ORIGINAL ARTICLE

SOUZA, Paulo Felix de [1], VIANA, Joseval Martins [2]

SOUZA, Paulo Felix de. VIANA, Joseval Martins. Possession, a fact and a right: An analogy in the light of creationism. Revista Científica Multidisciplinar Núcleo do Conhecimento. Year 05, Ed. 10, Vol. 23, pp. 122-167. October 2020. ISSN: 2448-0959, Access Link: https://www.nucleodoconhecimento.com.br/law/light-of-creationism, DOI: 10.32749/nucleodoconhecimento.com.br/law/light-of-creationism

Contents

SUMMARY

This article aimed to bring an approach in terms of property law and its direct and indirect reflexes in the full exercise of domain. Knowing that there is no property without possession or possession without property, in this context it was verified that the right to property and the right of ownership are autonomous to each other, receiving differentiated treatment due to its elasticity or scope in which it implies in other branches of the right. These were the general objectives and in this wake the following possibility was suggested in relation to the specific objective: Would the Laws have been inspired by the Light of Creationism? What are the damages arising from the (Law N°. 14,223/2006) in relation to the right to property and

possession? In view of the hypothesis, this article became relevant by the historical Jewish-Christian content, respecting the free will of the Spirit of every human being. Thus, the research is characterized as an inductive method and nothing prevents the integrality of other methods by accidental or non-accidental routes. The research had as a source of references: the aid of doctrine, jurisprudence, laws and CF/88. Thus, because it does not have an aprioristic purpose, this article is open for future exploration.

Keywords: Possession, creationism, property.

1. INTRODUCTION

The subject proposed in this article did not have the exhaustion of the theme, which in summary had as a foundation and aspiration, in the restlessness of the human being throughout its existence on Planet Earth. In this mainstay being born a desire to know, however knowing was not enough, it was necessary to be equal to the creator, in order to know the structure and origin of this universe. In this wake germinating in his personality a mantle of landlord, an "*ANIMUS DOMINI*", that is, a spirit of owner, founded on possession. Occurrence that will occur later (in the dialogue between the field serpent and the woman). Thus, it was observed and verified by several areas of knowledge, that this restlessness only occurred due to the need to have a closer, more intimate relationship with the universe or with its creator. A mixture of (desire and possession) that should be mastered: due to its positive or non-positive effects, depending on the specific case. In relation to these needs and their aspects, that is, the way they present themselves, they will be addressed later and at the moment I only make an invitation, in order to draw attention to some nuances: It seems to me that this duality of desire and possession is transcendental, changing the course of history, sometimes affecting it positively sometimes not positively affecting. Such a situation may be the address of human conflicts, having as birth the way of proceeding and having as a fuse or trigger, the intrinsic or extrinsic perceptions, depending on the degree and force exerted. Thus, causing an imbalance in the desire to have or on the other hand, the peace of keeping what they have: Perhaps, coming from the environment or from the environment that one lives. In this way and transmuting to the present day humanity, whether by a mystical, religious or scientific view, continues to pave the way for the theories of cosmology and cosmogony among others. Thus, without disregarding other theories and

understanding that the march of humanity should not be stagnant and so little aprioristic, we will mention some of these theories:

> a) The Theory of the Holographic Universe: in close synthesis informs us that the universe is a gigantic hologram (TALBOT, 1991).
>
> (b)[...] . The Big Bang Theory: in turn informs us that the Universe arose from a great explosion; c) The Theory of General Relativity: it dealt with space, time and movement; d) The Heliocentric Theory: for this theory the Sun is the center of the Universe and the Earth revolves around it (STEINER, 2006, p. 233 – 248).

In this sense, by the search for the structure and creation of the universe and without any catechesis bond, we opted for the Creationist theory because we believe it to be the most appropriate for the construction of this article. Thus, it was possible to bring an approach on the historical aspects of the right to property property, with substance in (sacred scripture). And thus to emphasize the relevance and protection conferred by the one who holds possession of this good. In this act it was possible to analyze the economic reflexes and the social function of property, as well as the constitutional limits of property rights, either in the land or in the divine sphere. Considering the historical aspects that undoubtedly paved and paved the road of humanity, in this wake, it was possible to make a historical immersion, in relation to the theories raised in this article, even in a tight synthesis. From this perspective, the research is characterized as an inductive method and nothing prevents the integrality of other methods by accidental or non-accidental routes. In view of the above the research of this article was structured in 4 (four) chapters, distributed as well: e) The First Chapter brings an approach to property rights in the light of creationist theory; f) The Second Chapter verified the economic reflexes and social function of property; g) The Third Chapter verified the limits of the right to property in the light of the Federal Constitution of 1988; h) The Fourth chapter verified the absence of business purpose, as well as, absence of form, consummated in the extent of the damage caused, arising from the (Law, n°. 14.223 of 2006.) In the substantiated chapters concerning the presentation of this article, we wish you all a good reading.

2. PROPERTY RIGHTS UNDER THE LAWS OF CREATIONISM

In this chapter it was verified the right of the owner in the face of the possessor, knowing that both have their foundation in possession. Thus making an analogy, according to the lights of creationism and in the terms it provides (the laws of Holy Scripture in the book of Genesis, chapter, 1st; 2nd; 3rd) and in accordance with (Law, N°. 10,406/2002). Continuing in this perspective and without being elastic in the interpretation, it is not exaggeration to say that: It was the first contract performed verbally and can be classified or considered by another contour, such as: Modal Dress Contract. In this tuning point was verified in accordance with the law above the following articles: Art. 579, Art. 582, Art. 584, Art. 585 and in the decisions celebrated by the Courts. At this point, depending on Art. 585, mentioned above and respected the appropriate proportions, it is worth mentioning that Art. 2nd of the Law, N°. 8.245 /91: commonly referred to as the Tenant's Law, it also mentions joint and several liability. Let's look at some precedents in relation to Verbal and Modal Comodato.

> Court Decisions (Under the Register: 2017.0000692055), ACORDÃO. Appeal N°. 1007299-77.2015.8.26.0004. REPOSSESSION ACTION. Urban property. Action founded on the extinction of verbal loans, with indefinite term (...) (BRAZIL. COURT OF JUSTICE OF THE STATE OF SÃO PAULO).
>
> Action founded on extinction of verbal loans, with indefinite term Presence of the requirements provided for in Article 927, items I to IV, CPC Direct possession exercised by the rethat does not cancel the indirect exercised by the author – Premonitory notification aimed at extinguishing the disdain The permanence of the ad in the property, after being notified to unoccupy it, esbulhoho possessory R é that has not proved, as it competes , the content of Art. 333, II, of the Code of Civil Procedure, occupy the property on the condition of tenant Payment of benefits of financing the property that does not mischaracterize the lending Action of repossession of property well-founded. (Ap. n. 0000703-17.2011.8.26.0269, Rel. Des. Plinio Novaes de Andrade Júnior, 24th Chamber of Private Law, j. 1.10.2015.); (BRAZIL. COURT OF JUSTICE OF THE STATE OF SÃO PAULO).
>
> Special Resource Possession Maintenance Action. Right of retention by accession and improvements. Modal Comodato Contract. Contractual Clauses. Validity. (...)

> 3. The allocation of the charge to the comodatário, consistent in the construction of a masonry house, in order to avoid the "favelization" of the site, does not denature the modal comodato contract. 4. Special resource not provided." (STJ, REsp 1316895/SP Rel. Minister Nancy Andrighi, j. on 11.06.2013.) (g/n) Electronic Justice Journal (28/06/2013) (BRAZIL. SUPERIOR COURT OF JUSTICE).
>
> Repossession. Evidential context of the case that authorizes the reception of vestibular claim. Demonstrated the existence of verbal and modal support in relation to the property in question. Sentence upheld. Resource devoid." (Ap. n. 0000104-66.2012.8.26.0003, Rel. Des. Luis Carlos de Barros, 20th Chamber of Private Law, j. on 14.3.2016.) (BRAZIL. COURT OF JUSTICE OF THE STATE OF SÃO PAULO.).

In the face of the foregoing, it was verified in the "Garden of Eden" book of Genesis chapter 2 verse 17, Almeida, (1996, p. 2), a condition or so to speak: a prohibitive clause, an obligation not to do: He commanded the lord God not to eat from the tree of knowledge of good and evil, for on the day that you will surely die from it. This contractual failure brought (a split) and (two effects), among which we can verify the situation of two deaths:

2.1 THE FIRST SITUATION

It refers to death in the spiritual sense or in other words the separation of man from God (Spirit). So, in the face of this abstraction [there is an abyss between man and that spirit called (God) and in this wake referring to spiritual or incorporeal death. It would be the separation of the spiritual man in relation to God, a spiritual future cause: hence the idea of religion in the sense of reconnecting man in relation to God]. Still in this reasoning and by analogy, it can be verified in constitutional text, as an affirmative norm and guarantor of the free exercise of religious cults and the protection of these places of worship and their liturgies, in accordance with (Article 5 and items, IV, VI, VIII of the Constitution of the Federative Republic of Brazil of 1988). In these terms, it makes clear the evidence and existence of a secular state. Once and for all, the myth and the common idea of the phrase is, the State is secular, but it is not secularist. In this tuning path, the difference between secular and secular state was verified,

> Christ taught, “give caesar what is caesar and god what is of God,” that is, the state and the church have different activities and must act together for the good of the people. The state is secular, that is, it does not profess a specific religion, but it must encourage religious value, which is part of the greatness and dignity of man. Laicity, correctly understood, means that the State must broadly protect religious freedom both in its personal and social dimension, and not impose, through laws and decrees, no specifically religious or philosophical truth, but to elaborate laws based on natural moral truths. The foundation of the right to freedom lies in the very dignity of the human person. […] (FELIPE AQUINO, 2019).

However, there are favorable trends regarding the withdrawal of a certain Christian symbol from public departments or offices, on the grounds that: This affects other professions or manifestations of faith, thus making a secular state, but not a secular one. This situation should not be the cause of certain events and it would be enough to read the Letter of Intent (which states: […], we enact, under the protection of God, the following CONSTITUTION OF THE FEDERATIVE REPUBLIC OF BRAZIL, 1988). On the other hand and with appreciation those who understand in an opposite or different way, it is possible to extract the following interpretation, from (Art. 5 ° and item, IV, V, VIII of the Federal Constitution of 1988.) In this way it was verified that this same God symbolically represented by a Cross or Crucifix that presents the image of Christ in certain Public Offices: it does not offend or affect or compel or constrain any Brazilian or foreign citizen to follow this same thought, whether by philosophical or political conviction. Being just the reflection of that same secular state, that is: Freedom of conscience and belief is, the free manifestation of thought and, on the other hand, the manifestation of spirit. In this feeling of a God to speak individually or even by the use of the pronoun, in order to identify certain groups of the same Faith and order. It is evident that legislators were referring to the Brazilian State and its Political-Administrative organization. Removing in advance any conflict in this area of Religion. This being the framework for the harmony and pacification of controversies, guaranteeing, in the form of the law, the exercise of their services and liturgies, as well as, the protection of these places, in order to achieve their material, as well as incorporeal, social function.

2.2 THE SECOND SITUATION

It refers to physical or corporeal death, it would be the separation of man from his fellow men, future and material cause. In this system one can verify a corporeal and incorporeal division between the original man (Adamic) and its creator. On the other hand, and without being elastic in the interpretation (in my view is this division that gives rise to the idea of a family entity, pursuant to (Article 226, third paragraph of the Federal Constitution of 1988) as well as the idea of possession, pursuant to (Article 1,196, of the Civil Code of 2002). However, this idea of possession was already latent in the Garden of Eden.

> Thus, the creator of Heaven and Earth and everything in it, left a teaching: When it comes to law, this law must be complied with, obeyed, provided that it complies with the higher hierarchical norm or by other terms, that the pact between the parties is respected (ALMEIDA, 1996; BOOK OF GENESIS, CHAPTER 2, VERSE 17, p.2).

Thus, with the fall of the man of the place called the Garden of Eden, this same man was cast out of this garden. This characterizes that the man was at his own risk. In this way she had to work, cultivate, explore this land, sowing it, protecting it, acting as if she had and survived it. But the Creator did not forsay Adam and his wife Eve, but he clothed them and cast them out of Eden, to till the land from which he had been taken. Once these considerations are made, it is possible to verify that: Adam and his wife Eve were the first inhabitants to exercise the right of non-full possession. In this act it seems to me, that this land in which Adam and his Wife was launched, was a way to reward them for their work and benefits generated in the Garden of Eden or even in this perspective (apart from a gesture of keeping the family cell, based on the right of possession, for the purpose of rural housing) and thus maintaining their survival and their development as a human being , thus respecting the projection of his personality from the dignity of the human person. In this stay, I could not fail to emphasize this important moment that man is cast out of the Garden of Eden. It is at this very moment that the right to exercise the full property (domain) to take back the good where it is, in accordance with (Art. 1,228 of the Civil Code, 2002.). It can be seen that the terminology of the word arrange which is contained in Art. 1.228 of the same code in question: it is presented in a general manner, which may mean, a donation with or without charges, a dress or another form of liberality that may exist between the contractors. It becomes crystal clear

that there is strong evidence that the right to property in the broad sensu sense, historically had its bases of formation in the light of creationist theory, being born at this first moment the concept of possession, in accordance with (Article 1.196 of the Civil Code of 2002, elsewhere mentioned). Another important point about property rights is carved into the Holy Bible in the book of Exodus. In this act bringing in its bulge the Laws on property and among the various species of properties mentioned in this book, it was verified in this case a similarity of the property with the right to life. Fitting into the concept of self-defense combined with the exclusion of illegality, in accordance with (Art. 23. Caput, item I, II, III c/c Article 1 all of Decree-Law No. 2,848 of 1940.) c/c (Article. 188, items and sole paragraph of Law N°. 10,406 of 2002.).

