

The new right to surface

Abstract

The superficiary right of building is a legal concept on the boundary between ownership right and rights in rem in things of others, and should be approached as such. If we compare the relationship between the builder and the owner of the land before and after the end of 2013, that is, if we compare the two opposing principles of *superficies non solo credit* and *superficies solo credit*, we can clearly see the primacy of the latter approach to land ownership. The scholastic debate about the stage at which building becomes a thing in a legal sense is irrelevant, because from the beginning it is either part of the land, or part of the superficiary right of building conceived here as an immovable thing. It simplifies the *modus vivendi* between the owner of the building and the builder (there is no need to regulate the mutual relationship using obligation methods, or less stable in rem concepts that govern the possibility of building on the land of another).