

Legal consequences of carrying out a work on the property of another person

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Abstract

The right to property is one of the most important real rights, the foundation of the market economy. Every owner has the right to possess, use and dispose of the property that forms the object of his or her right.

In this context, in practice, occurs the situation where a person builds his own work on the property belonging to another person. In this case, if the legal conditions are met, the accession can be invoked and the owner of the real estate acquires ownership of the performed work.

The Civil Code establishes, according to the good or bad faith of the author of the work, different solutions and ways of compensation. For example, if the author of the work is in good faith, the landlord may invoke the accession and request the registration of his / her right in the land book with the obligation to indemnify the author of the work, either with the value of the materials and labor, or with the value gained by the building.

The new Civil Code detailed the accession provisions, but also diversified the solutions that the landlord may adopt.

This paper aims to detail the new regulations both from the theoretical perspective and from the jurisprudential perspective. Going forward, we will analyze what happens with the work done, if the ownership of the work done on the building can be obtained by the author and under what conditions.

Notions such as autonomous works of a sustainable nature, bad faith will be developed from the perspective of the options set by the legal texts.

Finally, the hypothesis of the added works carried out by a third person, as well as the conditions for acquiring the right of ownership, will be analyzed.

The hypotheses and solutions provided by the new 2009 Civil Code will also be analyzed from a comparative perspective of the Civil Codes of other EU Member States. Common issues and differences of opinion will be highlighted.

The paper will also analyze the possibility for the author of the paper to claim compensation for the work he has done, the future owner of the property right over the work done, as well as the type of the norm in the Civil Code to see if the parties are allowed to deviate from the established rules.

Keywords: property, accession, autonomous/added works