> Art. 23. There is no crime when the subject practices the fact: Item I- in a state of need; Item I- in a state of need, Item II, providing that: "there is no crime when the agent practices the fact: in self-defense, Item III- in strict compliance with legal duty or in the regular exercise of law; Article 1. There's no previous lawless crime that defines it. There is no penalty without prior legal comnation. (Penal Code, 1940) c/c (Art.188. They do not constitute unlawful acts: Item I – those committed in self-defense or in the regular exercise of a recognized right, Item II – the deterioration or destruction of the thing of another, or the injury to the person, in order to remove imminent danger. Sole paragraph – In the case of item II, the act will be legitimate only when circumstances make it absolutely necessary, not exceeding the limits of the indispensable for removal of danger. (BRAZILIAN CIVIL CODE, 2002).

Given this curious fact there are strong indications of positioning the right to property within the scope of Fundamental Rights and Guarantees, pursuant to Title II, Chapter I of Individual and Collective Rights and Duties. Such rights and warranties are listed in Article Art. 5°. Caput and item II, XXII, XXIII, XXXV, XXXIX and others,

> They are treated equally with the law, ensuring the inviolability of the right to life, freedom, equality, security and property. Establishing that no one is obliged to do or fail to do anything but by virtue of law. It also guarantees the right to property, bringing as imperative effect of the very norm that the property will meet its social function. (CONSTITUTION OF THE FEDERATIVE REPUBLIC OF BRAZIL OF 1988).

In this path also projecting itself in the scope of Civil and Criminal Law. In view of this observation, it was possible to verify that the problem is resonating in this first moment on the long manus of life, that is, the property. Thus, conferring on the possessor full or not the powers carved in accordance with the divine law. On the other hand, one can also see a caveat, in accordance with chapter 22, verse third of the book of Exodus, "If, however, there was already sun when this occurred, those who have wounded him will be guilty of blood." (ALMEIDA, 1996.). In the words of the above verse, the perfect framework is found in the following articles,

> Art. 25. It is understood in self-defense who, using moderately the necessary means, restrains the unjust aggression, current or imminent, to his or her or another's right to art. 65 of Decree-Law No. 3,689 of 1941. It does thing judged in the civil the criminal sentence that recognize to have been the act practiced in a state of need, in self-defense, in strict
>
> compliance with legal duty or in the regular exercise of law. (BRAZILIAN PENAL CODE. ESTABLISHED BY DECREE-LAW No. 3,689 DE 1941.). In this sense, and with the exception of the appropriate proportions, it was verified,
>
> Art. 1.210. The possessor has the right to be held in possession in the event of turbidity, restored in the shady, and held back with imminent violence, if he is just afraid of being molested.
>
> Paragraph one – The possessor, or bulging, may remain or be restored by his own strength, as long as he does so soon; acts of defense, or effort, cannot go beyond what is indispensable for the maintenance, or restitution of possession (BRAZILIAN CIVIL CODE OF 2002).

It turns out at this second moment that the problem is falling on the person, due to the right to life. Removing so to speak the exclusionof illegality, the self-defense coming from the property. In order to emphasize that the right to property is not absolute. Thus limiting the performance of the natural person or legal entity of public or private order, understanding the term property as the set of all the property of the person, corporeal and intangible. Knowing that the right is settled on the triad: Heritage, Life and Freedom, rights carved in

Constitutional and Infraconstitutional norms. In the face of this synthesis and as God allows me to see the right. It becomes crystal clear that (proprietary terminology is the principle of the genus, of which are species the right of the owner or the right of the owner to depend on the specific case in order to emanato its effects). yes, what we can infer in the original spelling,

> […] If the owner, to guarantee what he owes, subject the property to the creditor, obliging not to alienate it affected property–, gives itself the real right of hypotheca. If it dismemberes the domain, perpetuates or temporarily, transferring to others the utility of the cousa, the emphyteuse is given. If you transfer the right of possession, use or gooey, more or less completely,–split property, engraved–, give if the rights of the servitudes, surface, usufruct, use and housing. It is conceived that the real right of dominion recáia, and produces its effects, on a certain class of movable goods (81); however, that possible is always immovable cousas. according to the teachings of (TEIXEIRA DE FREITAS, 2003, p. 86-97).

In this wake it is important to emphasize that the Federal Constitution now in force guarantees the right to property, as well as the social function of property. That's what you get out of Art. 5º. Item XXII, XXIII of the Constitution in comment. Thus, fitting into the frame and terms of the dignity of the human person, ensuring all dignified existence, in the dictates of Art. 170, of this Constitution. In these terms the property is no more than ownership and vise and versa. Thus, we can infer that the real beacon of these phenomena has its foundation in the dignity of the human person, that is, in the projection and development of his personality. It is, what can be extracted from the Constitution in comment: Thus, from this sower and director principle, one can verify the extraction of others, or rather: germination and the birth of other equivalent principles or of the same carat and hierarchy. That at a given time can act: now in defense of the right of the owner or in defense of the right of the protection of possession, in order to bring to balance the social function of property in a particular state of the federation, as well as the general principles of economic activity, in accordance with (Article 170 CF/88.) It is observed that the protection of possession is not a mere instrumentality of the judicial protection of the rigid procedure of the proceedings. In this mainstay it was observed that: the protection of possession is a fact and a right that presented for the assessment of the State-Judge: which is entitled to say the right, in order to resolve such claim, either by virtue of ownership or by virtue of possession. Such situations

can be verified, with the exception of the appropriate proportions, as discussing the protection of tenure in the current Brazilian legal system,

> What can be withdrawn as a conclusive one of the above is that ownership and property are autonomous institutes, protected under the focus of different constitutional principles. Harmonics in the normative plane, the principles of property right and social function of properties can be involved in concrete situations of tension, when they move in the opposite direction, to require a solution of practical agreement that, fatally, will import the need to limit one of them for the benefit of the other, or both, for the common benefit of the system. The Constitution, although it does not explicitly guarantee a generic "right to tenure", undeniably protects possession when necessary to achieve specific purposes, including the realization of the principle of the social function of property. (ZAVASCKI, 2005, p. 21).

It was also verified given the appropriate proportions, in this same toada, according to the teachings in the mining of Queiroz Lima (1917, p. 1-97) in which he discusses, on: Patrimony, domain and possession. And in this triad, bringing the definition of property or Domain, as well as the choice of the Civil Code, by the terminology property. Thus demonstrating the importance of heritage, property and full or not possession During the *[que em dado momento a depender do caso concreto se fundirá em propriedade de maneira não original e revestida de legitimidade regressivamente positiva, adquirindo a moldura de seus direitos de proprietário, assumindo para si a responsabilidade das obrigações que possam recair sobre a propriedade, devido os seus acréscimos econômicos, sendo ressalvado nos casos específicos e nos termos da lei, devendo ser suscetíveis de apreciação econômica, formando assim todo o conjunto de seu patrimônio e seu arcabouço lógico no universo jurídico de direitos e obrigações, projetando tanto no direito positivo e no direito consuetudinário sua personalidade humana.]* construction of this article it was possible to verify the occurrence of the restlessness of the human being throughout its existence. This restlessness occurred first in the Garden of Eden: From the dialogue between the Serpent of the field and the Woman, in accordance with the Bible of the sacred,

> Book of Genesis. chapter 3. verse 1-24. [...] Is this how God said, Will ye not eat from every tree in the garden? And the woman answered the serpent, From the

> fruit of the trees of the garden we can eat, but from the fruit of the tree which is in the midst of the garden, God said, Ye will not eat of him, neither ye may touch him, that ye may not die. Then the serpent said to the woman, Surely ye will not die. Because God knows that the day you eat this fruit, your eyes will open, and you will be like God, knowing good and evil. Seeing the woman that tree was good to eat, and pleasing to the eye, and desirable tree to give understanding, took from its fruit, and ate, and also gave it to her husband, who was with her, and he ate. […] (ALMEIDA, 1.996. p. 2-3).

Because of this behavior and continuing in this dialogue between the serpent of the field and the woman, it makes clear the evidence of induction, awakening a desire for possession, a will of soul, a transmutation for the purpose of being equal to God. It is at this point that rests the restlessness of the human being, wanting to take hold of certain corporeal and incorporeal properties, fungible and unfungible, affecting divine norms or earthly norms. In this context it was verified that: eating the forbidden fruit was not the climax of the question, but the desire to get hold, to possess what does not belong to it. This is the moment of dramatic action in which the intention reaches its highest degree, generally articulating with a turning point, following which the outcome occurs. Thus it was verified in the work entitled the Technique of Drama:

> […] It considered the existence of a pyramidal structure, with an ascending action, a climax and a descending action. The ascending action begins with exposure and intensifies through the complication until it reaches the climax. The descending action goes through what Aristotle designated as peripeteia (a sudden change that alters the course of events) towards the denouement, whose configuration varies depending on the genre in which the piece integrates. (FREYTAG'S, 1900, p. 101, 112-114).

This said, what occurred in the dialogue between the field serpent and the woman, affected the principles of a hierarchically superior norm. In these terms, by listening to the serpent of the field, both woman and man, affected a higher norm, disobeying the limits conferred upon them. Thus affecting the norms of divine law, thus changing the course of events. In this context, one can verify and name these norms, such as: norms of observance of the superior hierarchy in the face of lower hierarchical law. It is known that at that time the law was not as

we conceived it today and in these terms was verified in a similar way the Pure Theory of Law according to Kelsen (1998) which provides on the hierarchy of norms. In this line of reasoning, the restlessness of the human being, in no way hinders the externalization of the desire, to have a closer, more intimate relationship with the universe, provided that, respected the hierarchy of the current norms, depending on the concrete case. In the same way, the participation of other areas of knowledge is not ruled out, that is: Anthropological knowledge; Mathematical knowledge and Sociological and Philosophical knowledge. In this step, the participation of other theories, as well as those theories expressed in the introduction of this article, is not ruled out. Because these theories, together with other areas of knowledge, underlie the support that guides the restlessness of the human being in unveiling the origin of the universe and its relationship with this same universe. Given the theories expressed at a previous time, we will only make a call in order to bring the memory, let's see: The Theory of the Holographic Universe, this theory in close synthesis informs us that the universe is a gigantic hologram. The Big Bang Theory, this theory tells us that the universe arose from a large explosion. The Theory of General Relativity, this theory was about space, time and movement. The Heliocentric Theory, for this theory the Sun is the center of the Universe and the Earth revolves around it. In view of the above, one can verify the cosmological aspects that study the structure of the universe and on the other hand we can verify the aspects of cosmogony that study the origin of the universe. In this mainstay it is clear the evidence in which: in a supplementary way, these theories complete and enrich, in order to better understand who is this human being (man) and what are the reasons for their concerns in relation to the universe in which they live. Thus, it was observed by several areas of knowledge that this restlessness only occurred due to the need to have a closer, more intimate relationship with the universe. In this step, when a desire to participate was born, however, it was not enough to know the structure and origin of this universe and in this sense it was verified according to the following journals and their respective journals. In the journal of the Journal of the University of São Paulo, as described by Steiner,

> SUMMARY.
>
> THE VARIOUS cosmological models throughout history are briefly described. The evolution of ideas can be understood as a succession of models, such as the flat Earth, the geocentric models, the heliocentric and the galactocentric models. In the last hundred years a theory has been developed, that of the Big Bang, which

> describes the most sophisticated observations that we have today and that shows that the universe had an origin that can be researched scientifically. In recent decades, this model has been refined to a new concept, that of the inflationary Big Bang. At the turn of the millennium, new discoveries have shown that all known matter is just the tip of the iceberg in a universe dominated by dark energy and dark matter whose natures remain mysterious. (REVISTAS USP, 2006, p. 231-248).

In the journal of the Journal of the Federal University of Minas Gerais. The authors Francisco; Luiz and Gabriel, describe the following subjects,

> The universe model most accepted by the scientific community, known as the standard cosmological model, predicts that the universe began about 14 billion years ago. This initial instant is called the Big Bang. After the Big Bang, the universe expanded and cooled. In the first millionth of a second, or just after this interval, there were quarks, gluons, electrons and neutrinos. Protons and neutrons emerged after 0.0001 of a second. The formation of light atoms occurred three minutes later, while neutral atoms formed after 400,000 years.
>
> In the next section, we will describe the “cosmic battle”, with gravitation and energy release as its protagonists and, as a result, the formation of the lighter chemical elements. Next, we will present the formation of stars and the appearance of life [...] (REVISTA DA UFMG, 2012, p. 182-205).

That said, the existence of Cosmology and Cosmogony is based, as well as its effects on the human being’s anxiety to know or approach the structure and origin of the universe,

> cosmología (from gr. kosmos: world, and logos, science, theory) Set of scientific theories dealing with the laws or properties of matter in general or the universe. Every cosmology supposes the possibility of a knowledge of the world as a system and its expression in a discourse. Therefore, the image of the world system is decisive for every philosophy that is intended to be systematic. The postulate of a totalization of the world, by knowledge, is indispensable to a possible totalization of one’s own knowledge. (JAPIASSÚ; MARCONDES, 2006).

