



PRC Property Law

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General Information

- **General Introduction**

- A. The first uniformed code of PRC providing overall guidance about the ownership and utilization of properties
- B. Promulgated on Mar. 16, 2007, to take effect on Oct. 1, 2007

- **Structure of the Law**

- A. General rules
- B. Ownership
- C. Usufructuary Rights
- D. Property rights for security
- E. Possession

General Rules

- **The change of property rights of immovables subject to registration, that of movables subject to delivery**
 - *Registration of immovables*
 - A. Exceptions: state-owned natural resources, rights out of court judgments, succession and factual conducts
 - B. New: Correction of Registration, Advance Notice Registration
 - *Delivery and registration of movables*
 - A. The Registration of rights of vessels, aircrafts and vehicles necessary to oppose third parties
- **Remedies**

Restitution, removal of obstacle, elimination of danger, repair, recovery of original status, damage compensation, etc

Ownership

- **Types of ownership**

- *State ownership*: urban land, minerals, rivers, maritime areas can only be owned by state
- *Collective ownership*: part of rural land can be owned by peasants collectively
- *Private ownership*: exclusion of land
- *Protection is not differentiated* among different types.

- **Partitioned Ownership of Building Areas**

- *Composition*: exclusive ownership of particular part, joint ownership of common part, management right
- *Automatic extension* of LURs for residential buildings

- **Joint ownership**: joint ownership by shares, undivided co-ownership

- **Special acquisition of ownership**: Bona Fide Acquisition, lost properties

Usufructuary rights

- **LURs, water-intaking rights, mining rights, fishery rights, etc.**
 - Construction LURs can be allocated or assigned directly from government, and can be transferred by an assignee
 - Construction LURs for business purpose can only be assigned through public sale, such as tender, auction
 - Maximum term of assigned LURs: 40 y (commercial), 50 y (industrial), 70 y (residential, automatic extension)
- **Contracted land management rights**
 - Possible to transfer and sub-contract
 - Term: 30 y for arable land, 30y-50y for grassland, 30y-70y for woodland
- **Easement**
 - Establishment: upon effectiveness of a written contract
 - Registration: necessary to oppose third parties

Property rights for security

- **Mortgage**

- *Objects*: immovables and movables
- *Taking effect*: immovables upon registration, movables upon effectiveness of the mortgage contract with registration necessary to oppose third parties
- *Floating mortgage*

- **Pledge**

- *Objects*: movables and certain rights (bills, bonds, equity interests, intellectual properties, receivables, etc)
- *Taking effect*: delivery of movables and bills & bonds or registration of the rest of pledgeable rights

- **Lien**

- *Objects*: movables legally possessed by creditor
- *Condition*: identical legal relation between retained object and principal obligation (exception: liens between enterprises)

Possession

- **General introduction**

- Protection offered to possessions in general and as a fact

- **Bona fide possession**

- Possessor entitled to claim expenses for the property

- **Mal fide possession**

- Possessor liable to compensate damages to the property

- **Remedies**

- Restitution, removal of obstacle, elimination of danger, claim for damages



Thank you very much for
your attention.