



Legal Research in the Subject of Bankruptcy According to the Latino-Germanic Legal System

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Editorial

Bankruptcy is a special legal system or process that can be described as a form of forced execution, through which a group of creditors participate in the single aim of collecting the money of the debtor who has stopped paying his dues, this concept is known as “collective execution”. As for the main objective behind it being so and not an individual implementation, is trying to provide all creditors with an equal chance and an equitable division of the debtor’s property among his creditors [1]. Aside that, is the aim to prevent on the part of the debtor conduct detrimental to the interests of his creditors. This double-aim of protecting the creditors from one another and from their debtors is applied to all bankruptcy law no matter the place or time of the law drafting. A third fundamental aim would be to protect the honest debtor of his creditors no matter that this objective is attained in some bankruptcy systems. According to the United States courts “Filing bankruptcy can help a person by discarding debt or making a plan to repay debts [2]. A bankruptcy case normally begins when the debtor files a petition with the bankruptcy court. A petition may be filed by an individual, by spouses together, or by a corporation or other entity”. Originally, and if we were to take into consideration the different perspectives of the countries and legal systems around the world regarding the subject of bankruptcy, we can agree on the fact that the origin of the word “Bankruptcy” derives from the mixture of the ancient Latin word Bancus which means bench or table and Ruptures which means broken. it is historically common for a banker to conduct his public marketplace transactions on a bench, and so, when one was no longer able to continue lending money or even meeting certain dues and obligations, his bench was broken as a symbol of his own failure to negotiate [3]. Due to the fact that this was a very common practice in

Italy, it is thought nowadays that the origin of the word goes back to Italian roots and translates as follows “Banco Rotto” which is known as broken bank. Some also believe the word “bankruptcy” is of French origins. Moreover, the first ever bankruptcy law was passed year 1542 in England under Henry VIII [4]. By that time bankruptcy was a punishable crime, sanctions would range from incarceration in the debtor’s prison to the most cruel and extreme death sentences, however between the years 1557 and 1596, Phillip II declared 4 state bankruptcies, making Spain the first sovereign nation to every declare bankruptcy [5]. The United States later followed with its first bankruptcy law year 1800 by the Congress itself.

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Conflict of interest

None

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