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LUNES, 10 DE FEBRERO DE 2014

La reforma de la Ley de Propiedad Horizontal y la división de locales 1

La Ley 8/2013, de 26 de junio, de rehabilitación, regeneración y renovación urbanas ha reformado parcialmente la Ley 49/1960, de 21 de julio, de Propiedad Horizontal.

A pesar de ser una reforma parcial, ha modificado aspectos básicos en el funcionamiento de la comunidad de propietarios, como el régimen de adopción de acuerdos en la Junta General (artículo 17) o el de realización de obras y actuaciones (artículo 10).

De entre todo el contenido de la reforma me voy a referir en esta entrada a una cuestión particular, de importancia en la práctica notarial y registral.

Se trata del supuesto de división, segregación, agrupación o agregación material de locales privativos en la propiedad horizontal.

La reforma incide en dos aspectos fundamentales: el régimen del acuerdo de la comunidad autorizando estos actos y su sujeción a autorización administrativa.

Hasta ahora el artículo 4 de la Ley de Propiedad Horizontal, actualmente derogado por la Ley 8/2013, regulaba estos actos de modificación jurídica de locales, disponiendo que:

"Los pisos o locales y sus anejos podrán ser objeto de división material, para formar otros más reducidos e independientes, y aumentados por agregación de otros colindantes del mismo edificio, o disminuidos por segregación de alguna parte.

En tales casos se requerirá, además del consentimiento de los titulares afectados, la aprobación de la Junta de propietarios, a la que incumbe la fijación de las nuevas cuotas de participación para los pisos reformados con sujeción a lo dispuesto en el artículo 5.º, sin alteración de las cuotas de los restantes".

En el análisis de esta norma, del que partiremos para comentar después el alcance de la reforma, cabe distinguir los siguientes aspectos:

su ámbito.

Deben distinguirse en relación con pisos o locales en una división horizontal, diversas situaciones posibles:

- La división y agrupación o comunicación material, que no afecta a la estructura de la comunidad en cuanto no varían el número de elementos privativos y sus cuotas.

- La constitución en un piso o local de un régimen de sub-comunidad. Lo analiza la Resolución DORH de 24 de enero de 2002. Se trataría de crear dentro de un local mayor que forma parte como elemento privativo de una división horizontal, varios locales, los cuales participarían en copropiedad en algún elemento común que perteneciera también al local originario. Para eso no se acude a la división o segregación jurídica, sino a constituir una división horizontal dentro de dicho local que a su vez es elemento de otra división horizontal. Según la DORH "no existe prohibición legal o estatutaria sobre el establecimiento de subcomunidades y, en el caso concreto, el propietario del local, sin alterar el mismo ni su cuota, ha adoptado el vender la propiedad a diferentes personas y como forma de organización interna de la comunidad así creada las normas de la propiedad horizontal como mejor forma de regular los accesos comunes y el reparto de gastos y adopción de acuerdos, asignando una cuota de participación a cada tranjero en el local sin que en ningún momento desapareciera ni se altere la cuota total del local". La diferencia con la división o segregación jurídica es que no se crean nuevos locales que sean elementos de la propiedad horizontal originaria, en cuanto el local matriz de la subcomunidad permanece inalterado, con su cuota y como un local único, en la estructura de la propiedad horizontal inicial.

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Iuris Prudente

Padua (Italy)



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Lawyers in Early Modern Europe and America Wilfrid Prest, 2023-10-30 First published in 1981 *Lawyers in Early Modern Europe and America* aims to present a convenient conspectus on the legal professions in early modern Europe Scotland France Spain and Colonial America and to provide a comparative perspective on the place of the legal profession in Western societies before the Industrial Revolution The main themes covered by each contributor are the status number and vocational functions of the different classes or groups or lawyers their social origins education and career patterns relations between lawyers and clients other occupations and status groups and the state the extent of legal professionalisation and the role of lawyers as modernisers in cultural economic political and social terms This book will be of interest to students of history law and political science

A Pleasing Sinne Adam Smyth, 2004 Studies of the representation and understanding of drink and conviviality in diverse social contexts

The Philosopher in Early Modern Europe Conal Condren, Stephen Gaukroger, Ian Hunter, 2006-09-28 In this groundbreaking collection of essays the history of philosophy appears in a fresh light not as reason's progressive discovery of its universal conditions but as a series of unreconciled disputes over the proper way to conduct oneself as a philosopher By shifting focus from the philosopher as proxy for the universal subject of reason to the philosopher as a special persona arising from rival forms of self cultivation philosophy is approached in terms of the social office and intellectual deportment of the philosopher as a personage with a definite moral physiognomy and institutional setting In so doing this collection of essays by leading figures in the fields of both philosophy and the history of ideas provides access to key early modern disputes over what it meant to be a philosopher and to the institutional and larger political and religious contexts in which such disputes took place

