

Abstract

An abstract is a history of the title to property as revealed by the public records.

Acceleration clause

Clause used in an installment note and mortgage which gives the lender the right to demand payment in full upon the happening of a certain event, such as failure to pay an installment by a certain date, change of ownership without the lender's consent, destruction of the property, or other event in which endangers the security of the loan.

Accession

Acquiring title to additions or improvements to property as a result of natural growth, labor, the annexation of fixtures or the accretion of alluvial deposits along the banks of streams. La. C.C. art. 483, et seq.

Accessory contract

A contract is necessary when it is made to provide security for the performance of an obligation. Suretyship, mortgage, pledge, and other types of security agreements are examples of accessory contracts. La. C.C. art 1913.

Acknowledged act

Any act or instrument in writing signed by the parties in the presences of two witnesses and then taken by the party(ies) or the witness(es) before a notary and two witnesses; the original act signed out of the presence of the notary

Acknowledgment

A formal declaration by a party before a notary public in the presence of two witness by the person who signs an instrument to the effect that it is his own free and voluntary act done for the purposes therein expressed.

Acknowledgment of paternity

A formal written declaration whereby a person established himself as the natural father of a child.

Acquets and gains

A civilian concept referring to the matrimonial regime of community property; acquets means all things acquired, gains is the increase in the value of property through the skill or labor of a person , particularly a spouse See C.C. art. 2338

Acquisitive prescription

A mode of acquiring ownership of other real rights by uninterrupted possession for a period of time

Acquittance

A release usually in writing, from an obligation

Act under private signature

Any act or instrument, in writing signed by a person or persons not in the presences of a notary that may or may not be witnessed

Administrator

A person appointed by the court as the succession representative to manage the assets and liabilities of an intestate decedent.

Affiant

One who makes an affidavit

Affidavit

A declaration or statement of facts personally known to the affiant reduced in writing and sworn to by the affiant before a notary.

Affidavit of distinction

An affidavit executed before a notary by a person providing identifying information to distinguish said person from a judgment debtor with a same or similar name and then recorded in the mortgage records of the parish where the judgment is recorded. The affidavit is executed if the judgment creditor cannot be located or does not comply with R.S. 9:5501

Agreement

Contract

Agreement to sell or buy

Binding contract to buy or sell in future

Aleatory contact

An agreement in which the effects thereof depend on an uncertain event. La. C.C. art 2982.

Alienate

To transfer property or a right to the ownership of another, especially by an act of the owner rather than by inheritance.

Alluvion

An increase to the land caused by the buildup of deposits from running water.

Antichresis

A pledge of property "when the security given consists of immovables." A written contract by which the debtor pledges the revenues of an immovable to the creditor as security for a debt. La. C.C arts. 3135, 3179. The creditor acquires by the contract of antichresis "the right of reaping the fruits or other revenues of the immovable to him given in pledge, on condition of deducting annually their proceeds from the interests, if any be due him and afterwards from the principal of his debt." La C.C art 3176

Appearance clause

Clause giving full status of a natural or juridical person (e.g., corporation or partnership) in any legal instrument.

Appearer

A person who goes before an official authorized to administer oaths, take acknowledgments, or make authentic acts, and who makes a declaration, executes or acknowledges an instrument of writing.

Appraisal

The process of valuing property; a valuation of property by two or more appraisers who are

appointed and authorized by a court to place a value on designated property as a part of a court proceeding.

Appurtenances

A right, privilege, or property that is considered incident to the principal property for purposes such as passage of title, conveyance or inheritance; a thing that is necessarily connected with the use and enjoyment of another thing. State Farm Fire & Cas Co v. Pffiffer, 399 So.2d 1250 (la.App. 1st Cir. 1981)

Ascendant

One who precedes in lineage (parent, grandparent); an ancestor.

Assignment

The transfer of claim, right, interest, or property from one to another; the instrument by which the transfer is affected.

Assumption deed

An act of sale in which the buyer agrees to assume payment of the seller's mortgage.

Attest

To witness something.

Attorney in fact

One who is authorized to act for or represent another (principal), usually in business matters, whose authority may be expresses or implied; a representative. Sometime referred to by

common-law terms as "agent" or "attorney-in-fact"-

Authentic act

A writing executed before a notary public or other officer authorized to perform that function, in the presence of two witnesses and signed by each party who executed it by each witness and by each notary public before who it was executed.

Base Line

East-West reference line.

Bequest

A disposition of property made by a testator.

Bill of Sale

Instrument translative of title of movable property.

Bond

A guarantee of indemnity by any person, usually an insurance company; or giving security to another.

Bond-for-deed contract

A contract regarding immovable property where-by the vendor agrees to transfer title to the property when the purchase price is paid in full; the vendee is usually given possession during the existence of the contract.

