



RAMA UNIVERSITY

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FACULTY OF JURIDICAL SCIENCES

Course : LL.B. 1st Semester

SUBJECT: Jurisprudence

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LECTURE: 36

NAME OF FACULTY: Ms. Anjali Dixit

Assistant Professor

Lecture-36



Lecture 36 SUBJECT MATTER OF OWNERSHIP

SUBJECT MATTER OF OWNERSHIP

Normally ownership implies the following:

1. The right to manage;
2. The right to possess;
3. The right to manage;
4. The right to capital;
5. The right to the income.

The owner of a thing has the right to possess it, to the exclusive of all others i.e. the owner has exclusive physical control of a thing or such control possesses the thing but this is not necessary and always so. Thus to cite only a few examples, the owner may have been wrongfully deprived of it or may have voluntarily devised himself of it. If A's watch is stolen by B, the latter has possession but the former remains the owner with an immediately right to possess. In case of lease and mortgage, the owner (i.e. the lessor and the mortgagor) owns the property without possession lies, with the lessee and the mortgagee.

The owner has the right to use the subject matter of ownership according to his own discretion. Here use means personal use and the enjoyment of the thing by the owner. This right of enjoyment or use is not absolute; it can be and is in fact, limited by law. This does not mean that an owner cannot thereby disturb the right of others. Suppose A owns a transistor, he cannot tune it at any time for listening music, for news or for commentary, but in doing so he is to take care that he does not disturb the right of others. Thus he cannot tune it at a high pitch and at an odd time so as to disturb the right of others. Thus he cannot tune it at a high pitch and at an odd time so as to disturb the sleep of others.

The owner has right to manage i.e., he has the right to decide how and by whom the thing owned shall be used. The owner has the power contracting the power to admit others to one's land, to permit others to use one's things, to define the limits of such permission, to create a right of easement over his land in favour of a third person etc.

One who owns things has also the right to alienate the same or to waste, destroy or to consume the whole or part of it. The right to consume and destroy are straightforward liberties. The right to alienate i.e. the right to transfer his right over object to another involves the existence of a power. Almost all legal systems provide for alienation is the exclusive right of the owner. A non-owner may have the possession of a thing but he cannot transfer the right of ownership of such

thing to another e.g. , in case of lease, a lessee may have the possession of the leased property but he cannot transfer it because that is the exclusive right of the leaser who only can do so.

The ownership of the a thing has not only the right to possess the thing but also the right to the fruit and income of the things within the limits , if any, laid down by the law. Suppose A' has a land he has not only the right to possess that the land but he can enjoy benefits resulting there from e.g., produce, fruits, crops, etc. sometimes the use or the occupation of a thing to possess that the land but he can enjoy benefits resulting there from e.g. produce fruits, as the simplest way of deriving an income from it and of enjoying it.

SELF-TEST QUESTIONS

S.NO	Question	Option (a)	Option (b)
1.	The owner of a thing has the right to possess it, to the exclusive of all others	True	False
2.	The owner has the right to use the subject matter of ownership according to his own discretion	True	False
3.	This right of enjoyment or use is not absolute; it can be and is in fact, limited by law.	True	False
4.	The owner has right to manage i.e., he has the right to decide how and by whom the thing owned shall be used.	True	False
5.	The ownership of the a thing has not only the right to possess the thing but also the right to the fruit and income of the things within the limits , if any, laid down by the law	True	False

Answers: 1-(b),2-(a), 3-(a),4-(a), 5-(a)