> cosmogony (gr. kosmoonia: creation of the world) Theory about the origin of the *universe, usually founded on legends or myths and linked to a metaphysics. At its origin, it designates every explanation of the formation of the universe and the celestial objects. Currently, it designates the explanations of mythical character. E.g.: the pre-Socratic cosmogony of Tales of Miletus, Anaximander, Empédocles etc. (JAPIASSÚ; MARCONDES, 2006).

This put and transmuting to the present day humanity, whether by a mystical or religious or scientific view, continues to pave the way of the theories of cosmology and cosmogony among others. In this sense, the search for the structure and creation of the universe was chosen by creationist theory, based on the Holy Scriptures, book of Genesis, because it believed to be the most appropriate for the construction of this article. In this way it was verified in the terms so arranged in the Holy Bible,

> Book of Genesis, chapter 1 – 3. In the beginning God created the heavens and the earth. The land was shapeless and empty; there was darkness on the face of the deep, and the Spirit of God hovered over the face of the waters, [...] Now the Lord God planted a garden in Eden [...], The Lord God took man and put him in the garden of Eden to plow and store it. [...] The Lord God therefore cast him out of the garden of Eden to plow the land from which he was taken. [...], He placed cherubs in the east of the garden of Eden and a flaming sword that revolved on all sides, to guard the path of the tree of life. (ALMEIDA, 1996, p. 2-3).

> Thus, in the terms of Holy Scripture it was verified in the book of Genesis in the first chapter until chapter three, that: the principle and authorship of the creation of the heavens and the earth and all that is in it. In this act of divine creation is born the first right of intellectual property or copyright and in this act by strong indications it is possible that the legislator watered from this source of divine creation when he carved Article 1, 7 in Law, N°. 9.610/1988,

> Art. 1º: This Law regulates copyright, understanding under this name the copyright and those related to them; Art. 7º Intellectual works are protected creations of the spirit, expressed by any means or fixed in any medium, tangible or intangible, known or invented in the future, such as [...]. (BRAZIL, LEI, N. 9.610

DE 1988.).

It is known that the above-mentioned law was aimed at protecting and guaranteeing the rights of the author in order to express by artistic, literary, scientific means his will of the spirit, that is, the manifestation of his intellectability. At a later moment, concerning divine creation and jumping a little more in history, it turns out that: it was conferred on man to till and guard this Garden called “Garden of Eden”. In this line of thought man was granted possession of this garden and he could feed on it, from the fruits, except from the tree of knowledge of good and evil, but on the day he eats it, you will surely die. Before this divine Law it can be observed that there are strong indications that the legislator continues to drink in the same source of divine creation let us see,

> Art. 1.196. Everyone who has the exercise, full or not, of some of the powers inherent to property is considered possessor.
>
> Art. 1.197. The direct possession of a person who has the thing in his possession, temporarily, by virtue of personal or real law, does not annul the indirect, of whom it was tried, and the direct possessor can defend his possession against the indirect.
>
> Art. 1.214. The possessor of good faith is entitled, for as long as it lasts, to the perceived fruits. (BRAZIL, BRAZILIAN CIVIL CODE 2002).

So, in terms of the Holy Bible in the book of Genesis. A non-full condition of possession and an obligation not to do so has been verified:

> Book of Genesis. Chapter 2. Verse 16. The Lord God commanded man, saying, From all the tree in the garden thawe shall eat freely, Verse 17. but from the tree of knowledge of good and evil, tha you will not eat from it, for on the day you eat it, you shall surely die. (ALMEIDA, 1996. p. 2)

It makes clear the evidence that the man was not in the Garden of Eden as a gardener, caretaker, administrator or even in the condition of holder of the Garden of Eden. However, his condition was of direct possession, for a logical reason: there was an owner there who exercised full control of the property. From this perspective the man of the garden of Eden

possessed this garden and there was a verbal and direct order which limited the right of the possessor. Thus, it was verified that between God and man there was a verbal contract and with the breaking of this contract: God begins to exercise the full right of erected owner of the domain of property founded on the possession of the so-called, Garden of Eden. Thus formulated in his powers of: to use, to enjoy, to dispose and to retake the good where he is or by virtue of possession, technically called (naked-property). In this way reusing this good, based on the right and full exercise of domain of the property. In this wake there was a contractual clause that focuses on the termination of the contract between the parties, that is, between God and man, as stated at another time. Such situation, in which emerges from the Article. 5º. Item – XXXV of the Constitution of the Federative Republic of Brazil of 1988: "The Law will not exclude from the assessment of the judiciary injury or threat to the right."

As verified in Holy Scripture, Verse 20 and 21, Almeida (1996, p.3). Due to the contractual resolution was verified out of curiosity: the moment when the man came to be called Adam and in turn the Woman came to be called Eve: "He called the Man his wife Eve, because he was the mother of all the living; Did the Lord God wear fur for Adam and his wife, and put them on." In these terms and overcome curiosity, the right of the owner and the indirect possessor to exercise the right, custody or possessory protection under the divine and landlaw is substantiated. Thus, in view of all the exposed to the light of creationist theory, even if in summary, it was possible to observe and verify the importance of property law and the Right of Ownership. Getting characterized once again that possession is a fact and a right. These rights are to safeguard the right of the owner, as well as the right of the owner, all founded on ownership. Knowing that the existence of possession depends on the existence of the property. And in the present case, in the material and immaterial sense, in order to achieve its social and economic function, which must be erected both of property and of possession. In this sense informs us of the doctrine,

> It is well seen, thus, that the principle of social function concerns more the possessive phenomenon than the right to property. This function "is more evident in possession and much less in property", observes the attentive doctrine, and hence talk of social function of possession. [...] (REALE, 1999, p.8; FACHIN, 1955, p. 19 apud ZAVASCKI, 2005, p. 2).

In this reasoning it is important to emphasize that: Possessive actions are instrumental

means of the rigid formalities of the legal protection of the case, with the scope of obtaining from the State-Judge, the (judicial protection), being that protection a judgment of merit that may be a judgment upheld or unfounded. On the other hand, nothing prevents the settlement of the demands for the protection of the law, that is, by the out-of-court or judicial mediation, in accordance with the said laws and resolution of the National Council of Justice,

> It provides for mediation among individuals as a means of resolving disputes and on the self-composition of conflicts within the public administration; amends Law N°. 9,469 of July 10, 1997, and Decree N°. 70,235 of March 6, 1972; and repeals § 2 of Article 6 of Law No. 9,469 of 10 July 1997. (LEI, N°. 13,140 of June 26, 2015.).
>
> Art. 3. Threat or right-to-injury from the judicial assessment shall not be excluded from the judicial assessment.
>
> § 2 – The State shall promote, whenever possible, the consensual settlement of conflicts.
>
> § 3 – Conciliation, mediation and other methods of consensual resolution of conflicts shall be encouraged by judges, lawyers, public defenders and members of the Public Prosecutor's Office, including in the course of the judicial proceedings. (Law, n°. 13,105 of March 16, 2015.).
>
> It provides for the National Policy of adequate treatment of conflicts of interest within the judiciary and provides other measures. National Judicial Policy; Conflicts of interest; consensual means; Permanent Centers of Consensual Methods of Conflict Resolution; Training and training [...] (RESOLUTION OF THE NATIONAL COUNCIL OF JUSTICE (CNJ) n. 125 of November 29, 2010.).

Of course, at that time, that is, in the Garden of Eden, it was a social function of rural Food and Family nature and in this step, we can even say that it was a situation of family agricultural activity and destitute in this first moment of economic capacity itself. Thus, we will check in the next chapter the economic reflexes and the social function of the property as we conceive it today.

3. ECONOMIC REFLECTION AND SOCIAL FUNCTION OF PROPERTY

In relation to this chapter it was verified in a tight synthesis: in which, the economic reflexes and the social function of the property itself, that is, of full dominance and on the other hand making a distinction between economic reflexes and the social function of the property. Knowing that the economic reflexes act in a certain way, Stricto Sensu acts in the social field, however they are not confused with the social function of the property, as it contains a breadth, encompassing other situations not contained in the economic reflexes. However, without losing its direct and indirect economic characteristic or named in my opinion, of: Economic Reflections Internal Parties and External Parties. That said, we will begin to analyze the economic effects arising from the property, in that first moment we understand the property in the residential (commercial) sense, or built urban building or rustic building with continuous area or even small rural property. Even if this property is realized through an acquisition made or signed in the purchase and sale or through the right of succession or acquired by the personal action of usucapir and acting as if it were the owner or according to other understandings: by the Urban or Rural Institute of Usucapião or by the expropriation institute for land reform purposes. In the context above, it is worth mentioning the residential lease, which in a way brings an economic increase for the lessor and, in a way, depending on the specific case, it could also bring an economic increase for the lessee: knowing that the lessee could be hired to exercise his job because of the proximity to the workplace, as well as, the infrastructure of the location could provide a certain economic increase. In this same sense of economic increase, the non-residential lease and the Lending would fit, respecting the due proportions of each one. Therefore, following the general principles of economic activity, set out in the National Ordinance now in force, under the terms of Art. 170. In this way, it meets the guarantee of the right to property and the social function it must serve, under constitutional terms. On the other hand, they bring an economic increase arising from a command, from a Constitutional norm, regulated by infraconstitutional Law. Whether for the right of succession or for adverse possession or arising from the donation or expropriation or through a will. In this context, instead of spending on rent, you will have the possibility to invest and maintain the basic requirements of your family, that is, your fundamental rights inherent to those who constitute and are part of a certain society. At this point, it was verified that: in addition to having the character of sheltering the family member, it provides an improvement in their quality of life and in their development as a human person. In this

context it is verified that the economic reflexes arising from the right of property can be classified or denominated as: Economic Reflexes Internal Parties and External Parties. In this way, the Internal Parties Economic Reflections will be perceived in the first step, within the family, as a sensation of the abstract effect arising from this economic reflection. It is clear that we are not positioning it, as an expectation of right or as a subjective or choice right or even a future and uncertain right. In this case, the reflection positioned above will be reversed in some way to the family entity, having in its applicability effects, as a hypothetical autonomous rule, which will materialize as External Parties Economic Reflections, regardless of a decision to be applied by a certain family entity. Thus, this command of abstract norm, meets Kelsen's (1881-1973) hypothetical fundamental norm:

> (...) Finally it should be noted that a norm can be not only the sense of an act of will but also – as content of meaning – the content of an act of thought. A norm can not only be wanted, but can also be simply thought of without being wanted. In this case, it is not a set norm, a positive norm. This means that a standard does not have to be effectively put – it may simply be presupposed in thought. (KELSEN, 1881-1973, p. 7, 267).

> For KELSEN, validity translates the peculiar mode of existence of the norms. In other words, the rule is valid only if it emanashes from a legitimate act of authority and has not been repealed by it. Such an act represents the condition for its validity, but not its basis for existence. The basis of a rule, according to the creator of legal purism, is contained in another rule, which it calls a fundamental hypothetical rule. (SOARES, 2002).

> (...) The theory of legal norm, according to Hans KELSEN, is based on the distinction between the sein (being) and the sollen (duty), that is, on the existence of the physical world, subject to the laws of causality, and of the social world, subject to the laws of the spirit, which, being laws of ends, can be translated into norms

> Kelsen's fundamental norm has a hypothetical character: (...) (REALE, 1998, p. 167, apud SOARES, 2002).

In view of this brief exemption, it was possible to verify by an expanded analysis that: The right of property respected the appropriate proportions is a part of the dismemberment or dismemberment of the extension of national territoriality. In this context it would not be sufficient only the possession or registration condition concerning the ownership of real estate, nor would it be sufficient only the condition of National Sovereignty. Thus, it was verified once again that possession is composed of the elements that individualize it, independent of the legal abstraction applied in each specific case. As an example, it was verified in the Veredas da História Magazine, according to an article prepared by Felipe Rabelo Couto (200, p. 55-85): the question of ownership between Brazil and Bolivia and the solution given in this issue of acre territoriality. In this step the master object is the protection of the soil, land, floor *(where property or territorial boundaries to be exercised in the name of the right of possession or domain arise from it: from this derives the individual and collective rights whether of natural or legal persons of private or public law or even those of international scope. Thus such protection will only occur through possession, whether full or not, remembering that possession is a state of feeling and the property its confirmation, but the dominion to all fill)*. Thus, it is imperative to emphasize that: Among other constitutional forms, such as expropriation and sparse laws. Ownership can be acquired through the purchase and sale; the right to succession; by usucapião; donation or by registration of the title. Thus inssigned in the Brazilian Civil Code,

> In Title V- Contracts in General, we can cite the contracts entered into in the purchase and sale, pursuant to Art. 421 and following; in Title VI Of the various Contract Species, one can mention Art. 481, 482 and following; in Book V of the Right of Successions one can mention Art. 1,784 and following; in Chapter II of the Acquisition of Immovable Property, we can mention those acquired by usucapião pursuant to Art. 1,239, 1,240, 1,240-A, 1,241, 1,242; chapter IV of the Donation, art can be mentioned. 538 and following; in Section II Of The Acquisition by Title Registration, we have Art. 1,245 and following. (BRAZILIAN CIVIL CODE 2002).