Bond, personal surety

A surety bond provided by an individual, personally, on behalf of a notary. The bond must be recorded in the mortgage records in the parish in which the notary is seeking or holds a commission. A notary who is bonded with a personal surety only needs to provide a new bond if the surety dies, if the surety is no longer solvent of \$10,000.00 or if the surety withdraws his suretyship.

Boundary Line

The line of separation between contiguous lands.

Cancellation of a mortgage

A process whereby the clerk of court adjusts the public records to reflect that the mortgage has been extinguished. Collateral mortgages are cancelled by the presentment of the paid collateral mortgage note. Multiple Obligations Mortgages are canceled via a letter directing such from the creditor/mortgage holder.

Capacity

A legal qualification, including age and other factors. Parties, unless emancipated, must be 18 years of age to contract. Witnesses to most instruments must be 14. Witnesses for wills must be 16.

Cash deed

Common-law term for an act of sale of immovable property in which the buyer pays and the seller acknowledges receipt of the purchase price.

Chattel

In general, used to designate movable property, as in the case of a "chattel mortgage," which is a mortgage of movable property.

Code

A collection of laws, Louisiana has many codes: the Civil Code, the Criminal Code, the Code of Civil Procedure, the Code of Criminal Procedure, the Evidence of Code, etc.

Codicil

Common-law term. An amendment, modification, supplement or addition to a will that must be in the form of a testament. La. C.C. art. 1610.

Collateral

Property in which a security interest is granted.

Collateral mortgage

A mortgage designed, not to directly secure an existing debt, but to secure a mortgage note pledged as collateral security for a debt. The maker may reissue the mortgage note from time to time, and have it returned to him without extinguishing the mortgage. It is both a mortgage and a pledge. ***

Collaterals

Any relation not directly in the line of ascent or descent.

Collation

The supposed or real return to the mass of succession property given to forced heirs by the donations inter vivos in order to divide the property with the other effects of the succession.

Common things

Things that may not be owned by anyone. (air, the high seas)

Community Property

A matrimonial regime whereby property acquired or produced through the labor either spouse is owned in common by the husband and wife.

Component parts of tracts of land

Buildings, other constructions permanently attached to the ground, standing timber, and unharvested crops or un-gathered fruits of trees are component parts of a tract of land when they belong to the owner of the ground.

Confession of judgment

A person's agreement in a mortgage to the entry of judgment if he defaults on the obligation secured by the mortgage.

Confusion

When the qualities of obligee and obligor are united in the same person, the obligation is extinguished by _____. La. C.C. art. 1903.

Consideration

A common law term which refers to something promised, given, or done (such as money) that has the effect of making an agreement to a legally enforceable contract. In Louisiana contracts are supported by "cause"; _____ is frequently the cause the will support on obligation.

Conveyance records

The record of all sales and donations of immovable property kept by the clerk of court in each parish.

Corporation

A business entity with separate legal personality from its shareholders, directors, and officers formed by filing articles of incorporation with the Secretary of State.

Corporeals

Things that have body, whether animate or inanimate, and can be felt or touched.

Counter letter

Separate writing expressing the true intent of the parties rather than the intent purported to be manifested in another Instrument; not binding on third parties unless recorded. La. C.C. art. 2025

Credit deed

Common-law term. An act of sale of immovable property on credit terms.

Cum onere

When the vendee purchases immovable property on which there is an existing mortgage, and the vendee does not assume the indebtedness secured by the mortgage or agree to pay the indebtedness of his vendor. Simply stated, ____ means "with burden"

Curator

A court-appointed guardian who manages the affairs of another incapable of doing so himself.

Dation en paiement

An Act in which a debtor transfers ownership of a thing to his creditor in payment of a debt; "giving in payment."

Decedent

A person who has died.

De jure

French, "of law." An official who holds his office by law and who is possessed of all lawfully necessary qualifications for office.

Descendants

All offspring of a person in a direct line, i.e., children, grandchildren, etc.

Dishonor

The non-acceptance of an instrument, such as a check or promissory note.

Disinherison

A means of depriving a forced heir of his inheritance due to some act upon his part which the law deems sufficient cause.

Disposable Portion

The portion of a testator's property which he can will to anyone he chooses.

Domicile

With respect to a natural person, the place of his habitual residence.

Donation inter vivos

A contract by which a person, called the donor, gratuitously divests himself, at present and irrevocably, of the thing given in favor of another called the donee, who accepts it.

Donation mortis causa

An act to take effect at the death of a donor by which he disposes of the whole or part of his property. A donation mortis causa is revocable during the lifetime of the donor.

Donee

One who receives a donation or gift.

Donor

One who gives or donates.

Drawee

The party on which an order for the payment of money is drawn, usually a bank.

Drawer

One that draws, especially one that draws an order for the payment of money.

