Acquisition of Property Rights of the Building Area

Elena IFTIME
Iulian VAGNER

DOI: http://dx.doi.org/10.18662/eljpa.2014.0101.08


Published by:
Lumen Publishing House

On behalf of:
Stefan cel Mare University from Suceava, Faculty of Economics and Public Administration, Department of Law and Public Administration
ACQUISITION OF PROPERTY RIGHTS OF THE BUILDING AREA

Elena IFTIME
Iulian VAGNER

Abstract
We plan to debate in the existing article the problematic of an aspect entirely special in the legal status of real estate and namely: acquiring property right upon the building area, analyzed in its legal and urban architectural dimension.

This way of acquiring the property right of real estate is not something new, but was adjusted during time, to some legal regulations which belong to the sphere of civil right and that of urban planning law, subjected always to the changes of economic, social, juridical and architectural life.

In legal terms, this regime of the building area has suffered several changes, adjustments through a complex legislation, with a lack of clarity and coherency needed for a legal document so vast and complex which raised and continues to raise numerous problems to the social and legal practice. The newest and most consistent clarifications are brought by the new Civil Code and the new Civil Procedure Code, but also through special legal norms belonging to the urban architecture field.

These regulations try to cover some legal gaps and to offer some innovative solutions in agreement with the new Romanian realities required by the status of Romania as a state of the European Community.

As it concerns the urban architectural field, the general legal code, is being assured by the regulations mentioned above which refers to the special legal norms of this field, especially the Law no.350/1991 concerning construction authorization and the Law no.350/2001 concerning land and urban space management. Based on these regulations, has been developed the general urban and local regulations, Regional Urban Planning (R.U.P) and General Urban Planning (G.U.P) and Detailed Urban Plan (D.U.P). Seen on a large scale, these documents are regulating the ways through which the cities can be developed based on the

References

1 Professor Ph.D., “Ştefan cel Mare”University of Suceava, Romania, Faculty of Economics and Public Administration, elenai@seap.usv.ro
2 Ph.D. Student, “Ştefan cel Mare”University of Suceava, Romania, Faculty of Economics and Public Administration
urbanism regulations and with a view based on a strategy of development, for a longer period of time.

**Keywords:**
real property, urbanism documentation, contractual liability, building edification, urbanism regulations.

**Classification JEL:** J51, J52, J53

I. GENERAL CONSIDERATIONS ON REAL ESTATE OWNERSHIP AND THE BUILDING AREA

I.1. Real estate ownership

We start in the achieving of our approach, concerned by the real estate ownership, from the constitutional dispositions which say that “the general legal regime of the property to which is subjected the immovable property, is regulate by an organic law.” It is a necessity that is explained by the fact that in any person’s heritage the immovable property which is a form of material object of the real estate ownership, have a privileged position because anytime these have an increased value and economic utility. From here arise some particularities which are detailed by the legal regime. The importance of identification and studying the notes specific to the real estate is boosted by the essential modifications on political, economic, social and legal plan in the past 150 years from the adopting of the Civil code which represents the main source of these meticulous and detailed regulations of this field (till the adoption of the new Civil Code). Meanwhile, the regulations mentioned have suffered several modifications, the most recent being brought by the new civil code. One of the reasons that imposed the reassessment of the institution of real estate property right by the new Code, is the need to bring back “to source” some institutions and to reunify the content of the Code with regulations that belonged once to it and which come back enriched by assimilating the contemporary values (in general) from those of European integration (especially).

Here are some of the reasons which made us to develop, in this article the issue of an aspect entirely special which circumscribes in the legal regime of the immovable property and namely the acquiring of the property right upon the building area, analysed by its legal dimension and also urban-architectural.

---

3 See the art. 73 lit. M. of the revised Romanian Constitution.
4 It shows us the importance that the immovable property has it (as material object of the real estate property right), given its value and the social and economic unity of these.

I.2. Immovable property: notion and classification

The civil legislation adopted before the new Civil Code was not providing a clear definition of the word “asset”¹, although numerous law text are using the word “asset” or “goods”. If we refer only to the Civil Code of 1864 we will notice that it uses the two terms as synonyms. Art. 480 from the mentioned code for example states that: “Property is the right that someone has it to enjoy and to have a good...”. Or the art.963 states that “Only the goods that come from trade can become the subject of a contract.” Other articles of the Civil Code of 1864 use the notion of “asset”. Art. 461 of this Code show that “The assets are movables or immovable by their nature or through their destination or though the object these are applied for.” In law literature, it draws the attention of the differences that are imposed between the notion of good and asset.