In this sense, it was observed that the mere presence of a rustic (rural) or urban property, drives the State Organization to guarantee and respect the rights and obligations concerning these matters, which are carved in Article 5, Item, XXX; Article 6: all of the Federal Constitution of 1988. Whether in relation to the Union, as well as its federated entities, that is, the State or Municipality by virtue of the real right of ownership, full or not. On these

rights, given the appropriate proportions, one can verify their direct reflections concerning the dignity of the human person and in this act indirectly reflecting also on social rights. These constitutional principles and rights are *ERGA OMNES* and must be observed, respected and guaranteed in the form of the law. Also because: They are born with the full or not possession of property, that is, they are born with the fixation of man to the ground. Thereby characterizing itself beyond possession and going against its nationality and its geographically speaking naturalness. Lengthening by the blood ties concerning the affiliation. Resuming in general terms the original idea of this article, it is verified once again the importance of (Possession) in the right to property, as well as its exhaustive protection. Knowing that this protection, in the case of the real right of property of immovable property, will be exercised to those who hold the possession, whether full or not. In this line of reasoning, the same occurrence of protection was verified in the sense of its territoriality, nationality and naturalness or affiliation. Which are covered in the term *JUS SOLI* (ground right) and *JUS SANGÜINIS* (blood right). Although they are autonomous among themselves: *SUI GENERIS* is supplemented in order to guarantee the right of possession, thus conceptualized,

> Retention or enjoyment of a thing or a right., State of who owns a thing, who holds it or has the enjoyment of it., Action or right to possess for the title., Fortune, possessions., Ability, fitness., Means, forces; scope, take possession: to take possession, to give possession, it is said of an act by which someone is invested or invests others in a right, in a office or dignity. (BRAZIL, AURÉLIO DICTIONARY).

Knowing that possession is considered by the exercise in fact. Which, considers possessor all who has in fact the full exercise or not, of some of the powers inherent to property. Thus, it was verified: that the soil issue functions as a master plan to conduct other branches of law in its effects. Whether, in the constitutional, civil, criminal, tax etc. In this way, the State (Union) attracts its sovereignty to itself, distributing the proper competences of the political structure, that is, of the State Organization, contained in its constitutional norms or (principled constitutional norms). Functioning as guidelines to be observed and respected by the infraconstitutional laws. This can be verified in the National Planning now in force: it brings the proper treatment of the Political-Administrative Organization, functioning as well as a true “Cheks and Balances” (brakes and counterweights). It is, this balance that regulates and self-regulates, in order to limit the powers of action: whether of the State (Union) or in

relation to the federated entities, or in relation to their subjects or even in the face of the other. Thus, according to Montesquieu (2000, p.19): thus respecting the principled constitutional norms and thus maintaining the separation of powers to obtain a decentralized administration. Facilitating or enabling the applicability of the exercise of the Constitutional programmatic norm, to confer and give (full or restringible efficacy) or even (limited) to the Constitutional Programmatic norm. Whether they are immediate or mediated, which are expressed in the body and in the preliminary term of the National Planning in force. And, in this way, to be able to direct them to the activities of their subjects, ensuring their participation in the whole context that encompass them.

4. CONSTITUTIONAL LIMITS ON PROPERTY RIGHTS

In this chapter, the constitutional limits of the right to property were verified, as expressed in constitutional text, decrees and federal laws among other sparse laws. Thus we will mention at this first moment: the guidelines, as well as the limits carved in the Federal Constitution of 1988: (Art. 5° Caput and item XXIV, XXV) w/c (Art. 136 Caput and paragraph one, second item); (Art.137 Caput and item I); (Art.139 Caput and items I-VII and § single); (Art. 243). In this line of reasoning was also verified in accordance with Decree N°. 54,535 of 30 October 2001,

> Decree N°. 54,535 of Oct. 30 2013. Menu. It gives new wording to Articles 3, 4, 5, 6, 7, 10, 11, 13, 14 and 18 of Decree N°. 53,799, of March 26, 2013, which establishes the procedure to be observed for the expropriation of goods useful or necessary to the interests of the Municipal Administration. (OFFICIAL CITY GAZETTE OF 10/31/2013, p. 1).

In this wake it was verified in accordance with the Federal Decree-Law, n°. 3,365 of 1941, with expropriations for public utility and in this sense was verified in Law N°. 4.132/1962,

> (Art. 1º The expropriation by social interest will be decreed to promote the fair distribution of property or condition its use to social welfare, in the form of Art. 147 of the Federal Constitution); (Art. 2º It is considered of social interest: item I – the use of all unproductive or exploited good without correspondence with the

> needs of housing, work and consumption of the population centers to which it must or can supply by its economic destiny [...] (BRASIL, CHAMBER of Deputies).

Thus, the constitutional articles cited at another time are in line with the decrees and laws already mentioned. Whether with regard to limits or mitigations of the use of the property. However, there are adverse thoughts regarding the preponderance of the Union to exercise expropriation in the face of its federated entities, among these thoughts we can bring to lumen: (MARÇAL, 2015; OAK, 2008). This said, it becomes clear the evidence in relation to the entities listed to exercise their autonomy in the face of expropriation in the form of the law. In this act we can see that the Constitution of the Empire already embed the constitutional limits that affect the use of property rights or in other words: the right of the owner in relation to property. In this tuning point was verified in the original spelling, pursuant to the PROMPTUARIO DAS LEI CIVIS (SIC), STF PATRIMÔNIO N. ° 12539.9,

> Right of property the only exception to the fullness of the fullness, according to Art, 179 § 22 of const. Imp., will take place when the public good requires the use, and use of the property of the citizen, for necessity or utility – Law of September 9, 1826, Law, N°. 353 of July 12, 1845. (FREITAS, 1876, p. 212-213, 224)

In view of the approach throughout this article, the limits of the one who holds the inauguration, as well as the limits of the autonomy of the State in the face of the mitigation of the rights and guarantees of that same possession, becomes crystalclear. Thus, it was also possible to verify the importance conferred on the social and economic function of the property.

5. THE EXTENT OF THE DAMAGE CAUSED FROM THE CLEAN CITY LAW

This law provides for the objectives, the guidelines, in order to maintain an ecologically balanced environment. Also bringing in this bulge the strategies and definitions in relation to the elements that make up the urban landscape of the Municipality of São Paulo. In this sense, going against the principles and precepts of republican and democratic law, which, guide the entire National Order. Therefore, the common competition of the municipality carved in the Federal Constitution of 1,988, in which it has,

> Art. 23. It is the common competence of the Union, the States, the Federal District and the Municipalities: Item VI. protect the environment and combat pollution in any of its forms. Art. 30. Municipalities are responsible for: I – legislating on matters of local interest; II – supplement the federal and state legislation in that fit; [...] (BRSIL, FEDERAL CONSTITUTION OF 1988).

Knowing that the Constitution in question, it provides for the common competence of the Union and its federated entities, in order to protect the environment and combat pollution in any of its forms. In this sense, it was verified in the same Constitution in comment, as well as, it was verified in the Organic Law of the Municipality of São Paulo and in the Municipal Law of São Paulo:

> Preamble *We, representatives of the people of the Municipality of São Paulo, gathered in a Constituent Assembly, respecting the precepts of the Constitution of the Federative Republic of Brazil, promulgate, under the protection of God, this Organic Law, which constitutes the Fundamental Law of the Municipality of São Paulo, with the objective of organizing the exercise of power and strengthening democratic institutions and the rights of the human person*. Art. 13. It is up to the Chamber, with the sanction of the Mayor, not required for the specified in Article 14, to dispose of matters of competence of the Municipality, especially: (Amended by Amendment 05/91) Item I – legislate on matters of local interest; Item II – supplement the federal and state legislation, in which it is applicable; [...] (ORGANIC LAW OF THE MUNICIPALITY OF SÃO PAULO.).
>
> It provides for the ordering of the elements that make up the urban landscape of the Municipality of São Paulo. “Art. 32. For the purposes of this law, the owner and the owner of the property where the advertisement is installed are jointly and severally liable for the advertisement. [...].” (MUNICIPALITY OF SÃO PAULO, Law No. 14.223/2006.).

Thus, it was possible to verify: that there is a huge difference between common competence and competence of local or supplementary interest, in its fit, whether in relation to federal or state legislation. In this act it was observed, as considered by Art. 32, the Law, No. 14.223/2006: which imposes joint ly responsible for business or business activity, positioning

the lessor as a partner of the respective activities. In this wake, we briefly listed two decisions among others of the Court of Justice of the State of São Paulo (TJSP), in favor of the Municipality of São Paulo,

> Court Decisions (Under the Registry: 2018.0000081077, ACORDÃO, Appeal No. 1040212-28.2016.8.26.0053, administrative fine devoid of proter rem nature); it was also verified that the solidarity arranged in Art was inconceivable. 32, of the "Clean City Law" under the Registry: 2018.0000608504, ACORDÃO, Civil Appeal/Necessary Review/Fines and other Penalties N°. 0100869-31.2008.8.26.0053). (BRAZIL, Court of Justice of the State of São Paulo.).

At this point, the law in question affects the Law, Federal N°. 8,245, october 14, 1991. It provides for the leases of urban real estate and the procedures relevant to them, as available in its Art.1° and Sole Paragraph: "The lease of urban property is regulated by the provisions of this Law. Sole paragraph – Remain regulated by the Civil Code and special laws." In this wake, the municipality cannot legislate on civil law, much less impose jointly and severally liability between the Lessor and Renter, thus affecting good faith, good customs and contractual freedom, in accordance with Law, no. 10,406 of 10 January 2002. Article 421 in accordance with its disposal. The freedom to hire shall be exercised on grounds and within the limits of the social function of the contract; Article 422. Contractors are obliged to keep, as soon as the conclusion of the contract, as in its execution, the principles of probity and good faith. In this way it affects the free initiative carved, in accordance with Art.170, of the Constitution of 1988. Finally affects the consumer's right of choice and hinders the movement of goods, affecting the entire framework that involves the consumer chain. Thus, the "Clean City Law" exceeds its legislative competence when it intervenes directly in the contractual relationship between the Lessor and the Renter or comodante and the comodatário of urban residential property or non-residential urban property, as well as in companies and professionals, according to article. 32 and paragraphs of the Law, n°. 14.223/2006.

> Art.32 For the purposes of this law, the owner and the owner of the property where the advertisement is installed are jointly and severally liable for the advertisement. Paragraph 1. The installer company is also jointly and severally responsible for the technical and security aspects of installing the advertisement,

> as well as its removal. Paragraph 2. As for safety and technical aspects related to the structural and electrical part, the respective professionals are also jointly and severally responsible. Paragraph 3. As for safety and technical aspects related to maintenance, the maintenance company is also jointly and severally responsible. Paragraph 4. Those responsible for the announcement will be administratively, civilly and criminally responsible for the veracity of the information provided. (MUNICIPALITY OF SÃO PAULO, Article. 32 and paragraphs of the Law, nº. 14.223/2006).

Thus, it was observed and verified in the Special Part of Book I of The Law of Obligations, of the Brazilian Civil Code of 2002 and in accordance with Law, Nº. 8. 078 of September 11, 1990. Thus, it can be verified that these legal diplomas, among other laws, bring the treatment, as well as the jurisdiction concerning each specific case, mentioned in Art. 32 and paragraphs of the "Clean City Law". Becoming translucent its affectation and lack of common competence in these cases. In this act, once again the municipality innovates situations and conflicts with the ordering of constitutional and infraconstitutional norms, as well as, affects Federal Laws and State Laws: Which does not confer such scope. In this step, its object is lost by distancing itself from the normative order to be supplemented by it. In addition to its supplementary legislative capacity. Position this responsibility jointly and severally to the owner or owner, as well as the companies providing services and their respective professionals, impinging them adverse obligations: it is to innovate the constitutional order. In this tuning point, such responsibility of the legislator becomes forced and anti-republican, thus hurting the democratic principles of a rule of law. Thus, the legislature interferes with the Pacta Sunt Servanda, a pact concerning only the celebrants or contractors or technically speaking to the Transmittors, as well as interferes with their succession vocations or a third party concerned who will be affected, whether in their rights or in their obligations. On this treadmill, it is not enough just the will of the legislator and it is necessary to respect the maxim of those who can more, it can also be less. So the law, nº. 14.223/2006, does not have the special law, it is in the present case: a law of common jurisdiction and local interest, as stated at another time. It urges to highlight the lessons at which it is available,

> […] the Federal Constitution of 1824 confers the municipality administrative attributions, pursuant to Additional Act No. 1 of October of the same year, adopted by Law August 12, 1824. With the coming of law no. 1 October 1828, all cities and

> towns of the Empire began to be composed by the respective Municipal Councils. Thus enabling you to take care of your community interests. A few years later the rigorism of the constitution now in comment was mitigated with the advent and adoption of the Additional Act of 1834 [...] (NOGUEIRA, 2012, p. 12, 21-22),

At that point, according to the sayings,

> Calmon, in his thesis, The Federation and Brazil:
>
> Calmon, called this sensitive relaxation of the Political Charter of 1824, as: semefederalism. However, in the understanding of the respective authors: José de Aguiar dias; Alcino Pinto Falcão. This slowdown occurred due to the application of the principle of devolution, a qualification given by modern doctrine. By this principle the Central Government returns the exercise of certain powers, thus maintaining the subordination of local governments. (FALCÃO; DIAS apud NOGUEIRA, 2012, p. 22).

In this act and jumping in time and history: in Article 18, of the National Planning Of 1988, it provides for the political-administrative organization of the Federative Republic of Brazil. Thus understood by the Union, the States, the Federal District and the Municipalities, in accordance with this Constitution. Thus, the political and administrative autonomy has been verified in the Order ing now, which brings us to Art. 2nd, of the Federal Constitution of 1988. Having on the powers of the Union, with regard to its autonomy, its harmonization of powers, thus the legislative, the executive and the judiciary. Thus, these independent and harmonic powers among themselves continue to dot the condition of their political and administrative acts. For this, that is, the legislator: must respect the separation of powers and their limits, in order to avoid a certain affectation in the relations within the social within and because it is jungido by hierarchically superior norm and by Federal Law and by State Law. On the other hand, considering that these tenants, will affect environmental laws of any nature, we must remember that the lease is a kind of assignment of use of the real estate rights. Whether for a specified or indeterminate period, thus reaching the full possessor or not. Knowing that there is no possession without property or property without possession, due to its sui generis condition. In this context, it is important to emphasize, in terms of Art. 23, of the Law, N°. 8.245/1991.