Earnest Money

down payment in real estate transaction -- permits either party to recede from a contract to sell, but the buyer who chooses to recede from the contract forfeits the ___ and the seller who chooses to recede from the contract must return double the earnest money.

Easement

In common law, a right of way afforded a person to make limited use of another's real property; in Louisiana, a servitude.

Emancipation

The act of conferring some or all of the effects of majority on a minor.

Encumbrance

To burden with a claim such as a mortgage, privilege or lien; a burden or charge imposed upon property by law or conventional obligation or contract, such as a privilege or mortgage.

Endorsement

A signature that either serves to transfer the legal rights to a negotiable instrument to another party or acts as a guarantee of a negotiable instrument.

Escrow

Property, usually money, in the custody of a third party for delivery to another only after fulfillment of the conditions specified.

Estate

The property, rights, and obligations that a person leaves after his death, and includes also all that has accrued thereto since death.

Et. Seq.

Latin: "And that which follows"; Subsequent text.

Exchange

A contract by which parties to the contract transfer property (which is not money) to one another.

Executor

A succession representative designated in a will to administer an estate. AKA Administrator.

Executory Process

A proceeding in court in which the holder of a mortgage containing a confession of judgment may obtain an 'ex parte' seizure and sale of the mortgaged property without the ordinary delays required by law.

Executrix

Another term for a female executor.

Express

Clearly and distinctly stated in precise terms.

Fair market value

The price of an object (movable or immovable property) agreed upon by a willing seller and a willing buyer.

Fee simple title

Common-law term referring to ownership of immovable property without any conditions upon the power and authority to alienate, encumber or transfer by inheritance; analogous to "full ownership," where the elements of ownership (right to use, the right to enjoy the fruits and the right to alienate) are in common in one person. La. C.C. art. 477

Fiduciary

A person entrusted with the property of another party and in whose best interests the ___ is expected to act when holding, investing, or otherwise using that person's property.

Forced Heir

person over 24 if mentally incompetent or physically infirm

Forced Portion

Portion testator must leave to children under 24 years of age if mentally competent and not physically infirm

Good Faith

Basis for entering all contracts

Guardian

Legally responsible for care /mgmt. of property if children or interdicts

Heritable

Transferable

Hypothecate

Pledge collateral for debt

Interdiction

Person declared incapable of caring for his person or administering his affairs

Interdiction

Court proceeding to appoint curator

Intestate Succession

Dies without will

Inventory

Notaries can engage in this activity

Jurat

"Sworn to and subscribed before me this ___ day of April, 2008"

Juridical Mortgage

Judgments create this

Juridical Person

A corporation, for example

Laborer's Privilege

Privilege to protect workmen

Legatee

Person named in a will

Legitimation

This occurs to a child born out of wedlock

Legitime

Portion testator must leave to children under 24 years of age if mentally competent and not physically infirm

Materialman's privilege

Privilege to protect supplier

Minor

This person has no capacity unless emancipated

Mortgagee

Name for person in whose favor mortgage is granted

Mortgagor

Name for a person who grants mortgage

Naked Owner

Owner of property burdened with us usufruct

Ne Varietur

Notation which is part of a paraph

Olographic Will

Handwritten testament

Ownership In Indivision

Occurs when brothers inherit parent's property

Pact De Non Alienando

Clause which prohibits mortgagor from selling property

Paraph

Notation on document to identify w/ another act

Paraph

ne varietur

Partial Release of Mortgage

Cancellation of specific part of debt/ mortgage

Pre-Emptive Right

Shareholder can purchase newly issued stock

Private Act

Act between two parties that may or may not be witnessed but is signed

Private Act Duly Acknowledged

Act signed by parties and acknowledge before a notary

Privilege

Security interest in property

Reinscription

Renews lien or mortgage

Renunciation

Establishes priority of liens

Renunciation

Express or tacit abandonment of right

Representation

Descendants of pre-deceased take his place

Resolutive Condition

Upon occurrence of uncertain event obligation ends

Sale Per Aversionem

Property described by reference to boundaries

Seizen

Right to possess property of deceased prior to succession

Settlor

Person who creates trust

Subordination

Juridical act which causes higher ranked security interest to rank lower

Succession

Transmission of the estate of deceased to succession

Surety

Obligates himself to pay debt if debtor fails to pay

Suspensive Condition

Obligation not enforceable until occurrence of particular event

Tacit

Not express, understood from nature of the thing

Testate

Witness

A person competent to testify as to what he has seen. To attest as to observation or knowledge.

Female person who makes will

Testate

Left a valid will at death

Testator

Male person who makes will

Trustee

Fiduciary that holds title to prop of another's benefit

Tutor

Male legal guardian

Tutrix

Female legal guardian

Vendor's Lien

Created in a credit sale

Warranty Deed

Vendor declares his ownership and marketability of title

Will

A donation made in contemplation of death; a testament or donation 'mortis causa'
