are essential in order to pass the course. The use of electronic devices for other purposes than taking notes is forbidden

and will be penalized. During the exams, the use of Internet, mobile phones, books or other materials is not allowed.

Students obtaining a grade of at least 7.0 in the mid-term exam may sit for the final exam just for the sessions lectured after the mid-term, as long as the attendance requirement is met. The topics lectured before the mid-term exam are expected to be known and will be needed to successfully pass the final exam. Students obtaining a grade of less than 7.0 in the midterm should sit for a retake before the final exam. The retake will be oral if the student has obtained at least a 5.0 in the midterm. In any case, a failure in the final exam (i.e. grade below 5.0) will require sitting for a retake exam of the whole course in order to pass it.

Each student has four attempts over two consecutive academic years to pass this course.

Dates and location of the final exam will be posted in advance and will not be changed.

Students must attend at least 70% of the sessions. Students who do not comply with the 70% attendance rule will receive a 0.0 on their first and second attempts and go directly to the third one (they will need to enroll in this course again the following academic year).

Students who are in the third or fourth attempt should contact the professor during the first two weeks of the course.

Criteria	Percentage	Comments
Intermediate Tests	30 %	
Final Exam	30 %	
Workgroups	20 %	
Class Participation	20 %	

6.2. RETAKE POLICY

Any student whose final grade is below 5 will be required to sit for the retake exam to pass the course (except those not complying with the attendance rules, whom are banned from this possibility).

Grading for retakes will be subject to the following rules:

The retakes will consist of a comprehensive exam. The grade will depend only on the performance on this exam; continuous evaluation over the semester will not be taken into account.

The exam will be designed bearing in mind that the passing grade is 5 and the maximum grade that can be attained is 8 out of 10.

- The third attempt will require the student to complete: a midterm exam a final exam This is also applicable to students who do not have required attendance, e.g. sickness.
- Dates and location of the retakes will be posted in advance and will not be changed.

PROFESSOR BIO

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OTHER INFORMATION

CODE OF CONDUCT IN CLASS

1. **Be on time:** : Students arriving more than 5 minutes late will be marked as “Absent”.

Only students that notify in advance in writing that they will be late for a specific session may be granted an exception (at the discretion of the professor).

2. **If applicable, bring your name card and strictly follow the seating chart.** It helps faculty members and fellow students learn your names.
3. **Do not leave the room during the lecture:** Students are not allowed to leave the room during lectures. If a student leaves the room during lectures, he/she will not be allowed to re-enter and, therefore, will be marked as “Absent”.

Only students that notify that they have a special reason to leave the session early will be granted an exception (at the discretion of the professor).

4. **Do not engage in side conversation.** As a sign of respect toward the person presenting the lecture (the teacher as well as fellow students), side conversations are not allowed. If you have a question, raise your hand and ask it. If you do not want to ask it during the lecture, feel free to approach your teacher after class.

If a student is disrupting the flow of the lecture, he/she will be asked to leave the classroom and, consequently, will be marked as “Absent”.

5. **Use your laptop for course-related purposes only.** The use of laptops during lectures must be authorized by the professor. The use of Social Media or accessing any type of content not related to the lecture is penalized. The student will be asked to leave the room and, consequently, will be marked as “Absent”.
6. **No cellular phones:** IE University implements a “Phone-free Classroom” policy and, therefore, the use of phones, tablets, etc. is forbidden inside the classroom. Failing to abide by this rule entails expulsion from the room and will be counted as one absence.
7. **Escalation policy: 1/3/5.** Items 4, 5, and 6 above entail expulsion from the classroom and the consequent marking of the student as “Absent.” IE University implements an “escalation policy”: The first time a student is asked to leave the room for disciplinary reasons (as per items 4, 5, and 6 above), the student will incur one absence, the second time it will count as three absences, and from the third time onward, any expulsion from the classroom due to disciplinary issues will entail 5 absences.