

Public policy and legal protection of agricultural land

Introduction. Basic concepts of land and real estate law

Classes no. 1

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Key Terms

It is important to understand three main terms, which are associated with the real estate, which are the following ones:

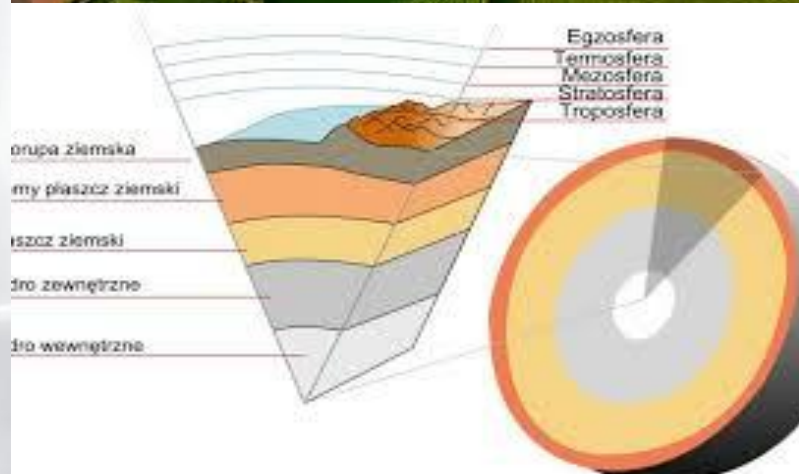
- 1. Land,*
- 2. Real Estate,*
- 3. Real Property.*



1. Land

Land is defined as the earth's surface extending downwards to the centre of the earth and upwards to infinity, including things permanently attached by nature such as trees and water. The term "**land**", thus, refers to not only the surface of the land but also the underlying soil and things that are naturally attached to the **land**, such as rocks and plants. **Land** includes the minerals and substances far below the earth's surface. It also includes the air above the **land** up into the space. Therefore, **land** consists of three layers known as respectively the "surface" the "subsurface" and "airspace".

Land is one of the basic factors of production. Primary production functions are taken place in **rural land** (non-urban **land**) whereas the other functions are allied with urban locations. However, due to the development of the infrastructure facilities, it is difficult to demarcate urban uses and non-urban uses easily.



2. Real estate

- *Real estate* is defined as the land above and below the earth's surface, including all things that are permanently attached to it either natural or artificial. Therefore, the term "*Real Estate*" is broader than the term "land". It includes not only the natural components of the land but also all artificially improved *immovable features* made by the man.

- Any artificial thing that is attached to the land, such as a building or a structure or a fence is concerned as a part of *real estate*. Land is also converted into *real estate* as it is improved by means of providing access, utilities, sewerage systems and other services that make it suitable for habitable buildings. They are also called serviced-lands, improved lands or developed lands. Such parcels of lands are called *real estates* since they have been reshaped from their natural features.

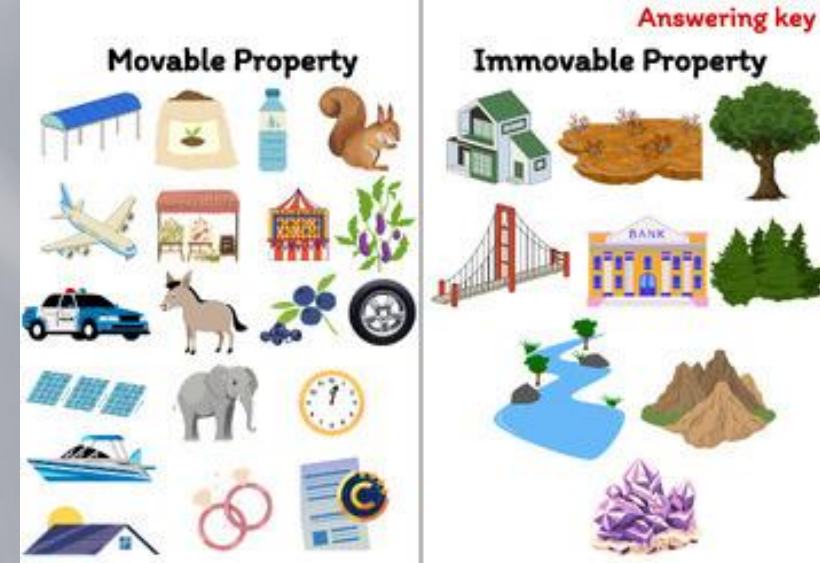
- At the same time, it is clear that the land becomes usable when it is converted into a *real estate*. This means when a land becomes a *real estate*, it is usable for planned activities. Therefore, it is able to argue that the "usability of the land" is a more apparent and logical criterion to recognize *real estate*. In this way, it is also able to argue that when the man starts to use the land it becomes a *real estate*.