“The asset” is a broader notion that includes the animate or inanimate goods (birds and animals). “Through this, we understand that an inanimate asset is: a coat, a piece of furniture, a car, et” ⁵.

According to their nature and the quality given by law, we must show that these are defined as goods ⁶ which have a fixed settlement and stable, and cannot be moved from a place to other. Is a definition which does not cover the entire range of immovable assets, because the difference between movable and immovable ⁷ assets is made only by the criterion of the goods, but not other criterions (object, destination).

The categories of immovable assets are the following:

The immovable goods through their nature stated by the art.463, 464, 465 par.1 of the civil code states that “Lands and buildings are immovable through their nature” and art.464 adds that “Windmills or watermills, placed on pillars are immovable through their nature. Also, the art.465 par.1 states that” The crops that are not collected and the fruits from the trees are also immovable.”

Regarding the plots of land, must be add that their property includes according the code, both the property of the surface and the underground⁸. To these provisions must be brought some supplementary ones, because according

---

⁵ Ibidem.
⁶ I. P. Filipescu, op. cit., pag.36. Legea cadastrului şi publicităţii imobiare nr.7/1996 realises a clarification of the notion of property realizing in the art.1, al.3 that „by immovable good, we understand the land with or without constructions”. That Law is published in the Of. G. no.61/226.03.1996. Likewise, Housing Law no. 114/11 oct. 1996, realises a qualification of the various categories of housing: house, locuinţă social house, working house, intervention house, necessity house, protocol house, holiday house, art.2 of Law 114/1996).
⁷ Are movable goods those which don’t have a fixed position and cannot be moved from one place to another (art.473 of civil Code).
⁸ Art. 489 of Civil Code.
to the actual Constitution, the riches of any kind of the subsoil belong to public ownership. Under the law, the assets of the public domain can by given in management to autonomous administrations or to public institutions or can be rented or concessional (art.135 pt.5 of Constitution, art12-17 of the Law no213/1998 which regulates the legal regime of the public property).

As it concerns the buildings, it must be said that these does not represent only living spaces, but also include all the constructions built on ground or underground such as: the stores, sheds, bridges, tunnels, dams, sewerage, etc.

All the components of a building have the regime of immovable goods, including: the windows, doors, the balconies, which become immovable by incorporation or through their nature.

The immovable goods by destination are firstly, the ones who appear as an accessory for the service or exploiting an immobile, although by their nature are mobile. Article 467 states that “Animals that the owner rents to the landholder for the culture are immovable as long as they fulfil the initial purpose”. In the category of the immovable assets by destination are included, as the art.468 of the civil code states, the objects placed on the fund “in perpetum”. In this case, it is established the presumption of sitting “in perpetum”, if the objects are caught with gypsum, lime, cement, or when cannot be removed without damaging the immobile. Therefore are: the mirrors, the paintings, the ornaments, the statues if they are all fixed.

The immovable goods by their object include all the rights of which subject is an immobile. These goods are targeting: the usufruct of the immovable goods, easements, actions which claim an immobile. Here are included: the actions concerning the valorisation of the real estate rights, the action of claiming an immobile, the confessor action of an usufruct regarding the immobile, the mortgage action, action in complaint of an easement: the action in cancelling the alienation of an immobile, the action in selling of an immobile, the action of donation in reduction a property.

Without defining the immovable goods, the new civil Code through the art.537 makes an enumeration of the goods which by their nature have this character and namely: lands, springs and water courses, plantations, buildings and any other works fixed in the ground that have a permanent character, platforms and other installations of exploiting the underground resources located on the continental shelf, and for everything that we find naturally or artificially, it is incorporated into this as permanent. We find in this article two of the criteria of the old Civil Code, to which we referred above and namely: the criterion of goods nature and that of destination. As for the second criterion, it must be noted the report of accesoriality (of physical damage or volitional) between the
movable and immovable good (by its nature) to which serves. Likewise, is it imposed that the both goods to have the same owner.

Besides the criteria mentioned, in the new civil Code appears the category of immovable goods to the object it refers. Art. 542 states that as shown “If does not states otherwise, these are not subjected to the rules concerning the immovable goods and the real rights upon these.

Regarding the classification of the immovable goods, the new civil Code brings some new elements, making two new categories of goods: goods which stay immovable and goods which become immovable.