> Art. 23. The lessor is obliged to: (...); Item II. use the property for conventional or presumed use, compatible with the nature of the property and for the purpose for which it is intended, and must treat it with the same care as if it were yours; (...).

Continuing in this context, it was verified that the legislator, in accordance with Art. 582, of the Law, N°. 10,406, 2002,

> Art. 582. gives the Comodatário the same obligation. The comodatário is obliged to keep, as if his own out, the thing borrowed, and can not use it but according to the contract or the nature of it, (...).

It conferred the same obligation for the comodatário in relation to purpose, to care and to care as if it were his own. In view of these articles, it was verified that: The spirit of the owner, in these specific cases, falls on the renter and the comodatário by force of the law itself. This will of the legislator, attracts to the renter, as well as to the comodatário the responsibility for the use of the thing loundered or borrowed. Thus, I do not meet the real rights, because they fall on property such as the Urban Territorial Tax (IPTU) or Rural Territorial Tax (ITR). In this act, it was verified that: *[in my opinion, the legislator covers the tenant and the lender with ANIMUS DOMINI NORMATIVO CONSTITUCIONAL, that is, with the feeling of owner, with the soul of owner, with owner procedures, by means of an imperative command of the current rules]* . In this wake the legislator reinforces the thesis of the right of possession, based on property, full ownership or not, or even on the right of surface and slab. These being the objects of rental, lending or related to rental or loans of real estate. Anemia and confusion from Art becomes crystal clear. 32, of the "Clean City Law", previously mentioned, as well as its flagrant absence of operational, either by eivar of vices the Constitutional Norm, in which it provides, "Art. 22. It is privately up to the Union to legislate on: Item I – civil, commercial, criminal, procedural, electoral, agrarian, maritime, aeronautical, space and labour law; (...)."

Thus affecting the union's private competence and/or by affecting other branches of law. This should be taken into account in accordance with the sole paragraph of Art.23 of the Federal Constitution of 1988,

> Art. 23. It is the common competence of the Union, the States, the Federal District

and the Municipalities:

Sole paragraph. Complementary laws will lay down rules for cooperation between the Union and the States, the Federal District and the Municipalities, with a view to balancing development and well-being at the national level.

With regard to Complementary Law N°. 140/2011. This, in turn, brings the administrative actions of the Municipality of São Paulo, thus arranged in Art. 9, of the same complementary law in question,

Art. 9º. The administrative actions of the municipalities are: Item I – to implement and enforce, at the municipal level, the National and State Environmental Policies and other national and state policies related to the protection of the environment; Item II – exercise the management of environmental resources within the scope of their duties; (...).

Complementary Law N°. 140 of December 8, 2011. It lays down rules, pursuant to paragraphs III, VI and VII of the caput and the sole paragraph of art. 23 of the Federal Constitution of 1988: for cooperation between the Union, the States, the Federal District and the Municipalities in the administrative actions arising from the exercise of common competence relating to the protection of notable natural landscapes, the protection of the environment, the protection of pollution in any form and the preservation of forests , fauna and flora.

Thus, it amends Article 1 of Law N°. 6,938 of August 31, 1981. At this point the Municipal Law is not authorized to dispose freely about general rules in relation to the environment and is not granted to legislate on the right of full or non-possession, as well as the right to surface or even impose joint and several liability on companies and professionals in their services. Knowing that such an act would be for the State: by delegation of the Union or in the absence of general rules on the subject, in accordance with Art. 24, I, V, VI, VIII and paragraphs, all of (CRFB/1988),

Art. 24. It is up to the Union, the States and the Federal District to legislate concurrently on: Item I – tax, financial, penitentiary, economic and urban law; Item

> V- production and consumption; Item VI – forests, hunting, fishing, fauna, nature conservation, soil and natural resources defense, environmental protection and pollution control; Item VIII – responsibility for damage to the environment, the consumer, goods and rights of artistic, aesthetic, historical, tourist and landscape value. Paragraph One – Under competing legislation, the Union's competence shall be limited to establishing general rules. Paragraph two – The Union's competence to legislate on general rules does not exclude the additional competence of states. Paragraph three – In the federal law on general norms, states will exercise full legislative competence to meet their peculiarities. Paragraph four – The supervenience of federal law on general standards suspends the effectiveness of state law, to the contrary.

In this act coming in line with the Laws: Law, N°. 7.735/89; Law N°. 7.797/89; Law, n°.7.802/89 regulated by Decree 4.074/2002; Law, No. 9. 605/98 and Art. 225, (CRFB/1988). Knowing that the Federal Constitution of 1988 is much more than a guide or master plan of the Brazilian State, it means: that the National Planning is undoubtedly the greatest Patrimony of our country. Respectfully it is the great counter of service provision and product offerings, whether in its internal or external relations. Thus, we can evidence that the Executive, the Legislative and the Judiciary, although independent and harmonious among themselves: They must obey the existing structure in CF/88. In this sense, the separation of powers informs us of the extent and limits that define them. Thus Buarque de Holanda (1996), in its optics and in a crystalline way informs us: "to define is to explain the meaning of something, to indicate its true meaning." That said, we then began to make some considerations regarding the topic Advertising; Advertising and Branding. It is important to highlight the difference in Advertising and Advertising and thus, later define what is Indicative Advertising. Knowing that the legislature does not bring such a definition, pursuant to Article 6, of the Law, n°. 14.223/2006. Thus, it makes it difficult to defend the Municipality, whether in the Administrative area or in the judicial sphere, this is the case according to the Appeals in place at the previous time. This only occurs, due to the generic and imprecise form of the content carved into that law. Taking into account that the law in question goes beyond the treatment of the environment, urban law and land use: including in this reasoning tax law, administrative law, criminal law, the law carved in the Consumer Protection Code, among others. It also contains a vast amount of constitutional and infraconstitutional norms, thus affecting what is called Public Law. Thus: the lessor (owner) has no relationship with

Infraction And Fine Notices, coming about the establishment due to the exercise of business activity or by business company or by depersonalized company, that is, without legal personality, held in rented property. Thus, it was verified who exercises business or business in accordance with Art. 966 and following; Art. 1,142 and following; Art.1.150 and following, all of the Brazilian Civil Code, 2002. In this logical reasoning the law in comment "Clean City" immobilizes the lessor, punishing him, with the respective Notice of infraction and fine. It seems to me that this was the way that the Municipality found, because it is the easiest means to apply the Notice of Infraction and Fine, transmitting supervisory responsibility to the municipality. Therefore, doing so as if a partner were of such companies, based on the Article. 32, from Municipal Law N°. 14,223 of 2006, as well as in the power of police conferred on the public administration. All this, about the "Mantle of the Environment." In this act transforming Auto de Infraction and Fine, as if it were a punishment for the lessor, who should supervise and guide the procedures of business activity, concerning the environment. Thus, by not carrying out such supervision, the municipality in the name of Art. 32, of the Clean City Law, transforms and considers the owner as the Taxpayer of the Main obligation, without evaluating the specific case. Thus, positioning the lessor as jointly and severally responsible for business activities that are supposed to affect the entire framework of norms and laws concerning the environment is at least forcibly necessary. In this wake, on the term Advertising, we help ourselves according to the teachings of doctrine,

> Advertising is a collective commercial act, sponsored by a Public or Private company, with or without personality, at the core of an economic activity, with the purpose of promoting, directly or indirectly, the consumption of products and services. (NUNES JUNIOR, 2001, p. 21-23).

According to the author: he continues to weave the classification of Advertising,

> According to Vital Serrano Nunes Júnior and Yolanda Alves Pinto Serrano: The subjective aspect, it can be said that it refers to certain support sponsored by public or private institutions; The conteudist has an economic link; The finalist has as direct or indirect object to promote the sale of products or services through effective dissemination; The material aspect in turn is linked to an event of the media, remembering that it is not all social communication that will integrate into the concept of advertising. (SERRANO and SERRANO, 2003, p. 214).

Thus, the authors classified advertising in four fundamental aspects, namely: the Subjective aspect, the Conteudistic the Finalistic and the Material. For these authors, Propaganda is all forms of communication, directed or directed to the public determined or not, which, undertaken by a natural or legal person, public or private, has as its scope the propagation of ideas concerning philosophy, politics, economics, science, religion, art or society. Thus, it is verified that the Ad terminology is extracted from the Terms Advertising and Advertising. Knowing that in advertising the purpose is: to promote with the purpose of profit and advertising the purpose is the propagation of ideas, concerning philosophy, politics, economics, science, religion, art or society. This, once again there is the inaccuracy and generic form that the Clean City Law is presented. This Law considers every Ad as if it were Advertising, so everything is advertising i.e. Indicative Advertising; Advertising; Special Announcement; pursuant to Law 14.223/2006, Art. 6°. Caput, item I, points “a”, “b”, “c”. Given the above, it makes clear the evidence that the Municipality of São Paulo is mistaken: when it generalizes and qualifies the term Ad, equating it and conferring on the term Advertising the status of advertising or Logo or Logo. Knowing that these, are umbilically linked in Advertising or Advertising, due to the condition *SUI GENERIS* of the term Advertisement: which now works in the sense of advertising or in the sense of advertising. First, the confusion of the above terms occurs due to doubts, as to its application and in this way is used for different purposes, whether in relation to the laity or academics of the Advertising and Designer environment. Thus it should not be confused Brand, with Logo, knowing that in the scope of communication the Logo is the graphic representation of the company name. In the advertising and academic scope of communication, logo is the representation of the company name in a stylized way, in order to characterize it. Thus, to characterize it, it is necessary to use specific letters and colors, making them unique and coated with exclusivity and susceptible for registration at the National Institute of Industrial Property (INPI). It becomes clear that the Logo is a representation of the Brand and in this sense can be considered an Advertising and/or advertising Advertisement, depending on each specific case: provided that they are used outside the place where the activity is carried out, in accordance with point “b”, item I, of the Caput do Art. 6of the Law, no. 14.223/2006. In relation to the Special Announcement, it is provided for in point “c” of that Law in question, in turn the Indicative Notice: the one that seeks only to identify, in the very place of activity, the establishments and/or professionals who make use of it; [...] . In this sense the Lessor or the Renter that: does not fit the advertising picture, as considered the Clean City Law, since: not configuring itself as Indicative Advertisement, Advertising, Special Advertisement or logo or

logo, as well as, not being there any stylization in order to characterize by its typography or symbol that represents it. The Lessor or Renter may not be affected by such imposition of Municipal Law N°. 14,223, 2006, as mentioned above. Knowing that: The vast majority of cases that come to the Courts, it is only trademarks, logos or the business name (fancy name), but this we will see later. In relation to the logo, this in turn was included in the Portuguese as a synonym for Logo: due to the common use by the laity. However, it is not well accepted by advertisers and designers who consider it in some way as an inaccurate neologism. With reference to the Mark, this in turn brings a differentiation of products or services, i.e.: The Mark is used only to distinguish a product or service from another identical, similar or related, of different origin, in accordance with Art. 123, I, of the law, no. 9.279/1996. Knowing that there is also the Certification Mark and the Collective Mark, in the respective items, II, III, of the same law in comment. Thus we can add the teachings of Guimarães (2005) concerning the definition of brand, "by definition, brand is considered every distinctive sign bet, optionally, to products and services." In this wake, becoming only susceptible to registration as A Brand and after registration, erga becomes OMNES, that is, against everyone. Thus, visually perceptible Distinctive Signs, when recorded, act as a guaranteeing and exclusive standard for the one who registered it. That's what you can extract, under Art. 122 of the Law, N°. 9.279 /1996. In this wake, it should be emphasized: The protection of the corporate name results automatically from the filing of the constitutive acts of individual firm and companies, or from their changes, in accordance with Art. 33, of the Law, N°. 8.934/1994: Which provides for the Public Register of Merchant Companies and Related Activities and provides other measures. That said, it was verified, according to Art. 13, of the "Clean City Law" which: the municipality is responsible for regularizing the dimensions, readjustments depending on the concrete case. Therefore, you must need to inform the Municipality to standardize your Brand or your registered name (business) or logo: In compliance with the Law, n°. 12.527/2011, pursuant to articles: (Art. 1, Single paragraph and item, I, II); (Art. 9º. Caput. Item, I, points "a"; "b"; "c", and item II); (Art. 45); (Art. 32 and item, I, II, III), [...] In this act, enforce what is available in Art. 41, Caput. Item I, II of the Law, No. 14.223/06, enabling the regular exercise of law, provided in Art. 13. Caput. Paragraph 1 and items, I – IV; and following paragraphs. Thus, it becomes crystal clear that both the Brand or logo, as the name Registral do not configure themselves in the Advertising frame. As stated above, not all media will integrate into the concept of advertising. In these terms, whether the Brand or the Registral (corporate) name or even the Logo or as you want some Logo. These, in turn, fixed on the façade of their enterprises, where they develop their

business or business activities, do not make them capable of advertising conceptualization, whether in relation to the Indicative or Special Announcement. Therefore, we can check,

> The name of the natural or legal person to which the company fund belongs is a person's name, not a thing's name, and does not enter the class of distinctive signs, if not in what, by designating the natural or legal person, gives the establishment or product or merchandise value to owe more or disprestige. That plus, moreover, is that it can be treated as an intangible good. (PONTES DE MIRANDA, p. 4).