3. Real Property

The word “property” has different meanings in legal term (*Moveable property, immovable property etc...*). In this context, it is the *land* and tangible features on the land and permanent improvements.

“*Real property*” is defined as the interests, benefits and rights inherent in the ownership of real estates. Indeed, a real estate is valuable, usable and marketable as it possesses several real properties. Hence, the term “*real property*” is broader than both the terms “*land*” and “*real estate*”. It includes the physical surface of the land, what lies above and below to it, what is permanently attached to it, as well as the bundle of legal rights: legal rights of ownership which is attached to the ownership of a parcel of *real estate*.



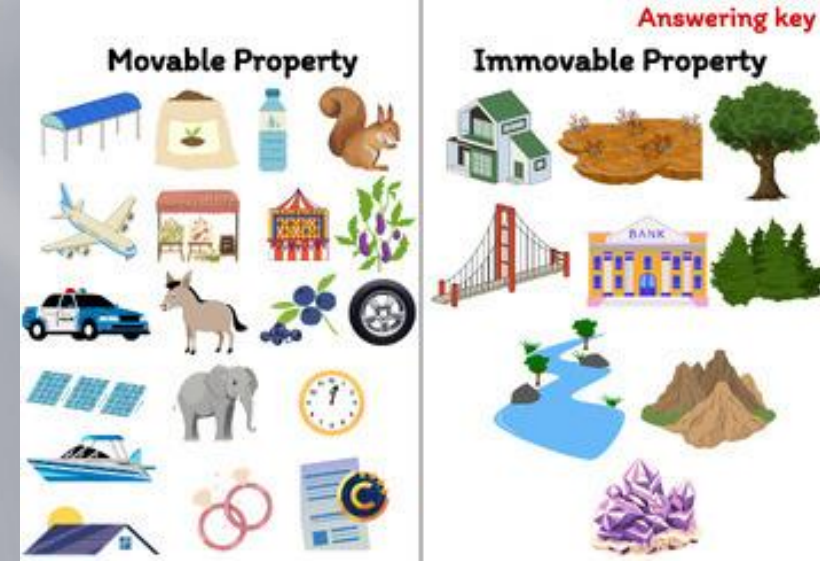
3. Real Property

Real property includes not only the surface, subsurface and airspace but also the surface rights, subsurface rights and airspace rights, all of which can be owned by different individuals. There are, however, some limitations as well. For instance:

Surface rights are restricted by different legal conditions such as Planning Law which aims to control haphazard development, Law of Delict, which aims to protect others from nuisance made by one who enjoys benefit(s) of a real estate etc. Further, restriction of cutting some trees like jack, coconut etc, and excavation of sand, granite etc are examples of limitations of the surface right.

Subsurface rights are restricted by licence, tax (for instance gem mining) while some substances are fully restricted by having state ownership such as fossil oil and some minerals etc.

Airspace is also restricted by civil aviations law, electricity and other service lines etc. Further, it seems in many countries of full restriction for fling by individuals or need of very special permission for some selected journeys.



