



Nulidad, restituciones y responsabilidad (Spanish Edition)

Thibierge Catherine

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Gracias a la Universidad Externado de Colombia y a la generosa licencia de la profesoras Catherine Thibierge, los jurisperitos de habla española tienen la posibilidad de consultar, estudiar y criticar, en el mejor sentido del término, esta obra que, en palabra de su autora, ha tenido como objetivo despejar la especificidad de los conceptos de nulidad, de responsabilidad con ocasión de la anulación y de restitución, mediante un paralelo de los unos y de los otros para después intentar organizar las relaciones en un conjunto alrededor de la nulidad y a fe que lo logra. La autora examina la noción de nulidad como estado del acto o como un derecho de crítica; explica sus debilidades conceptuales para señalar que en realidad constituye una sanción jurídica sustancial y objetiva, consistente en la supresión de los efectos jurídicos del acto en la medida necesaria para el restablecimiento de la legalidad transgredida durante la celebración de un contrato, con exclusión de consideraciones subjetivas, tales como la culpa de alguna de las partes o el carácter determinante de la voluntad de las partes en relación con una cláusula, para en este caso, llegar a la nulidad parcial. Estudia asimismo, entre otras, la nulidad por vicio del consentimiento debido a un error; la concepción moderna de la nulidad analizada como una sanción; la especificidad de la responsabilidad de las partes con ocasión de la anulación del contrato; las múltiples formas de daño que puede sufrir la parte de contrato víctima de una culpa; las clases de perjuicios que puedan dar lugar a una indemnización; el fin de la nulidad; el fin de la responsabilidad; el fundamento de la obligación de restituir y el papel de las restituciones.

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