In the same sense as Pontes de Miranda, some aspects were in the same sense. It was verified by Vasconcellos (1957, p.5) according to Tomazette (2013, p. 126-133), bring the understanding in which the name serves to "apart the thing from others", distinguish an entrepreneur from others. It is well known that there are different understandings due to the legal nature of the business name, and it has thus been

> a) Miranda Bridges; Alexandre Freitas de Assumpção Alves; Mamede Gladston; Daniel Adensohn de Souza; Adriano de Cupis: understand this nature as a right of personality; b) For João da Gama Cerqueira; Giuseppe Valeri; Sérgio Campinho and Francesco Ferrara Júnior: understand this nature as property rights; c) For J. X. Mendonça Oak and Marlon Tomazette; Ricardo Negrão: these understand as personal right. (TOMAZETTE, 2017, p. 183 – 185).

That said, with all due respect to the right-to-doctrinators, the corporate name has its legal nature, not only for a matter of registral matter or for a matter of property rights, personality right or personal right, although these traits are present in tangible or incorporeal. Thus, its legal nature comes from public law insculpido no (Art. 1, item III, of CF/88); (item, XIV, XXXII, of Art. 5th, cf/88 c/c (Law, n^{o}. 8.078/1990, Art. 1ª).Thus, there is a legal nature of public policy, based on the dignity of the human person, strengthening the scope of the law and ensuring the balance of economic activity, free competition, the principle of veracity and the principle of information to the end that is intended, that is: Providing the balance of the object of the consumer ist, either by virtue of the protection of the business name or the protection of consumer law. Preserving the economic value of the business name, although public order is not mischaracterized by the principle of information that gives it publicity and with this is not

confused, lengthening its social function by virtue of the corporate name. In this same sense of conceptualizing Advertising as if it were advertising was already being applied by the Municipality of São Paulo, in accordance with the Law, nº. 13,474, december 30, 2002. (Which provides for the Ad Surveillance Fee and provides other measures), as well as: Law, Nº. 12.115 – of June 28, 1996 (Regulated by Decree Nº. 36,646/1996) (Repealed by Law, nº. 13,525/2003).

Which provides for the ordering of ads in the landscape in the municipality, sets rules for the delivery of these ads, and provides other measures. As verified in the Legislative Information Journal and is included in the Brief introductory notes, let's see

> [...] Thus, it is intended that the public authorities, of ordinary, have the duty to observe the rights guaranteed in constitutional security [...]. The collision between constitutional principles, most notheless in the case of fundamental rights, requires that some have moderated their application in the face of others. It should be stressed, however, that any limitation or its fit must be supported in the constitutional text. There is no restriction on fundamental law without constitutional basis (ALEXY, 1993, p. 277; MIRANDA, 2000, p. 307). It means that any relaxation, restriction or deprivation of property is only permissible if there is unequivocal foundation in the Constitution [..]. (LEAL, 2012, p. 56).

In this view of Property as a fundamental right. The author's assertion and the misunderstanding of the Municipality of the State of São Paulo were verified, in the application of the "Clean City Law" which frontally affects the various areas of fundamental law in relation to property. At this point, it was verified the lack of contribution and legal support in constitutional text that can give shelter to hermeneutics applied by the Municipality of São Paulo (SUBPREFEITURAS). Thus characterizing the confirmation of the absence of the Principle of Efficiency, Principle of Information, Principle of Morality, Principle of Dignity of the human Person, among others. In this way the administrative act becomes null in full or nullable, however the legality of the administrative act remains depending on the specific case. On the other hand, it is lacking to be required due to the absence of identification of the taxable person of the obligation sought by the Public Administration. In this step, one will observe only the logical meaning of the term principle and, the essential basis, which forms all philosophical or scientific knowledge involving the existence of

principles, or even logical exposures, which admit as a condition or basis of validity among other meanings of certain fields of knowledge, according to the respective indoctrinators,

> Principles are normative statements of generic value that condition and guide the understanding of the legal system, the application and integration or even the elaboration of new norms. [...] These are founding truths of a system of knowledge, as such accepted, because they are evident or because they have been proven, but also for practical reasons of an operational nature, that is, as assumptions required by the needs of research and praxis. (REALE, 2003, p. 37.).

> Violating a principle is much more serious than breaking any rule. Inattention to the principle implies offense not only to a specific commandment, but to all command systems. It is the most serious form of illegality or unconstitutionality, according to the rank of the principle reached, because it represents insurgency against the whole system, subversion of its fundamental values, irremissible contumelia to its logical framework and corrosion of its master structure. This is because, with the offending of him, the rules that sustain him are lowered and all the structure is alluded to in them. (BANDEIRA DE MELLO, 2000, p. 748.).

> According to the Journal of Legislative Information, [...] Principles of a science are the basic, fundamental, typical prepositions that condition all subsequent structurings. In this sense, principles are the foundations, the foundations of science[...] (FEDERAL SENATE).

Thus, it was verified: the municipality must refrain from restricting fundamental rights, of which we can list, in accordance with item, IX, XXIX, of Art. 5, of the Federal Constitution now in force, among others. In the diction of the Article. 38. Second paragraph (§2°), item I, II; Third paragraph (§3),Paragraph fourth (§4°), of Decree No. 50,895, october 1, 2009. In order to disregard a simulated legal act or business aimed at reducing the value of the tax, avoiding or postponing its payment or concealing the true aspects of the generating event or the actual nature of the constituent elements of the tax obligation, it must be taken into account, among others, the occurrence of: lack of business purpose or abuse of form,[...] . It's in the Article. 38, second paragraph, of the Decree in comment, two hypotheses to be considered. The first is the lack of business purpose and, the second abuse of form. Thus, the

first is configured in the lack of business purpose that: according to the Article. 38, paragraph three, brings the option of the most complex or more costly form, for those involved, between two or more forms for the practice of a given act. In the case on screen, that is, according to the decisions of the Court of Justice (TJSP), mentioned at a previous time, those involved are: The Applicant on the one hand – The Municipality on the other side – And the Citizens indirectly on the other side. Knowing that it is the duty of all to care for the Public Office i.e.: (The Mayor of the Municipality of São Paulo and its auxiliaries) who are responsible for the public office of the Municipality, and the entire functional framework and natural persons or legal entities of private law or public law). Thus, the Municipality in its supervisory action is mistaken: when it positioned the Municipality in the condition of Obligation for infringement that it did not commit, it frontally affects a huge range of norms and basic principles, which the Public Administration must obey. In this wake, it affects the rights of the Municipality, affects the entire Structure of the Municipality, making the Machine move, that is, the entire equipment of the Municipality. Driving it and producing unnecessary expenses. The great bottleneck is in hermeneutics applied by the Municipality of São Paulo, i.e.: In the dogmatic interpretation and in the cold form of the literalness of the Law. Thus, for disregarding the systematic analysis that involves the entire framework of the Infraction and Fine Notice (knowing that the Administrative Act is bound and must dispense with the minimum requirements necessary for its validation: To avoid the occurrence of irregularities due to the lack of business purpose or abuse of form, situations that divert from the purpose of the Public Administration. In the face of all the above in a close synthesis, we can only have the final considerations.

FINAL CONSIDERATIONS

The development of this article allowed in close synthesis a historical incursion into the light of creationism with the scope of analyzing and understanding the Institute of Ownership, as well as the Right to Property. At this point, it was evaluated what type of treatment was conferred on possession and the right of property: E, the concerns of the manifestation of the human being in this type of relationship. In view of this reflection, it was possible to evaluate the benefits and difficulties of dealing with these institutes. This allowed us to use analogy as a way of dialoguing in time and through time. In general, the bibliography used, including theories that at any given time seem to have no link with the object of this article. They

manifest at least in abstract a constant interest on the theme in question: due to its scope and its reflections in other areas of knowledge and National Law. Thus, the *Sui Generis* condition of possession is indeed important and socially relevant and in this reasoning the Jurisprudence of the Courts remains firm in celebrating the Pact between the parties, making impossible any occurrence that may affect fundamental rights and guarantees, as basic premises of our National Order. In this context it was observed and verified that: the interdisciplinarity of the matter in question is the result of this umbilical link and sui generis of possession. This is confirmed through the doctrine, laws and the work of researchers from seemingly disparate disciplines. In this toada and in the face of a tight synthesis: The bibliography used generically speaking, did not mischaracterize the complexity of the theme, much less the structure of its claim. Thus: the achievement of the general and specific objectives, dotted in this article, is satisfactory. The Theory of Creationism was of paramount importance, for its historical content, but for the possibility of comparison, emphasizing the importance of the applicability of laws, on the views of property, possession and domain. Thus the theory in theory, functioned as a tunnel of time or a reflection the origins of possession. Thus, enabling a prospection of historical value that made possible by analogy: the intention to equate and dialogue about the right of possession and its implications in the action of the human being. Whether in relation to the times of yore or in relation to the present day: Emphasizing that it is not a confrontation between divine laws or land laws, having only the intention to present, with the exception of the appropriate proportions: the verisillatry and the smoke of good right between them. Thus, the theories of the Holographic Universe; of the Big Bang; General and Heliocentric Relativity: They are still as important as the theory of creationism. After all these theories are evidence of the tireless human saga that aims to achieve or unravel the origin of the universe, whether by a rule of faith or scientific. In this step, these theories are confirmatory bases of intellectual property or copyright, so, without any elasticity, such right can be classified and understood, depending on the specific case, such as: [Intellectual Right of Possession, due to its sui generis condition that reaches both immaterial and property rights, thus configuring the triple frame it gives possession, as it encompasses an immaterial character of moral prerogatives and on the other, material by virtue of the right property and, on the other hand, patrimonial orders]. At this point the National Order, the jurisprudence decisions of the Courts and the Doctrine, composes the entire legal and doctrinal framework to maintain the social balance concerning the claims based on the right to property and the right of possession. Given the relevance of the theme and due to its scope and without any elasticity it can be seen that: Higher

education institutions could give greater attention to the Institute of Property and Possession, noting that: such matter is the basis and dorsal structure of law. Everything is possession and in a way the idea of ownership was built, so everything is property, but only a few will have the Domain. Knowing, that the right is settled on the tripod: Life, Freedom and Heritage. This would result in better technical qualification, would enable the efficiency of public entities in their services, thus decreasing: judicialization and peacefully harmonizing the triad: Author; Defendant and the Judiciary (State Judge). In this sense, the means used to construct this article allowed to achieve the general objectives and to point out the importance of the right to property and the right of ownership, in the material and immaterial social sphere and, in the legal sphere. In this way the National Order walks on the protection of God, *BEATI POSSIDENTIS* (blessed be it possession).

REFERENCES

ALEX, Robert. Teoria de los derechos fundamentales. Madrid: Centro de Estúdios Constitucionales, 1993. p. 277.

ALMEIDA, João Ferreira de. A BÍBLIA SAGRADA. Publicado por Alfalit Brasil em cooperação com Alfalit Internacional. inc. Impresso em Suécia: Com permissão da Editora Vida, Reservados todos os direitos. Tradução das Línguas Originais, por João Ferreira de Almeida. Edição Contemporânea Revisada e Aumentada com ajudas adicionais. ano 1996.

ALVES, Alexandre Ferreira de Assumpção. A pessoa jurídica e os direitos da personalidade. Rio de Janeiro: Renovar, 1998, p. 85.

AQUINO, Felipe. Estado laico ou laicista? Lorena; São Paulo: ed. Cléofas, 2009. Disponível em: https://cleofas.com.br//?s=Estado+laico+ou+laicista. Acesso em 14/01/2019.

BANDEIRA DE MELLO, C. A. Curso de Direito Administrativo. 12ª ed. São Paulo: Malheiros, 2000, p. 748.

BITTAR, Carlos Alberto. Os direitos da personalidade. 4. ed. Rio de Janeiro: Forense Universitária, 2000, p. 127.

BRASIL SENADO FEDERAL. Breves notas introdutórias de Roger Stiefelmann Leal. 2012, p. 53 – 57. Disponível em: https://www12.senado.leg.br/ril/edicoes/49/194/ril_v49_n194_p53.pdf. Acesso em: 28 de março de 2019.

BRASIL, Senado Federal. Cretella Júnior, J. Os cânones do direito administrativo. Revista de informação legislativa, v. 25, n. 97. Disponível em: < www.2.senado.leg.br/bdsf/item/id/22 >. Acesso em: 07 de outubro de 2016. p. 5- 52.

BRASIL. Biblioteca. Supremo Tribunal Federal. FREITAS, Augusto Teixeira de. Promptuario das Leis Civis (Instituto Typografhico do Direito, 1876) Rio de Janeiro – RJ. PATRIMÔNIO do SUPREMO TRIBUNAL DE JUSTIÇA (STF) N.12539.9. p. 212, 213, 224. Disponível em:< http://sistemas.stf.jus.br/xmlui/handle/123456789/560. Acesso em: 06 de janeiro de 2019.

BRASIL. Câmara dos Deputados. Lei nº. 4.132 de 10 de dez. de 1962. Ementa. Que define os casos de desapropriação por interesse social e dispõe sobre sua aplicação. Disponível em: http://www.planalto.gov.br/ccivil_03/leis/L4132.htm. Acesso em: 10/08/2018.