The Article 538 par.1 states that are immovable goods, the materials separated provisory by an immobile, to be again used as long as these are kept in the same condition, also the inner parts of an immobile which are temporary detached from this if are meant to be reintegrated.

The art.538 par.2 refers to goods which become immovable, stating that “the materials brought to be used instead of the old ones become immovable goods from the moment when they acquired this use”.

I.3. The legal regime of acquisitioning some constructions by building them.

One of the main ways of acquiring property right of a construction is represented by building it. Being a right of real estate, the applicable rules will be those of common law offered by the new Civil Code and the new Code of Civil Procedure. To these, shall be added the regulations developed strictly for raising of a building. These belong to the sphere of civil law norms but also to the regulations which outline the legal frame of building, transforming and demolition of the buildings. In generally constructions belong to the civil circuit, therefore will be subjected to the regime of private property, with all the legal consequences that arise from here.

We are interested by the matter under discussion, especially the regulations contained by the Law no.350 of 6th July 2001 concerning planning and urbanism with numerous modifications and additions incurred to date. In essence, this Law contains regulations of administrative law, namely urban architecture articulated around some general principles consecrated express by law for spatial planning, such as: economic and social development of some regions and the areas, by respecting its particularities; improving life quality of the people and the human collectives, management for sustainable development of

---

9 For details on the legal regime of property rights, see C. Bîrsan, Drept civi., Drepturile reale principale în reglementarea noului Cod civil, Editura Hamangiu, 2013, p. 50 and next.; E. Iftime, Dreptul de proprietate, op. cit., p. 108 and next
10 The mentioned was published in the Official Gazette no.373 of 10 July 2001 and was modified by numerous regulations.
natural resources and cultural landscapes, rational use of country’s territory, the preservation and development of cultural diversity.

In terms of urban planning, functions and objectives, the mentioned law\(^{11}\) gives some guidelines in this way: efficient use of the land according to the appropriate urban functions and controlled expansion of the building areas; protection and highlighting the cultural and natural heritage.

Very important, in the economy of this law are the provisions which establish the attributions of the central, district and local public administration concerning the efforts of spatial planning and accomplishing the urban objectives.

### II. PLANNING CERTIFICATE AND BUILDING PERMIT

The objectives mentioned above, come to life under a complex documentation\(^{12}\), specialized, of spatial planning and urbanism approved by the competent authorities. According to the documentation shown, is being realized the urbanism certificate, an administrative act, necessary, which provides all the data regarding: the legal regime, economic and technical of the buildings, the conditions necessary for the realization of the investments; real estate transactions and other kind of real estate operations in agreement with the special provisions of this field. The complete and specific content of the urbanism certificate is specified in the art.6 of the Law no.50/1991. The Law no.350/2001 does not refer to this content although mentions it as a basic document for obtaining the authorization of construction. In practice, for the classification of the problems, will be consulted the art.6 of the Law no.50/1991.

As seen in the light of the latest changes and additions, the Law no.350/201 are clearly described the situations in which the requirement of the urbanism certificate is mandatory\(^{13}\) or only optional\(^{14}\).

When released, the urbanism certificate must contain all the illustrative data\(^{15}\) for: the form the property right and the eventual public easements of

---

\(^{11}\) See the art. 13 of Law no. 350/2001.

\(^{12}\) The most important parts of this documentation are: urbanism certificate and building permit, environmental, etc. For more details see V. Stoica, *Drept civil. Drepturi reale principale*, Editura C.H. Beck, București, 2009, p. 340-350

\(^{13}\) It is compulsory, for example in the case of adjudication by auction of the engineering and design of the public works, as well for the cadastral documentation of dismantling or reunification of the lands, at least three land parcel, when the operations have as object division or reunification of parcels in case of a construction work or infrastructure, also for a servitude regarding an immobile. The release of the urbanism certificate is mandatory also in the situations indicated by the art. 29 par1 and 2 of the Law no.350/2001.

\(^{14}\) Releasing the urbanism certificate is optional in the case of selling or buying property, when there are divisions or merges of the parcels which make the object of an outflow from indivision.
ACQUISITION OF PROPERTY RIGHT OF THE BUILDING AREA

which the building is encumbered; the place where it is situated (within or outside the built up areas); information showing the possible regime of the building, sign up in the Land Registry and eventual dismemberments; the economic and technical regime of the building for which the urbanism certificate is required.

