

1. Rozlište pojmy vlastnictví a vlastnické právo.

- § 1011

Vše, co někomu patří, všechny jeho věci hmotné i nehmotné, je jeho vlastnictvím.

- Vlastnické právo představuje právo vlastníka ke svým věcem, které jsou tak jeho majetkem. Obecně platí, že vlastník může svou věc volně držet, užívat a nakládat s ní, eventuálně své vlastnické právo k věci převést na jinou osobu.

2. Jaký je obsah vlastnického práva?

- vlastník může svou věc volně držet, užívat a nakládat s ní, eventuálně své vlastnické právo k věci převést na jinou osobu.
- právo věc držet (ius possidendi)
- právo věc užívat a požívat její plody a užitky (ius utendi et fruendi)
- právo s věcí nakládat (ius disponendi)
- i právo zničit (ius abutendi)

3. Jaká rozlišujeme omezení vlastnického práva?

- věcné břemeno - Zjednodušeně však v každém případě jde o omezení při využívání nemovitosti
- zástavní - Jde o pojistku pro banku, že v případě nesplácení úvěru mohou nemovitost prodat a uhradit z této částky svou pohledávku
- nájemní - U nájemního práva je problém, že nebývá zjistitelné z katastru nemovitostí, protože zápis je pouze dobrovolný
- předkupní - V takovém případě totiž musí být každému spoluvlastníkovi nabídnuta nemovitost ke koupi přednostně, cílem je sjednocení vlastnictví u dané nemovitosti

4. Co je to elasticita vlastnického práva? Co je to holé vlastnické právo?

- Vlastník věci může být ve výkonu jednotlivých oprávnění různě omezen, a to buď zákonem, rozhodnutím státního orgánu, nebo na základě právních jednání svých či svého právního předchůdce. I v tomto případě je však nadále vlastníkem dané věci, i když mu náleží jen tzv. holé vlastnictví (nuda proprietas). Pokud tato omezení opadnou, vrací se vlastníku věci dané oprávnění v původním rozsahu, a to automaticky, tedy bez nutnosti nějakého aktu vlastníka. Tato vlastnost se nazývá elasticita vlastnického práva.

5. Jaké nároky může vlastník uplatnit na ochranu svého vlastnického práva?

- § 1040

(1) Kdo věc neprávem zadržuje, může být vlastníkem žalován, aby ji vydal.

- § 1042

Vlastník se může domáhat ochrany proti každému, kdo neprávem do jeho vlastnického práva zasahuje nebo je ruší jinak než tím, že mu věc zadržuje.

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JL Elias



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