Chapter 2
Possession

Possessio to posses or occupy
Possession is purely physical fact. Without possession it was impossible to acquire ownership.

Kinds of possession:
- Possessio civilis (prescriptive possession)
- Possessio ad interdicta (possession protected by inderdict)
- Possessio naturalis

Possessory interdicts:
- Interdictum uti possidetis
- Interdictum utribi
- Interdictum unde vi and interdictum unde vi armata

Chapter 2 (2)
Possession
Kinds of possession:
- Possessio civilis (prescriptive possession)
  Protected possession.
  Possessio civilis was protected physical control that could lead to full ownership, dominium, by means of prescription. This form of possession was obtained by means of lawful ground, istic cause, such as contract of percheses and sale, donation, legacy.
  The possessor of the thing should really have obtained ownership immediately, but because of a formal defect this didn’t happen. It was possible that the person who should transfer ownership wasn’t the owner. In terms of nemo plus iurus rule he was not permitted to transfer own.
  In the second place irregular mode of conveyance.
  In both cases the recipient eventually became the owner after the expiry of the prescription period of the prescription. During the period of prescription the possession was protected by the possessory interdicts of the praetor.

Chapter 2 (3)
Possession
Kinds of possession:
- Possessio ad interdicta (possession protected by inderdict)
  Protected possession
  Possessor who possessed the thing with animus and domini
  Persons who were entitled to possessory protection by means of interdicts could, if their possession of a thing were threatened or if they have been deprived of possession, apply to the praetor for an interdict by means which their position as possessor could be maintained or restored.
  This group of person include:
  - owner of the thing
  - Possession civilis
  - Possessor in bad faith (mala fide possessors)

(B) Person who lacked the aminus domini:
- Pledgee
- Long term lease holder
- The pracario tenens
- The Sequester
  The last 3 groups did not enjoy possessory protection, despite the fact they must have been entitled to protection.

Chapter 2 (4)
Possession
- Possessio naturalis
  Not protected possession
  Possession of person who had physical control over the thing but were not entitled to possessory interdicts. The had to request someone else (in case of a lessee the lessor) on their behalf to restore possession.
  There was not possession but only physical control.
  They exercised control in terms of an agreement with the party from whom they obtained control of the thing.
  Such persons are:
  - lessee
  - Borrower
  - Depositee

### Possessio Civilis
- Protected possession
- Could lead to dominium through prescription
  - Possessor by prescription
  - Bonitary owner

### Possessio ad Interdicta
- Protected possession
  (A) Possessors who possessed the thing with animus domini
    (i) owner
    (ii) Mala fide possessor
    (iii) Bona fide possessors who could not obtain ownership through prescription (possessio civilis)
  (B) Possessors who lacked a.d.: pledgee, long-term lease holder, pracario tenens, sequestor

### Possessio Naturalis
- Unprotected possession
- Exercise control in terms of an agreement with the party from whom he obtained control of the thing
  - Lessee
  - Borrower
  - Depositee
### Chapter 2 (5) Possession
#### Acquisition of possession
Possession was obtained when a person established physical control over the thing with the intention controlling it.

#### Protection of possession
Possession was protected by praetor by interdicts. A person whose possession has been interfered or deprived could apply to the praetor for help. The praetor the issue interdict to maintain the possession of the person in question or to restore possession. This was speedy procedure where by the a person was ordered to do something or prohibited from doing smt. Possession was therefore protected by means of interdicts not by means of an action.

When granting an interdict the paretor did not enquire whether the possessor's possession was lawful or not. The only Q was whether the possessor's possession had been interfered with? Once the possessor's possession had been restored then the legal position of the possessor would be decided.

### Chapter 2 (6) Possession
#### Devison of possessory interdicts into:
- those aimed at maintaining or protectiong possession (prohibitory interdicts)
- Those aimed at restoring possession (restitatory or mandatory interdicts),

**POSSESSORY INTERDICTS**
- Interdics uti possidentis
- Interdics utrubi
- Interdictum unde vi and unde vi armata.

### Chapter 2 (7) Possession
#### POSSESSORY INTERDICTS
- Interdics uti possidentis
  Immovable things. It protected the possesor who was in possession of the thing at the time when the interdist was requested. Protected the possesor or whose possission wa disturb. Even protecting the possesor who lost possission.
  
  NB - The possesor could apply succesfully for this interdict if he had been disturbed in his possession or deprived by his possession by force, secretly or on sufference.

### Chapter 2 (8) Possession
#### POSSESSORY INTERDICTS
- Interdics utrubi
  Movables
  Person who requested it
  Person against whom it was requested.
  It was not necessary the person to be of the possession at the time when the interdict has been applied for. The person who had been in possession the longest period of the time during the past year was the possesor and was protected. He was only protected if he did not obtained the thing by force, secretly or on sufference. The person who had been in a possesion for shrttest period could gain possession if the other party had deprived him possession by force, secretly or on sufference. Justinian - person who was in the possession of the thing at the time when interdict was requested was mantained in possission unless he obtained possession by force, secretly or on sufference.

### Chapter 2 (9) Possession
#### POSSESSORY INTERDICTS
- Interdictum unde vi and interdictum unde vi armata
  These interdicts were available when immovable things had been lost in a violent manner.