BRASIL. Código Civil Brasileiro. Instituído pela Lei n. 10.406, de 10 de janeiro de 2002. Vade Mecum Saraiva. obra coletiva da Editora Saraiva, com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª ed. atual e ampl. São Paulo: Saraiva Educação, 2018.

BRASIL. Código de Defesa do Consumidor. Lei, nº.8.078, de 11 de setembro de 1990. Vade Mecum Saraiva / obra coletiva da Editora Saraiva com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª. ed. atual e ampl. São Paulo: Saraiva Educação, 2018.

BRASIL. Código de Processo Penal. Instituído pelo Decreto-lei n. 3.689, de 3 de outubro de 1941. Vade Mecum Saraiva. obra coletiva da Editora Saraiva, com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª ed. atual e ampl. – São Paulo: Saraiva Educação, 2018. Art. 65. p. 507.

BRASIL. Código Penal. Instituído pelo Decreto-Lei n. 2.848, de 7 de dezembro de 1940. Vade Mecum Saraiva. obra coletiva da Editora Saraiva, com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª ed. atual e ampl. – São Paulo: Saraiva Educação, 2018.

BRASIL. CONSELHO NACIONAL DE JUSTIÇA. Resolução n. 125 de 11 de novembro de 2010.

Dispõe sobre a Política Nacional de tratamento adequado dos conflitos de interesses no âmbito do Poder Judiciário e dá outras providências. Política Judiciária Nacional; Conflitos de interesse; meios consensuais; Núcleos Permanentes de Métodos Consensuais de Solução de Conflitos; Treinamento e capacitação [...]. Disponível em: https://atos.cnj.jus.br/atos/detalhar/atos-normativos?documento=156. Acesso em: 15 de jan. 2019.

BRASIL. Constituição Federal da República Federativa do Brasil. Aprovada pela Assembleia Constituinte em 22 de setembro de 1988 e promulgada em 05 de outubro de 1988. Vade Mecum Saraiva. obra coletiva da Editora Saraiva, com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª ed. atual e ampl. São Paulo: Saraiva Educação, 2018.

BRASIL. Constituição Politica do Imperio do Braszil (de 25 de março de 1824). Constituição Política do Império do Brasil, elaborada por um Conselho de Estado e outorgada pelo Imperador D. Pedro I, em 25.03.1824. Manda observar a Constituição Politica do Imperio, oferecida, e jurada por Sua Magestade o Imperador. Disponível em: https://www.planalto.gov.br/ccivil_03/constituicao/constituicao24.htm. Acesso em: 10 de outubro 2019.

BRASIL. Decreto n°. 54.535, de 30 de outubro de 2001. Diário Oficial da Cidade de São Paulo.31/10/2013, p. 1. Ano 58, nº. 207.

BRASIL. Decreto, 353 de 12 de julho de 1845. Designa os casos em que terá lugar a desapropriação por utilidade publica geral, ou municipal da Corte. Collecção das Leis do Imperio do Brasil. 1845. Tomo 7º, Parte 1ª, Secção 18ª.

BRASIL. Decreto, nº 4.074 de 04 de janeiro de 2002. Regulamenta a Lei, nº 7.802 de 11 de julho de 1989, que dispõe sobre a pesquisa, a experimentação, a produção, a embalagem e rotulagem, o transporte, o armazenamento, a comercialização, a propaganda comercial, a utilização, a importação, a exportação, o destino final dos resíduos e embalagens, o registro, a classificação, o controle, a inspeção e a fiscalização de agrotóxicos, seus componentes e afins, e dá outras providências. Disponível em: http://www.planalto.gov.br/ccivil_03/decreto/2002/D4074.htm. Acesso em: 05/07/208.

BRASIL. Decreto, nº. 50.895, de 1 de outubro de 2009. Aprova o Regulamento do Processo Administrativo Fiscal. Diário Oficial da Cidade de São Paulo. 02/10/2009. p. 1 -3. São Paulo, 54 (184) – 3. Art. 38. Caput. Parágrafo 2º, inciso I, II e parágrafos 3º, 4º.

BRASIL. Decreto-lei Federal, n°. 3.365 de 1941. Ementa. Dispõe sobre desapropriações por utilidade pública. Disponível em: http://www.planalto.gov.br/ccivil_03/decreto-lei/Del3365.htm. Acesso em:10 de jan. 2019.

BRASIL. DICIONÁRIO AURELIO. Definição de Posse. Retenção ou fruição de uma coisa ou de um direito., Estado de quem possui uma coisa, de quem detém como sua ou tem o gozo dela., Ação ou direito de possuir a título de propriedade., Fortuna, haveres., Capacidade, aptidão., Meios, forças; alcance, tomar posse: meter de posse, dar posse, diz-se de ato pelo qual alguém é investido ou investe outrem num direito, num cargo ou dignidade. Disponível em: https://dicionariodoaurelio.com/posse. Acesso em: 12/08/2018.

BRASIL. Lei Complementar, nº 140 de o8 de dezembro de 2011. Fixa normas, nos termos dos incisos III, VI e VII do caput e do parágrafo único do art. 23 da Constituição Federal, para a cooperação entre a União, os Estados, o Distrito Federal e os Municípios nas ações administrativas decorrentes do exercício da competência comum relativas à proteção das paisagens naturais notáveis, à proteção do meio ambiente, ao combate à poluição em qualquer de suas formas e à preservação das florestas, da fauna e da flora; e altera a lei nº 6.938, de 31 de agosto de 1981. Disponível em: http://www.planalto.gov.br/ccivil_03/leis/lcp/Lcp140.htm. Acesso em: 15 de janeiro de 2019.

BRASIL. Lei Federal, n°. 8.245 de 18 de outubro de 1991. Vade Mecum Saraiva. obra coletiva da Editora Saraiva, com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª ed. atual e ampl. São Paulo: Saraiva Educação, 2018. Dispõe sobre as locações dos imóveis urbanos e os procedimentos a elas pertinentes.

BRASIL. Lei n. 9.610, de 19 de fevereiro de 1998. Dispõe a respectiva Lei. Sobre, Altera, atualiza e consolida a legislação sobre direitos autorais e dá outras providências. Art. 1º; Art. 7º. Disponível em: http://www.planalto.gov.br/ccivil_03/leis/L9610.htm. Acesso em: 15 de jan. 2019.

BRASIL. Lei Orgânica do Município de São Paulo. Disponível em: https://www.prefeitura.sp.gov.br/cidade/secretarias/upload/educacao/cme/LOM.pdf. Acesso em: 10/08/2018.

BRASIL. Lei, n°. 13.140, de 26 de junho de 2015. Dispõe sobre a mediação entre particulares como meio de solução de controvérsias e sobre a autocomposição de conflitos no âmbito da administração pública; altera a Lei n° 9.469, de 10 de julho de 1997, e o Decreto n° 70.235, de 6 de março de 1972; e revoga o § 2° do art. 6° da Lei n° 9.469, de 10 de julho de 1997. Disponível em: http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2015/lei/L13140.htm. Acesso em: 15 de jan. 2019.

BRASIL. Lei, nº 16, de 12 de agosto de 1934. Faz algumas alterações e edições à Constituição Política do Império, nos termos da Lei d 12 de outubro de 1932. Coleção de Lei do Império do Brasil. 1834, p. 15 vol. 1 (Publicação Original).

BRASIL. Lei, nº 9 de setembro de 1826. Marca os casos em que terá que logar a desapropriação da propriedade particular por necessidade, e utilidade pública e as formalidades que devem preceder a mesma desapropriação. Disponível em: http://www.planalto.gov.br/ccivil_03/leis/lim/LIM-9-9-1826.htm. Acesso em: 15 de janeiro de 2019.

BRASIL. Lei, nº 9.279, de 14 de maio de 1996. Regula Direitos e Obrigações Relativos à Propriedade Industrial. Vade Mecum Saraiva. obra coletiva da Editora Saraiva, com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª ed. atual e ampl. São Paulo: Saraiva Educação, 2018. p. 1685-1699.

BRASIL. Lei, nº. 12.115, de 28 de julho de 1.996. Regulamentada pelo Decreto, nº. 36.646/1996. Revogada pela Lei, nº. 13.525/2003. Disponível em: http://legislacao.prefeitura.sp.gov.br/leis/lei-12115-de-28-de-junho-de-1996. Acesso em: 10/08/2018.

BRASIL. Lei, nº. 12.527, de 18 de novembro de 2011. Lei de Acesso à Informação. Vade Mecum Saraiva / obra coletiva da Editora Saraiva com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª. ed. atual e ampl. São Paulo: Saraiva Educação, 2018. p.

2159-22163.

BRASIL. Lei, nº. 13.474 de 30 de dezembro de 2002. Disponível em: https://www.prefeitura.sp.gov.br/cidade/secretarias/upload/arquivos/secretarias/financas/legislacao/Lei-13474-2002.pdf. Acesso em: 11/08/2018.

BRASIL. Lei, nº. 6.938, de 31 de agosto de 1981. Dispõe sobre a Política Nacional do Meio Ambiente, seus fins e mecanismos de formulação e aplicação, e dá outras providências. Vade Mecum Saraiva. obra coletiva da Editora Saraiva, com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª ed. atual e ampl. São Paulo: Saraiva Educação, 2018. Art. 1º. p. 1.410.

BRASIL. Lei, nº. 8.078, de 11 de setembro de 1.990. Código do Consumidor. Vade Mecum Saraiva. obra coletiva da Editora Saraiva, com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª ed. atual e ampl. São Paulo: Saraiva Educação, 2018. Art. 1º. Caput. p. 744.

BRASIL. Lei, nº. 8.934, de 18 de novembro de 1.994. Dos Atos Pertinentes ao Registro Público de Empresas Mercantis e Atividades Afins. Vade Mecum Saraiva / obra coletiva da Editora Saraiva com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª. ed. atual e ampl. São Paulo: Saraiva Educação, 2018. Art. 33. p. 1.649.

BRASIL. Lei, nº. 9.605, de 12 de fevereiro de 1.989. Disponível em: http://www.planalto.gov.br/ccivil_03/leis/l9605.htm. Acesso em: 15 de jan. 2019.

BRASIL. Lei, nº.7.735, de 22 de fevereiro de 1989. Dispõe sobre a extinção de órgão e de entidade autárquica, cria o Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis e dá outras providências. Disponível em: http://www.planalto.gov.br/ccivil_03/Leis/L7735.htm. Acesso em: 15 de jan. 2019.

BRASIL. Lei, nº.7.797, de 10 de julho de 1989. Cria o Fundo Nacional do Meio Ambiente e dá outras providências. Disponível em: http://www.planalto.gov.br/ccivil_03/Leis/L7797.htm. Acesso em: 15 de jan. 2019.

BRASIL. Lei, nº.7.802 de 11 de julho de 1989. Disponível em:

http://www.planalto.gov.br/ccivil_03/Leis/L7802.htm. Acesso em: 15 de jan. 2019.

BRASIL. Município de São Paulo. Decreto, nº 36.646, de 18 de dezembro de 1996. Regulamenta a Lei, nº 12115, de 28/06/1996. Retificado – Diário Oficial do Município, 241296, p. 1.

BRASIL. Município de São Paulo. Lei, n°. 14.223, de 26 de setembro de 2006. Dispõe sobre a ordenação dos elementos que compõem a paisagem urbana do Município de São Paulo. Acesso em: https://leismunicipais.com.br/a/sp/s/sao-paulo/lei-ordinaria/2006/1422/14223/lei-ordinaria-n-14223-2006-dispoe-sobre-a-ordenacao-dos-elementos-que-compoem-a-paisagem-urbana-do-municipio-de-sao-paulo. Disponível em: 10/08/2018.

BRASIL. Município de São Paulo. Lei, nº 13.525 de 28 de fevereiro de 2003. (Projeto de Lei, 406/02, da Vereador Myryam Athie – PPS). Dispõe sobre a ordenação de anúncios na paisagem do Município de São Paulo e dá outras providências. Publicado em 01 de março de 2003. Diário Oficial do Município de São Paulo. Disponível em: http://legislacao.prefeitura.sp.gov.br/leis/lei-13525-de-28-de-fevereiro-de-2003/detalhe. Acesso em: 10 de jan. 2018.

BRASIL. Novo Código de Processo Civil. Lei, n°. 13.105 de 16 de março de 2015. Vade Mecum Saraiva / obra coletiva da Editora Saraiva com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª. ed. atual e ampl. São Paulo: Saraiva Educação, 2018.

BRASIL. Planalto. Lei Complementar nº 140 de 08 de dezembro de 2011. Vade Mecum Saraiva. obra coletiva da Editora Saraiva, com a colaboração de Livia Céspedes e Fabiana Dias da Rocha. 25ª ed. atual e ampl. São Paulo: Saraiva Educação, 2018. Art. 9, Caput, Inciso, I, II […]. p. 2.179.

BRASIL. Prefeitura do Estado de São Paulo. Decreto n. 54.535 de 30 de out. 2013. Ementa. Confere nova redação aos artigos 3º, 4º, 5º, 6º, 7º, 10, 11, 13, 14 e 18 do Decreto n°. 53.799, de 26 de março de 2013, que estabelece o procedimento a ser observado para a desapropriação de bens úteis ou necessários aos interesses da Administração Municipal. Disponível em:

<http://legislacao.prefeitura.sp.gov.br/leis/decreto-54535-de-30-de-outubro-de-2013>. Acesso em: 11/08/2018. Outra Fonte. Diário oficial da Cidade de 31/10/2013. p. 1.

BRASIL. Revista da Universidade Federal de Minas Grais (UFMG). v. 19, n. 1 e 2, p. 182-205, dez. 2012.

