

Beginnelsen Privaatrecht Deel B Uitwerking Literatuur (J. Nieuwhuis & J. Hijma) College 1.

Nieuwhuis, Hoofdstuk 1 Vermogensrechten

Het vermogensrecht bestaat uit goederen. Goederen zijn alle zaken en alle vermogensrecht.¹ Zaken zijn door menselijke beheersing vatbare stoffelijke objecten.² Iedere zaak is dus een goed, maar niet omgekeerd, niet ieder goed is een zaak.

Registergoed: Zijn goederen voor welke overdracht of vestiging inschrijving in daaroo bestemde openbare registers noodzakelijk is.³ Alle onroerende zaken zijn registergoederen.⁴ Sommige roerende zaken zijn registergoederen (denk aan schepen⁵) en ook sommige vermogensrechten zijn registergoederen, zoals erfpacht.⁶

Eigendoms en vorderingsrecht zijn de grondvormen van het vermogensrecht.

Absolute en relatieve rechten

Vorderingrecht → Relatief recht.

Het is een rechtsbetrekking tussen twee bepaalde personen: schuldeiser en schuldenaar (crediteur en debiteur).

Eigendom → Absoluut recht.

Het kan worden gehandhaafd tegen iedereen. In het eigendomsrecht staat de eigenaar tegenover de rest van de wereld. Dit absolute karakter van de eigendom heeft twee aspecten: exclusiviteit en gevolg.

Het exclusief recht houdt in dat de eigenaar niet hoeft te dulden dat een ander van zijn zaak gebruik maakt.

Het gevolg van eigendom is dat het eigendomsrecht blijft rusten op de zaak, ook al raakt zij in andere handen.

Zakelijke en persoonlijke rechten

Zakelijk recht is een recht op een zaak (stoffelijk object)⁷ (Boek 5);

Persoonlijk recht is een aanspraak (vorderingsrecht) jegens een bepaalde persoon.⁸ (Boek 3)

Dus is eigendom een zakelijk recht en vorderingsrecht een persoonlijk recht.

Zakelijke rechten worden onderworpen aan 2 beginselen: Individualisering en eenheidsbeginsel.

Individualisering → Vorderingsrecht zonder dat vaststaat welke exemplaren.

Eenheidsbeginsel → Samenstellende delen zijn fysisch hecht verbonden (denk aan: fiets)

1 Art. 3:1 BW

2 Art 3:2 BW (zie dieren Art. 3:2a BW)

3 Art. 3:10 BW

4 Art. 3:89 BW

5 Art. 8:199 jo. 8:790 BW

6 Art. 5:85 jo. Art. 3:98 en 3:89 BW

7 Art. 3:2 BW

8 Art. 5:1 BW

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