Building permit is the second act of public authority which contributes to the achievement of the objectives of regional planning. The source of this regulation is the Law no.50/1991 with its numerous modifications incurred in time\textsuperscript{16}. The design of this law is based on the principle of compulsory of a license released by the competent authority. In original version the Law no50/1991 entitled only the holder of property right upon a building to request a building or demolition permit of a construction. After the occurred changes, in time the rule imposed was that, is possible to request a certain authorization the holder of any property right not only the holder. As for the legal nature of the building permit, it is made clear that, because is an act of the local authority, it is subjected under judicial review, according to Law no.554/2004. Therefore, those who can justify an interest can take to court, both the building permit emitted and refusal to release it.

Throughout the building permit, it is separately regulated the demolition authorization.

The article 1 par. 2 of the Law no.50/1991 states that any civil construction, industrial, including those for supporting the facilities and technological equipment, agriculture or any other nature, can be made only by respecting the building permit, emitted under this Law, completed by the regulations regarding the design and the execution of construction. The stated purpose of these regulations is to subdue to a prior administrative control any construction of this kind, mentioned above.

In the vast majority of situations, the building permit is released based on the documentation for authorizing the execution of constructions developed in compliance with the law. The first requirement, regards respecting the urbanism documentations, approved legally. In a small percentage of situations, development of documentation for authorizing the construction works does not require necessarily the documentation for urbanism and territory planning. These are: repair or modification works, protection works, of restoration and conservation of any kind, providing the same functions of the built area; modification or reparation concerning communications, technical/underground and overhead facilities and others likewise, without changing the route, works of modification or reparation concerning surroundings, green spaces, parks and public gardens, pedestrian squares and other works of the public places, research

\textsuperscript{15} For all data required by law, in terms of identifying the legal regime of the immobile, see art. 31 lit. a of the Law no. 350/2001 as it has been modified by the art. 7 din O.U.G. nr. 27 of 27 August 2008 and art. 31 lit. b and c from the same law.

\textsuperscript{16} Bîrsan, op. cit., p. 102-103

papers and design, land drilling necessary for agronomic studies, surveying mine quarries, gravel pits, gas and oil wells, organization of tent camps.

The competent authorities in order to issue the authorization for building permit or demolition are those indicated by the art.4 of the Law no. 50/1991 namely: the presidents of county councils; Mayor of Bucharest, mayors of municipalities and the sectors of Bucharest; mayors of cities and villages. The works for which the authorizations are emitted are embodied in the art.3 of the law.

The application for the building permit shall be accompanied by the urbanism certificate, to which we referred above.

As for demolition of the buildings and of the installations through decommissioning, demolition, dismantling, it is imposed likewise the permit of demolishing, obtained in advance from the public authorities, through a procedure similar to those of the building permit\(^\text{17}\).

There are certain express works (but not limited) provided in the art.11 of Law no.50/1991 for which is not necessary the building permit, because does not bring modifications to the resistance structure or to the architectural aspect of the building. These are: reparations to fencing, roofs, decking when does not change the shape of these and the materials from which these are made; reparations and replacements of heating stoves; painting and interior painting, etc...

When necessary, building permits must meet rigorous the legal requirements, otherwise these can be cancelled by the administrative courts, at the request of those concerned. The cancellation procedure is provided by the art. 12 of Law no.50/1991 and it can be triggered, including at the notification of the competent authorities\(^\text{18}\).

Very important is the issue of the legal regime of the lands on which constructions are made. Being private property, these are in the civil circuit and the law does not insist especially upon them, being subjected to common law. Regarding the lands of the state’s private domain and his territorial unit, the law contains some special provisions.

In the light of the art.13 par.1 of the Law 50/1991, the land mentioned can be sold or rented by public auction, according to law. Likewise, will be respected the requirements imposed by the urbanism documentation and by territory planning, which served to the holder of the property right in building construction.

Some lands can be leased\(^\text{19}\) without public auction according to a tax called severance tax or can be used for a limited period.

\(^{17}\) See art. 8 of Law no. 50/1991.

\(^{18}\) It is about State Inspectorate for Construction.

\(^{19}\) For details see E. Iftime, Dreptul de proprietate, op. cit., 2013,
It is necessary to specify that the regulations concerning the building permit or demolition of the buildings is applied both to the private constructions and those who belong to public ownership. The contractors of such works have the legal obligation\textsuperscript{20} to complete the works began, as the building permit provides.

Some special provisions were adopted regarding the construction of new housing spaces. These should meet to some minimal requirements\textsuperscript{21} no matter of the property form and spaces to which these will be achieved. These conditions are stated in the annex 1 of Housing Law no.114/1996, republished in 1997. According to their competences, the county councils will be able to authorize the execution in stages, depending of the need of covering this requirement but also by the available opportunities.

