

Real Estate Transactions Negocios Civiles Inmobiliarios

**Code # 31555
Fall 2016**

PLAN DOCENTE

Professor: Josep Santdiumenge
Office: Trias Fargas, 25, Roger de Lluria Building, 1st floor, Room 116
Office Phone: 935 422 958
Email: josep.santdiumenge@upf.edu
Office hours: by appointment.

COURSE DESCRIPTION

Required Materials:

1. T. Merrill / H. Smith *Propiedad y Derechos Reales*. Thomson Aranzadi. 2013.
 2. CampusGlobal. Each student is required to check for “handouts” in the course website.
- All reading assignments are in these texts, except where supplemental reading is noted.

Recommended Reference Material:

1. Contracts

A. Carrasco *Contratos*. Aranzadi. 2010. (treatise)**

2. Property

(Spanish Law)

L. Diez-Picazo *Fundamentos de Derecho Civil Patrimonial*. Vol VI *Derechos Reales*. Civitas, 2012 (treatise)

R. Arnaiz *Terreno y Edificación, Propiedad horizontal y Prehorizontalidad*. Civitas, 2010.

(Catalan law)

P. del Pozo / A. Vaquer / E. Bosch *Derecho civil de Cataluña. Derechos reales*. Marcial Pons, 5d ed. 2015 (treatise)

3. Construction Law

A. Carrasco / E. Cordero / C. González *Derecho de la Construcción y la Vivienda*. Dykinson. 2014 (treatise)**

A.E. Humero *Tratado Técnico-Jurídico de la Edificación y el Urbanismo*, Tomo III Derecho civil. Aranzadi, 2010.

All these books are available on reserve in the library. It is not necessary for you to buy them. I recommend any of these books as a helpful treatise if you find yourself in need of one for further study.

Course Goals:

The course is not theoretical. I hope to provide enough materials to introduce you beforehand to the main topics of discussion. The class sessions require you to take an active part. The course is short, so there is insufficient time to cover everything. However feel free to contact me anytime if you require any further information.

The course is divided into 9 sections. Although each section focuses on a separate area of content in Real Estate they are not completely free standing. The sections are strongly interconnected and therefore the methodological approach requires a holistic view of the whole subject. The course will provide an overview of property law, including the substantive law governing co-ownership, legal interests, leasing real property, selling real property, and private land use planning. The course will also provide an overview to the theoretical developments of the law of property. The course materials draw on case law, statutes, theory and policy from a variety of jurisdictions (EU law, US Law, Spanish Law and Catalan Law). The basic terms in Common Law jurisdictions will be explained in detail to go through the Civil law equivalent concepts and to look at beyond the course.

Through this course students will understand the key concepts of property law and learn how to conduct legal analysis to apply those concepts to a variety of factual situations. Students also will understand the role of lawyers and clients in creating the law, and understand the law in action. My approach to learning is to provide you with ideas, tools and resources for further independent research work.

Attendance:

You are expected to attend each class on time. Every class session will last 2 hours.

I will pass around a sign-in sheet each class session. It is your responsibility to ensure that you sign the attendance list. You may have no more than 5 absences during the trimester.

I encourage the use of laptops for taking notes and accessing the internet for class-related materials.

Assessment:**Exams:**

You will be graded according to your performance on two take-home exams and your regular active class participation.

1) First take-home exam (common case for the whole class group): At 8.00 p.m. on November 11th, 2016, at the latest, you will submit your exam response to the instructor (personally) in the classroom 40.116 or send it by Email (josep.santdiuenge@upf.edu).

2) Second take-home exam (individually assigned to each graduate student): by midnight on December 16th, 2016.

Grading scheme:

- 80% of your final course grade will be based on two cumulative take-home exams.
- 10% of your final course grade will be connected with active class participation.
- An additional 10% of your grade will be based on non-compulsory assignments:
 - a) Project #1: A 3-page written self-reflection paper on a current property issue (from a papers' reading list), or
 - b) Project #2: A memorandum of your Title Search Project at the Barcelona Land Registry (c/ Joan Miró 23, 2nd floor).