BRASIL. Revistas da Universidade de São Paulo (USP). Steiner, J. A origem do universo, Estudos Avançados, v. 20, n, 58, p. 231-248, 1 dez. 2006. Disponível em: www.revistas.usp.br/eav/article/view/10192. Acesso em:21/06/2018.

BRASIL. Senado Federal. PORTO, Walter Costa (org.). (Coleção Constituições brasileiras; v. 1). Nogueira, Octaciano 1824 / Octaciano Nogueira. 3. ed. − Brasília: Senado Federal, Subsecretaria de Edições Técnicas, 2012. p.12, 21-22. ISBN: 978-85-7018-424-5. Disponível em: https://www2.senado.leg.br/bdsf/bitstream/handle/id/137569/Constituicoes_Brasileiras_v1_1824.pdf . Acesso em: 14. jan. 2019.

BRASIL. Superior Tribunal de Justiça (STJ). RECURSO ESPECIAL. AÇÃO DE MANUTENÇÃO DE POSSE. DIREITO DE RETENÇÃO POR ACESSÃO E BENFEITORIAS. CONTRATO DE COMODATO MODAL. CLÁUSULAS CONTRATUAIS. VALIDADE. (...) 3. A atribuição de encargo ao comodatário, consistente na construção de casa de alvenaria, a fim de evitar a "favelização" do local, não desnatura o contrato de comodato modal. 4. Recurso especial não provido". (STJ, REsp 1316895/SP Rel. Ministra Nancy Andrighi, j. em 11.06.2013.) (g/n) Número Registro: 2011/0301020-4 Processo Eletrônico REsp. 1.316.895/SP, Números de Origem: 33613620108260564 5640120100033619 682010 990103170229. Disponível em: http://stj.jus.br Acesso em: 17 de maio de 2019.

BRASIL. Tribunal de Justiça do Estado de São Paulo (TJSP). Ação fundada em extinção de comodato verbal, com prazo indeterminado Presença dos requisitos previstos no artigo 927, incisos I a IV, do CPC Posse direta exercida pela ré que não anula a indireta exercida pela autora – Notificação premonitória visando extinguir o comodato A permanência da ré no imóvel, após ser notificada para desocupá-lo, configura esbulho possessório Ré que não comprovou, tal como lhe competia, a teor do art. 333, II, do Código de Processo Civil, ocupar o imóvel na condição de locatária Pagamento de prestações do financiamento do imóvel que

não descaracteriza o comodato Ação de reintegração de posse procedente Recurso improvido." (Ap. n. 0000703-17.2011.8.26.0269, Rel. Des. Plinio Novaes de Andrade Júnior, 24ª Câmara de Direito Privado, j. em 1.10.2015.) Disponível em: http://www.tjsp.jus.br. Acesso em 17 de maio de 2019.

BRASIL. Tribunal de Justiça do Estado de São Paulo (TJSP). Decisões do Tribunal (Sob o Registro: 2017.0000692055), ACORDÃO. Apelação n°. 1007299-77.2015.8.26.0004. AÇÃO DE REINTEGRAÇÃO DE POSSE. Imóvel urbano. Ação fundada em extinção de comodato verbal, com prazo indeterminado (...). Disponível em: http://www.tjsp.jus.br. Acesso em: 17 de maio de 2019.

BRASIL. Tribunal de Justiça do Estado de São Paulo (TJSP). Reintegração de posse. Contexto probatório dos autos que autoriza o acolhimento da pretensão vestibular. Demonstrada a existência de comodato verbal e modal relativamente ao imóvel em questão. Sentença mantida. Recurso desprovido." (Ap. n. 0000104-66.2012.8.26.0003, Rel. Des. Luis Carlos de Barros, 20ª Câmara de Direito Privado, j. em 14.3.2016.). ACORDÃO Registrado pelo nº. 2016.0000200032. Disponível em http://www.tjsp.jus.br. Acesso em:17 de maio de 2019.

BRASIL. Tribunal de Justiça do Estado de São Paulo. Decisões do Tribunal (Sob o Registro: 2018.0000081077, ACORDÃO, Apelação nº. 1040212-28.2016.8.26.0053, multa administrativa destituída de natureza propter rem); também foi verificado ser incabível a solidariedade disposta no Art. 32, da "Lei Cidade Limpa" sob o Registro: 2018.0000608504, ACORDÃO, Apelação Cível/Reexame Necessário/Multas e demais Sansões nº 0100869-31.2008.8.26.0053). Disponível em: http://www.tjsp.jus.br. Acesso em:17. mai. 2019.

CAMPINHO, Sérgio. O direito de empresa à luz do novo Código Civil. 4. ed. Rio de Janeiro: Renovar, 2004, p. 354.

CARVALHO DE MENDONÇA, J. X. Tratado de direito comercial brasileiro. Atualizado por Ricardo Negrão. Campinas: Bookseller, 2000, v. 2, tomo 1, p. 176 – 177.

CARVALHO, Raquel Melo Urbano de. Curso de Direito Administrativo. Salvador: Jus Podivm, 2008. p. 1066.

CARVALHOSA, Modesto. Comentários ao Código Civil. São Paulo: Saraiva, 2003, v. 13, p. 731.

CERQUEIRA, João da Gama. Tratado da propriedade industrial. Rio de Janeiro: Forense, 1946, v. 1, p. 73.

COELHO, Fábio Ulhoa. Curso de direito comercial. 6. ed. São Paulo: Saraiva, 2002, v. 1, p. 177.

COUTO, Felipe Rabelo. A QUESTÃO DO ACRÉ E A SOLUÇÃO NACIONAL DE RUI BARBOSA. Revista Veredas da História, [online]: v.8, n. 1, 2015. p. 55- 85, ISSN 1982-4238. Disponível em: http://www.seer.veredasdahistoria.com.br/ojs2.4.8/index.php/veredasdahistoria/article/view/162/153 . Acesso em: 12 de janeiro de 2019.

DE CUPIS, Adriano. Os direitos da personalidade. Tradução de Adriano Vera Jardim e Antônio Miguel Caeiro. Lisboa: Livraria Morais, 1961, p. 178 -179.

DE CUPIS, Adriano. Os direitos da personalidade. Tradução de Adriano Vera Jardim e Antônio Miguel Caeiro. Lisboa: Livraria Morais, 1961, p. 17.

FERRARA JUNIOR, Francesco. Teoría jurídica de la hacienda mercantil. Traducción por José Maria Navas. Madrid: Revista de Derecho Privado, 1950, p. 180.

FERRARA, Francesco. Trattato di diritto civile italiano. Roma: Athenaeum, 1921, p. 666.

FERREIRA, Aurélio Buarque de Holanda (1996), “definir é explicar o significado de alguma coisa, indicar o seu verdadeiro sentido.”

FREITAS, Augusto Teixeira de. Consolidação das leis civis / Augusto Teixeira de Freitas; prefácio de Ruy Rosado de Aguiar. Ed. Fac-sim. – Brasília: Senado Federal, Conselho Editorial, 2003. 2. V (Coleção história do direito brasileiro. Direito Civil). p. 86, 97. Disponível em: < https://ww2.stj.jus.br/publicacaoinstitucional/index.php/colecaodc/article/view/85 >. Acesso em: 18 de outubro de 2018.

FREYTAG‘S, Gustav. Tecnique of de Drama And Exposition of Dramatic Composition And Art.

By Dr. Gustav Freytag authorized translation fron the sixth German Edition by Elias J. Mac Ewan, M.A. Third Edition. Chicago Scott, Foresman and Company 1900. Disponível em: <https://archive.org/details/freytagstechniqu00freyuoft > Acesso em: 03/11/2018. p. 101, 112 – 114.

GUIMARÃES. 2005.

JAPIASSÚ, Hilton e MARCONDES, Danilo. Dicionário Básico de Filosofia. 5.ed. Rio de Janeiro: Zahar, 2008.

JUSTEN FILHO, Marçal. Curso de Direito Administrativo. 11. ed. São Paulo: Revista dos Tribunais, 2015. p. 626-627.

KELSEN, Hans. Teoria pura do direito. [tradução João Baptista Machado]. 6ª ed. São Paulo: Martins Fontes, 1998. (Ensino Superior). Disponível em: https://portalconservador.com/livros/Hans-Kelsen-Teoria-Pura-do-Direito.pdf Acesso em: 10 de jan. 2018.

MAMEDE, Gladston. Direito empresarial brasileiro. São Paulo: Atlas, 2004, v. 1, p. 110 – 111.

MARLON, Tomazette. Curso de Direito Empresarial. Teoria Geral e Direito Societário., 5º edição, Volume 1 Livro Digital São Paulo editora Atlas S.A 2013. Edição digital, p. 155-162. Edição expressa, p. 126-133. ISBN: 9788522476251 – e ISBN 9788522476893.

MARLON, Tomazette. Curso de direito empresarial: Teoria geral e direito societário, v. 1 / Marlon tomazette. – 8. ed. rev. e atual. – São Paulo: Atlas, 2017.

MIRANDA, Jorge. Manual de direito constitucional. 3. ed. Coimbra: Coimbra, 2000. p. 307.

MIRANDA, Pontes de. Tratado de direito privado. Atualizado por Vilson Rodrigues Alves. Campinas: Bookseller, 2000, v. XV, p. 111;

MIRANDA, Pontes. Tratado de direito privado, v 17, p. 4.

MONTESQUIEU, Charles de Secundat, Baron de. 1689- 1755. O Espirito das Leis /

Montesquieu. apresentação Renato Janine Ribeiro. Tradução Cristina Murachco. São Paulo: Martins Fontes, 1996. (Paidéia). ISBN 85-336-0553-6. 2ª tiragem fevereiro 2000. p. 19.

NEGRÃO, Ricardo. Manual de direito comercial e de empresa. 9. ed. São Paulo: Saraiva, 2012, v. 1, p. 222 – 223.

NUNES JÚNIOR, Vidal Serrano. Publicidade comercial: proteção e limites na Constituição de 1988. São Paulo: Juarez de Oliveira, 2001. p. 21- 23.

NUNES JÙNIOR, Vital Serrano e SERRANO, Yolanda Alves Pinto. Código de Defesa do Consumidor interpretado. São Paulo: Saraiva, 2003, p. 214.

QUEIROZ LIMA, Eusébio de. Conceito de Domínio e Posse/Segundo Código Civil Brasileiro. Lente substituto da 1ª Secção da Faculdade Livre de Direito do Rio de Janeiro: Supremo Tribunal Federal Patrimônio n. 14-424-5. p. 1 – 97.

REALE, Miguel. Lições Preliminares de Direito. 27ª ed. São Paulo: Saraiva, 2003, p. 37.

SÁ BARRETO, F. C. DE; VAZ, L. P. R.; FRANCO, G. A. P. O universo vivo. Revista da Universidade Federal de Minas Gerais, v. 19, n. 1 e 2, p. 182-205, 12 dez. 2012. Disponível em: https://periodicos.ufmg.br/index.php/revistadaufmg/article/view/2718. Acesso em: 21/01/2018.

SOARES. Evanna. A norma jurídica em Kelsen. Concepção de sanção na norma primária e na norma secundária. Revista Jus Navigandi. ISSN 1518-4862, Terezina, ano 7, n. 59, 1 out. 2002. Disponível em: < https://jus.com.br/artigos/3269 >. Acesso em: 23 jul. 2018.

SOUZA, Daniel Adensohn. Proteção ao nome empresarial no Brasil. São Paulo: Saraiva, 2012, p. 78.

STEINER, João E. A origem das coisas sempre foi uma preocupação central da humanidade; [...]. In: (rev, usp). A Origem do Universo. Estudos Avançados, v. 20, n, 58, p. 231-248, 1 dez. 2006. Disponível em: www.revistas.usp.br/eav/article/view/10192. Acesso em:21/06/2018.

TALBOT, Michael. A Teoria do Universo Holográfico: em apertada síntese nos informa que o

universo é um gigantesco holograma. In: Tradução, Marques, Maria De Fátima S.M. O Universo Holográfico. Título Original "The Holographic Universe". Ed. Best Seller. 1991. Disponível em: Https://Contraeducacao.Files.Wordpress.Com/2012/09/Livro-O-Universo-Holografico-Michael-Talbot.Pdf . Acesso em: 21/06/2018.

VALERI, Giuseppe. Manuale di diritto commerciale. Firenze: Casa Editrice Dottore Carlo Cya, 1950, v. 2, p. 2425.

ZAVASCKI, Teori Albino. A tutela da posse na Constituição e no Novo Código Civil. Revista Brasileira de Direito Constitucional, n. 5, p 50-61, jan /jun. 2005. Disponível em: http://bdjur.stj.jus.br/jspui/bitstream/2011/6723/A_Tutela_da_Posse_na_Constitui%C3%A7%C3%A3opdf . Acesso em: 15 outubro 2018. p. 26.

ZAVASCKI, Teori Albino. A tutela da posse na Constituição e no Novo Código Civil. Revista Brasileira de Direito Constitucional, n. 5, p 50-61, jan /jun. 2005. Disponível em: https://bdjur.stj.jus.br/jspui/handle/2011/6723. Acesso em: 23/11/2018. p. 1; 2.

[1] Academic of Postgraduate Law in Civil Law and Civil Procedure, UCAM College and Member of the Research and Writing Center of The LegalE College.

[2] Advisor. PhD in Health Sciences. Master's degree in Letters. Law degree. Graduation in Letters.

Sent: January, 2020.

Approved: October, 2020.