\section*{III. APPLICABLE PENALTIES FOR NON-COMPLIANCE OF THE LEGAL PROVISIONS CONCERNING THE BUILDING OR DISMANTLING OF CONSTRUCTIONS}

Strictly analysed, the building permit does not have a fundamental role in acquisition of the property right by this way. The lack of the authorization attracts some penalties, but does not affect the right of propriety over the building the building. Therefore, the judicial practice was appreciated that the husbands who in the regime of community property\textsuperscript{22}, realizes during the marriage a construction will acquire property, even if the authorization wasn’t acquired. Similarly, the defendant in an action of claiming will not be able to defend itself citing the lack of the building authorization at the moment of building the construction, by the complainant.

The penalties for unauthorized construction are set out in Chapter III of the Law no.50/1991 and they are on criminal nature or administrative, as appropriate. These penalties are meant to restore the building construction in the framework of the legal system which must be respected for achieving the urban-architectural objectives and the smooth social development. In the same time, establishing the criminal liability or contravention can be adopted also the measure of cancelling the executed works without an authorization or breaking these one. In this case, the dissolution of the buildings and establishments of any kind is possible only on the basis of an prior administrative authorization, released in the same conditions as the construction or demolition permit requested by the building owner.

\textsuperscript{20}See the art. 37 al. 1 of Law no. 50/1991 republished.
\textsuperscript{21}See the art. 3 of the Housing Law no. 114/1996 republished.
\textsuperscript{22}See the decision of C.S.J. Of. Gazette no 84 of 21 February 2001.
To achieve the restorative and educational functions of this sanction, the Supreme Court established by Decision no. VII of year 2000 the following rules:

- finding of contravention is subjected (in the case of unauthorized construction) to a special term of prescription of two years (after art. 23 of Law no. 50/1991 and not after the Law of contravention no. 180/2002, which repealed Law no. 32/1968)
- if in the case of the constructions that are being built, the date when the contravention takes place is the date registered.
- in the case of completed constructions, the contravention is found in two years from finalizing the building.
- obtaining of the construction authorization during or after completion (if previous and offense was found) does not cancel the illicit nature of the deed.

IV. CONSTRUCTION QUALITY

Under the terms of law, those who want to build living or vacation houses can benefit from the support of the state, consisting in loans and grants from the state’s budget. Under the terms of art. 7 of Law no. 114/1996, can benefit for a subsidy from the state’s budget: newlyweds who at the time of contracting the house, each have the age under 35; the persons which benefits from facilities for buying or building a house, according to Law no. 42/1990 (republished); the persons from agriculture, education, health, public administration and cults, which establish the residence in the rural areas.

The article 19 of the Housing Law, establishes some restrictions concerning the alienation of the constructions realized with subsidies from the state budget. Alienation of some such constructions can’t be realized unless the full repayment of the amounts owned. In this regard there will be made the integral proofs of the counter value of the updated amounts, obtained as grants from the state budget.

As for the granting loans, this will be made by the C.E.C, with an equal rate with the one paid on term deposits of the population, plus a margin of 5 percentage points.

---

23 In detailing this aspect it must be shown that the mentioned persons in the present article receive a subsidy from the state budget, within the annual budgetary provisions, in relation with the income, up to 30% of the house value, at the time of contracting and also the monthly payment for a period of 20 years, of the difference to the final price of the house, after deducting the grant from the advance payment of minimum 10% of the house value at the time of contracting, paid by the contractor.
Building construction and then their capitalization brings into question the quality of construction, with all the legal aspects that it raises. The general legal frame which sets the requirements concerning the quality of construction is offered by the Law no.20/1995 which refers to all the constructions, regardless the use\textsuperscript{24}. Are exempted only the buildings with regime of ground floor, floor plus one and household annexes located in rural environments and villages which belong to cities, also temporary buildings.

We are interested also by the issue in question, G.D. no. 766/1997 for the approval of some regulations concerning construction quality as amended and completed by the G.D. np675 of 11 June 2002. No less important are the regulations of the new civil code which in the art.1874-1880 regulates the general contractor agreement for works and constructions. The new civil Code makes clear that this contract covers some works which: according to law, requires the release of a building permit. It is a variety of the general contractor agreement with a wide practical application in the construction area. Very important for the issue under discussion are the regulations of the new civil Code which concern the control of the work’s execution or the surroundings which prevent the execution of the works.