Make-up examination:

Those students who did not reach the minimum final grade (5.0 out of 10) will be required to complete a piece of assessed work at the latest by the first month of instruction in the next regular trimester.

Restrictive access to the Make-up Exam: Only those graduate students who personally submitted on time the required assignments will be eligible to take part in the make-up exam.

Assignments:

Students are expected to prepare in advance the weekly reading assignments, to attend each class on time, to timely complete the assignments, and to engage in the in-class discussion of the readings and problems. Do not hesitate to bring the relevant texts to each class session.

Call to participation:

I will use a participants' list with your name for randomly selecting students on which to call each class. I will also expect and provide an opportunity for volunteering students to participate in the class discussions.

SPECIFIC TOPICS AND ASSIGNMENTS:

DATE	TOPIC	READINGS, CASES AND CLASS MATERIALS
1 st Session	Real Estate Development Regulation Key Players in the Building Process	Press article: Spain on Sale (PPT Slides)
2 nd Session	Concept of Property: Limits & Limitations Acquisition of Real Rights	Social Function of Property: Empty dwellings problem and the expropriation of mortgaged homes– Kelo case (2005) Reading assignment: Merrill/Smith <i>Propiedad</i> (Ch. 9) handout (PPT Slides)
(To be announced: mid October)	<u>1st Take-Home Exam</u> (common case): Submission Deadline: 11 November 2016	Common Case Choice: 1) STC 93/2015, 14.5.2015 (BOE 19.6.2015) (topic: social function of housing according to the Andalusian Act 1/2010) 2) STS, 1 ^o , 10 April 2015 (rec. 178/2015) (topic: hold-up mistake & good faith acquisition of property as recorded in the LRegistry)
3 rd Session	Tenancy in common Commonhold Horizontal Property Germanic-type Joint-Tenancy	Elevators Nuisance Val d'Aran joint-tenancy case Grammercy Park, NY case (PPT Slides)

DATE	TOPIC	READINGS, CASES AND CLASS MATERIALS
4 th Session	Timesharing	EU Directive / Spanish Statute (2012) / Catalan Civil Code (PPT Slides)
5 th Session	Contract of services	EU Law – DCFR Proposal (PPT Slides)
(To be announced: mid November)	2 nd Take-Home Exam (specific case): Submission Deadline: 16 December 2016 In-class comments to the 1 st Take-home Exam (common case)	Assignment of Individual cases (students can choose a case from the professor's list on recent court decisions –first come first served basis–)
6 th Session	Contract of Work	Spanish Civil Code FIDIC Contracts (PPT Slides / Cases and court decisions)
7 th Session	Liability arising from building construction Construction and Insurance	LOE-Statute / CC / LGDCU Cases and decisions (PPT Slides)
8 th Session	Transfer Development Rights Transfer of a lot in exchange of dwellings built as a result of it	Cases: B. Suitum v. Tahoe Reg'l Agency / TAU's (Spain) Cat. Law 2001 (PPT Slides)
9 th Session	Right to Erect a New Floor Right of Superficies	Spanish & Catalan Law Cases (PPT Slides)
10 th Session	Private Land Use Planning: Easements, Covenants, Servitudes and Nuisance	Cases (PPT Slides)
11 th Session	Mortgages, Defaults and Eviction What does abusive clauses mean? Title supervision by Land Registries (voluntary homework and site visit)	ECJ decision (2013) Other court decisions: SJMBar (2013, 2014), STS (2014, 2015)
12 th Session	Real Estate Transactions Sale of Commercial Premises Securities in Business & Real Estate Transactions	Sale and Leaseback Law Firms' Experiences Cape Town Convention on asset security interests

Subject contents:

If necessary, this syllabus may be modified during the trimester. Any modifications will be announced in class and/or posted on CampusGlobal. All reading materials identified as handouts will be available on CampusGlobal.

Languages:

Classes will be taught in Spanish. Please note that a few readings and class materials will only be available in English. An active and passive command of the English language is therefore necessary.

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