El negocio jurídico testamentario, La muerte ha sido un tema recurrente de artistas poetas y filósofos Muchos le han cantado escrito y pensado en ella El Derecho menos político en este sentido también se ha ocupado de ella por la trascendencia jurídica que tiene Todos morimos unos primeros que otros pero al final la Parca llega La obra que aquí se presenta es una reflexión jurídica del testamento como máxima expresión de la autonomía de la voluntad de la persona y a su vez como negocio jurídico dentro de los tantos que se pueden realizar en el tráfico jurídico Destaca en la monografía las cuestiones de actualidad que se abordan no solamente las clásicas más habituales dentro de los estudios de Derecho de Sucesiones sino también aquellas más novedosas que comienzan a emerger en el debate doctrinal y legislativo En la monografía El negocio jurídico testamentario se transita desde el estudio de un testamento más clásico con todas las aristas que ello conlleva a temáticas de interés como la necesidad de un testamento más contemporáneo que se adapte a la sociedad actual la urgencia de la planificación testamentaria así como la digitalización de la muerte y de la herencia con algunas pinceladas en torno al llamado testamento digital presentándose además someramente por la novedad de la cuestión la relación entre el testamento con la Inteligencia Artificial Hablar de sucesiones y del testamento constituye un tema fascinante con la peculiaridad que mientras más se estudia más complejas resultan tanto la disciplina como la institución

Invita esta obra a la lectura siendo un trabajo de interés para los estudiosos de la materia y una aportación al Derecho civil

Retos del Derecho de sucesiones en el siglo XXI - Obra completa, 2 vol. VV.AA,2023-12-23 Esta obra tiene como objetivo el de proporcionar una respuesta a los más importantes de todos ellos como son los suscitados en relación con el futuro de las legítimas como límite a la libertad de disposición sobre el propio patrimonio las alternativas al testamento como instrumento de ordenación de la sucesión por causa de muerte o la transmisión de la empresa familiar entre otros de los muchos que a su vez se desarrollan a lo largo de los treinta y cuatro estudios que conforman sus dos extensos volúmenes Para cumplir este cometido cuenta además con el dictamen académico y profesional de reputados especialistas tanto nacionales como extranjeros quienes abordan las materias de su competencia desde una perspectiva predominantemente civilista pero al mismo tiempo multidisciplinar y comparativa ofreciendo en definitiva una visión panorámica e irremplazable de los Retos del Derecho de sucesiones en el siglo XXI El origen del dominio público romano Diego Díez Palacios,2024-05-27

Digesta Iustiniani Augusti Justiniano I (emperador bizantino), Paul Krueger,1870 Historical Introduction to Legal Studies Margaret H. Ogilvie,1982 **Adquisición de vivienda y cláusulas abusivas** Javier Domínguez Romero,2018-01-01 En los últimos años como consecuencia de la gravísima crisis económica mundial intensificada en España por una crisis del sistema financiero de extraordinarias proporciones han quedado al descubierto profundos defectos del ordenamiento jurídico español en la regulación del sistema de ejecuciones hipotecarias así como un buen número de cuestionamientos sobre las cláusulas abusivas en los contratos hipotecarios que hasta hace bien poco no habían traspasado la línea del puro debate técnico jurídico de la dogmática al uso A medida que estos defectos se destapaban el impacto social generado ha sido considerable Así las ejecuciones hipotecarias masivas dramáticos lanzamientos de las viviendas clamorosos casos de subsistencia de deudas tras las ejecuciones hipotecarias frente a contados símos de aceptación por las entidades crediticias de las daciones en pago cláusulas suelo cláusulas de vencimiento anticipado cláusulas de intereses moratorios o cláusulas sobre el interés negativo son entre otras muchas cuestiones jurídicas muy candentes El autor analiza las notas de abusividad que caracterizan a muchas cláusulas presentes en nuestro sistema crediticio partiendo de los pronunciamientos contenidos en la jurisprudencia del Tribunal de Justicia de la Unión Europea expone la evolución de nuestro ordenamiento para dar cumplimiento a los pronunciamientos del Alto Tribunal sistematiza los mecanismos para su control de oficio previstos en la legislación española pone de relieve las insuficiencias de nuestra normativa y efectúa las pertinentes propuestas de reforma Todo ello en un estilo claro y sin concesiones a la hora de abordar una materia de enorme trascendencia social con especial incidencia en los derechos fundamentales de los ciudadanos *Law, Economy and Society, 1750-1914* Gerry R. Rubin,David Sugarman,1984

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