In terms of control exercised over the work, the art.1876 of the new civil Code states that, in order to achieve the quantitative parameters but also qualitative of the work, the beneficiary has the right to check in any moment he wishes the stage of the work, the quality and the appearance of the work performed, without affecting the normal course of work. Unless there was not other agreement, the beneficiary notifies the contractor in writing about his findings and instructions. If in executing the work, the contract of the entrepreneur fails or there are deficiencies, is forced to notify immediately the beneficiary and the owner along with the proposed measures to remedy the mistakes or the deficiencies, and communicated by the entrepreneur the work will be suspended (art.1877 of the new civil Code). Under legal aspects are also important the provisions of the new civil Code which refers to the work reception and the risk of the contract.Art.1878 provides in the shown meaning that at the end of the execution, the beneficiary shall make a provisional reception, at the point when he will be considered the owner of the work, taking the risk of the contract.

Besides the required conditions, for assuring quality construction, the Law no.10/1995 establishes rights and obligations, also liabilities of the investors, designers, contractors, project verifiers, building owners, building managers and users, as well as those from research activity. The Law stipulates development of

\textsuperscript{24} By the entry into force of the Law no.10/1995 of the G.D. no. 2/14 January 1994, concerning construction quality, it is devoid of purpose.
some regulations concerning quality construction that is approved by the Government.

A very special place is occupied, in the content of the law by the regulations concerning the concealed²⁵ damage of the construction. It is representative, in this respect, the art.29 of the law which states that “the designer, the project specialist checker, manufacturer material suppliers and construction products, certified technical expert, are responsible under obligations for the hidden defects of construction, occurred within 10 years from the receipt of the work and after the completion of this period, for the whole existence of the building.” The same provisions are applied to the hidden defects in the resistance structure, resulting from non-compliance of the design norms and of execution.

The regulations concerning the construction quality are find in all spheres of the social life, where arises and is completed the problem of the building construction. In the infrastructure area of the national defence system, for example, to the conditions mentioned above is added the approval of the General Staff when we talk about the place of the new investment targets and developing the existent ones. The provisions in this regard include the National Defence Law no.45/1994 (art.21). Norms and specific regulations for the location design and execution of the installations and buildings of every kind includes also the ordinance no.47/1994 concerning the defence against disasters.

CONCLUSIONS

From the investigations, effected on the acquisition of property right, some conclusions can be drawn.

Although not new, this mode of acquiring propriety right was less debated by the legal doctrine, although in practice we meet numerous problems which require legal solutions that need to be carefully searched in the space of civil right and also in the urban law and interior design.

Among the civil law regulations, for our discussion are relevant those of the civil Code which are the main source of the civil law. As for the new civil Code, this is the main source of the regulations concerning building are which

²⁵ For details on the liability regarding the apparent of hidden vices of the paper, see art.1879 and 1880 new Civil Code. Art. 1879 mentions expressly that “The terms of the warranty against the vices of the paper are the ones established by the special law”. In the matrix under consideration, special reglementation is the law no.10/1995. Under the mentioned article, reliable for the vices are the architect or the engineer and the entrepreneur to the extent that they don’t prove that these come from the works of others of from the decisions imposed by the beneficiary of the work.
complements the special regulations, especially regarding the rules in building a
construction, contractual or tort liability but also construction quality.

Of course that each step for the construction of building area is guided by
the special regulations which have priority over the rules of common right, under
the principle of “specialia generalibus derogant”. But there where the rules are
incomplete, obscure or likely to interpretation, arise the regulations of common
rules which along with analogy offers the adequate solutions.

Regarding the quality of construction there are very important the
regulation of the new civil Code for the general contractor agreement for
construction works, with all its stages, with emphasis on the control of the works
or the circumstances which stop their execution.

The new civil Code does not miss neither the important aspects regarding
works reception, contract risks and the responsibilities of the investors, designers
project verifiers, building owners, building managers and to its holders.

For the buildings built up in certain spheres of the social life there are
required some extra conditions, such as those from the field of national defence
or defence against disasters.

REFERENCES

Bîrsan, C., Drept civil. Drepturile reale principale în reglementarea noului Cod civil, Editura
Hamangiu, 2013
Iftime, E., Dreptul de proprietate, Editura Didactică și Pedagogică, București, 2013

The Law no.10/1995 of the G.D. no. 2/14 January 1994, concerning
construction quality, it is devoid of purpose.

Law no. 114/11 oct. 1996
Law no 7/1996