CONCLUSIONS

• **Land** = (Soil) + (All natural attachments up to the space and below to the centre of the earth)

• **Land** = (**Natural Surface**) + (**Natural Subsurface**) + (**Natural Airspace**)

• **Real Estate** = **Land** + All Man Made Fixtures

• **Real Property** = (**Real Estate**) + (Rights and benefits attached to real estate)

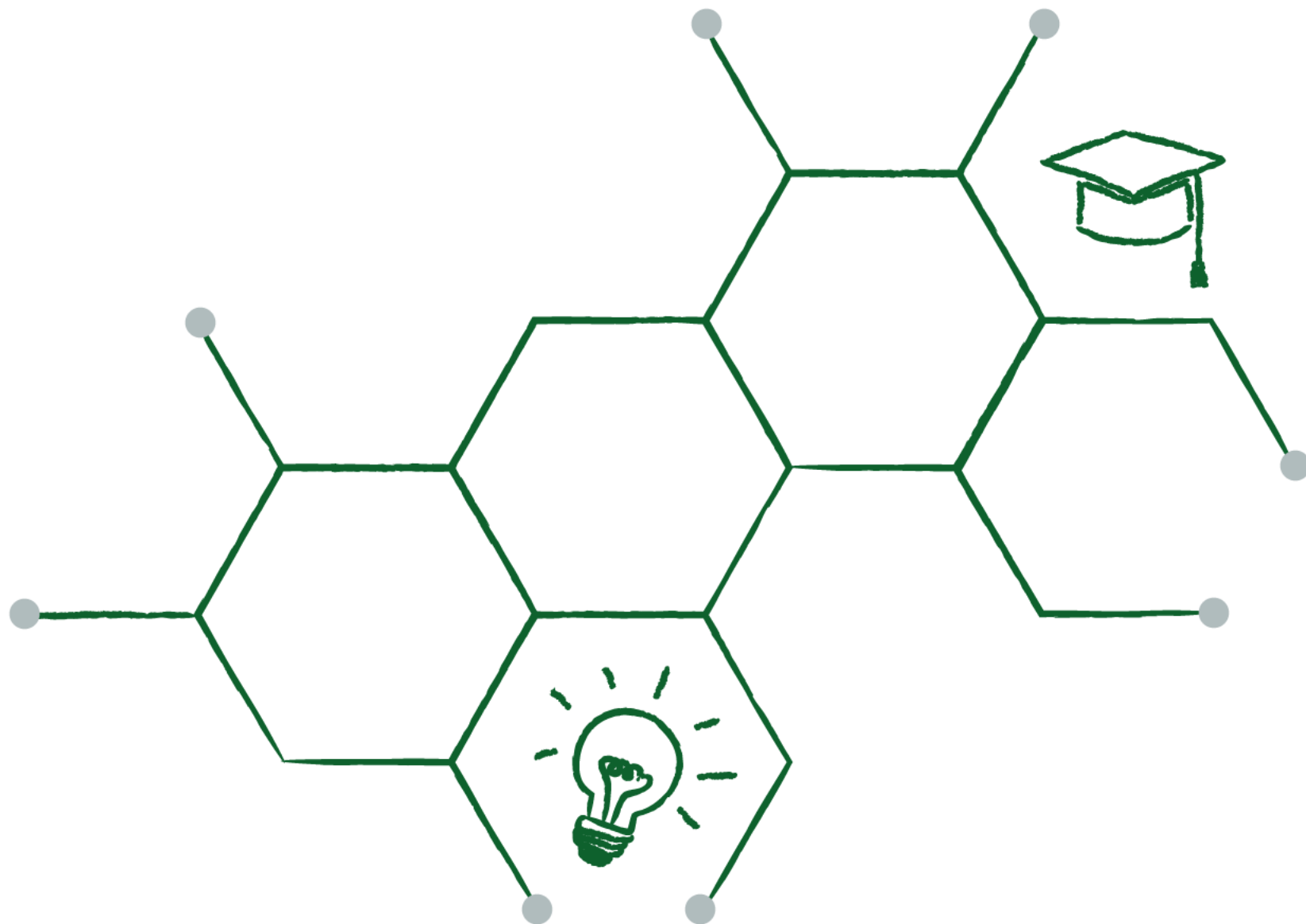


TASK TO DO:

Describe system of real property law of your country of origin basing on the Civil Code. Please, provide us with examples of movable property and immovable property.



REFERENCES



DOŁĄCZ DO NAS



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