Introduction to Spanish Private Law

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INTRODUCTION TO SPANISH PRIVATE LAW

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Private Patrimonial Law

• Law of obligations:
  - Obligations
  - Contracts
  - Quasi-contracts
  - Civil liability

• Law of things:
  - Property
  - Right on someone else’s things
  - Registry law
Person’s Law

+ Natural persons
  • Civil capacity
  • Legal capacity
- Total
- Limited:
  Emancipation
  Incapacitation
• Special capacities

+ Artificial persons:
  • Public Law
  • Private Law:
    - For profit:
      Corporations
    - For non-profit:
      Foundations and Associations
Representation:

-Legal

-Voluntary:

Principal \rightleftharpoons \text{Representative} \rightleftharpoons \text{Third party}

\text{Power of attorney} \quad \text{Representation}
Contract Law:

- **Contract**: Agreement between two or more persons that creates rights and obligations between them.

- **Principles of contract Law**:
  - Perfection through consent (art. 1.258 CC)
  - Obligations arising from contracts are law between the parties (art. 1.091 CC)
  - Autonomy of will / freedom of contents (art. 1.255 CC)
  - Freedom of form (art. 1.278 CC)
Elements of contracts

• Natural
• Accidental: condition, term, modus
• Essential:
  - Consent (free / sufficient capacity)
  - Object
  - Cause or consideration
Effects of the contract: the obligation

• **Obligation**: legal relation between two persons (debtor and creditor) that leads to one of them obtaining goods and services from the other secured by all the patrimony of the person obliged

• **Types of obligations:**
  - **Object**: positive/negative;
    specific/generic;
    simple/complex (cumulative, alternative, optional)
    divisible/indivisible
    principal/subordinate
  - **Bond**: pure/conditional/subject to term
  - **Subjects**: joint but nor several/joint and several
Non-performance of obligations

- Non-performance of obligations:
  - Total breach
  - Defective or inadequate performance
  - Late performance: debtor’s delinquency
  - Consequences: a) action for performance or termination; b) compensation for damages

+ Liability for non performance:
  - Fault or negligence
  - Deceit
  - Delay

+ Non-performance without liability: Act of God or force majeure
Non-contractual liability

- Breach through fault or negligence of a general rule of conduct causing damage (art. 1.902 CC)

- Requirements:
  - Unlawful act or omission
  - Fault or negligence. Exception: strict liability
  - Damage
  - Causation: link between conduct and damage
Real Rights or rights in rem

- **Real right**: Direct and immediate power over a thing that the others have to respect (direct power, universal power, exclusion power, pursuit power)

- **Types of rights in rem**:
  - Total: property
  - Limited:
    a) Of enjoyment: usufruct, use, habitation, easement, surface
    b) Of acquisition: option, first refusal, redemption
    c) Of guarantee: pledge, mortgage
Family Law and Succession Law

- **Family Law:**
  - Economical system of marriage:
    a) Community of gains; b) Separation system

- **Succession Law:**
  - **Testamentary:**
    + Heir testamentary: the legitime
    + Legatees: particular successors
  - **Intestate:**
    + Heirs at law: a) descending line; b) ascending line; c) spouse; d) collaterals up to fourth degree; e) state