

PROPERTY

PROFESSOR KRISTELIA GARCÍA

CLASS 1:
INTRODUCTION; TWO CONCEPTIONS OF PROPERTY

CLASS OUTLINE

- Welcome!
- What is property?
- Two conceptions of property:
 - (1) the right to exclude
 - (2) a bundle of rights
- Trespass (to land)
- The *ad coelum* rule
- Transaction costs

WHAT IS PROPERTY?

3 branches of common law:

1. Contracts

2. Torts

3. Property

WHAT IS PROPERTY?

Types of property:

- Real property
- Personal property (aka “chattels”)
- Intangible property (e.g., intellectual property)

WHAT IS PROPERTY?

Who can own property?

- Individuals
- Co-owners (1 or more individuals or some combination of individuals + ...)
- Partnerships, corporations
- The public
- The government

WHAT IS PROPERTY?

What do we want to do with property?

- Use it ourselves
- Exclude others from using it
- Transfer it

WHY PROPERTY?

INCENTIVES

TWO CONCEPTIONS OF PROPERTY

1. Essentialism: the right to exclude (Penner)
 - A right *in rem* is a right in a *res*, or thing, that is good against all the world (as opposed to a right *in personam*, which is good against a particular person)
 - The right to exclude is grounded in the interest we have in the right to use
2. Nominalism: A bundle of rights, of which the right to exclude is only one (nonessential) right (Grey)
 - Rejects the *res* requirement that says property must be a right in a thing
 - Recognizes various forms of ownership as violating a strict right to exclude

THE *AD COELUM* RULE

