

Lytyvnenko Ielyzaveta Valeriivna,
first year student of Faculty of International Legal Relations at the National
University «Odessa Law Academy».
Supervisor: PhD, associate professor Nekit K.H.

COMPARATIVE ANALYSIS OF PROPERTY RIGHTS IN ANCIENT ROME AND UKRAINE

Firstly, property rights are always seen as one of the basic powers of every human being. There are three main rights of dimension, which are distinguished in both Roman and Ukrainian law: 1. The right of possession (*ius possidendi*); 2. Right of use (*ius utendi*). But the right of use in Rome was limited by certain conditions. One of the main conditions was the obligation not to harm others when using it; 3. The right of disposal (*ius abutendi*). Each of these three legitimacy rights has some content that approves conditional or material possessions of a person thing, use things for their material needs and the ability to dispose of a thing on your own [1].

As for the general content of the right of property, best example would be the article 317 of the Civil Code of Ukraine:

1. The owner has the right to own, use and dispose of his property.
2. The content of the right of ownership is not affected by the place of residence of the owner and the location of the property [3].

Secondly, having analyzed a considerable number of sources, we can say that it is the Roman lawyers who have priority in developing the foundations of the righteousness of private property. But for the first time in Ukraine has been said about the private ownership in the «Declaration of State Sovereignty of Ukraine» in 1990 year, then in the law «On Property» and in 1996 year in the Constitution of Ukraine [1]. The subjects of personal property rights are residents of Ukraine, foreign citizens and persons without residence in the state. Foreign citizens and stateless persons enjoy equal rights and bear responsibilities for their property on the territory of Ukraine on an equal footing with citizens of the country. As for the great facilities in the unity of private property, they may be: homes, personal items, garden houses, household economy and productive livestock, planting on the land, capital goods and others. But if we take into account the laws of Roman law, then based on them we can identify a feature that relates to private property in Roman law. In ancient Rome, not each thing could be attributed as a group of objects of their own also not every thing that is in private ownership, could be the subject of the order or contract. An example is running water, which changes forever in its composition, but despite such a specific function, it is not owned by anyone and is not subject to separate ownership. But in the case of separation (for example, if there was water in the barrel), it became a common object of private resources for everyone. In addition,

from the sphere of Roman private property were removed those things that were intended for religious purposes (temples, altars), which are considered sacred (city walls, graves), as well as those things that were used for state or public purposes (fortresses, roads, theaters). They were considered withdrawn from circulation, and even some agreements on the share of them were considered not as acts of private law, but as administrative orders [1].

Thirdly, the most important issue is the protection of one's own property. Basic and means of protection of property rights is the **vindication lawsuit (rei vindicatio)** and **negative lawsuit (actio negatoria)**. A vindication claim in both Roman and Ukrainian law is given to the owner to claim the thing, the possession of which he lost [1]. The parties in the vindication process were in the role of the plaintiff – the owner, who did not have the actual driving of the thing, and in the role of the defendant – the real owner of the thing. The main content of the rei vindicatio was the plaintiff's proof of his specific right of ownership of the thing and that he owned the thing before the vindication process. If, for example, there is an unlawful intrusion into the owner's right to use his property, an actio negatoria is applied, which literally means a denial of the defendant's authority to commit such acts. Protection of property rights through vindication, as well as negative claims, is absolute, i.e. directed against any violator [2].

Thus, we can conclude that we have learned directly about the basic concept and content of authority, the right of private property in comparison between Ancient Rome and Ukraine and the two main methods of protecting property rights. In our opinion, these issues were the main ones in the era of the Roman Empire, and remain relevant for today's Ukraine.

SOURCES:

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