The Roman Law of things --

a system of legal principles/rules that regulate the relationship between a legal subject & object (thing)

Function --
to harmonise the variety of individual rights in terms of things

Content regulations:
- Rights of ownership of various legal subjects are harmonised by defining the **content and limitations** of these rights (of each legal subject) with regard to those of others.
- Bring harmony in cases where different people have different real rights over the same thing. Eg. Usufruct
- Regulate the **exchange of & dealings** with things & real rights. Eg. Ownership passed over, rights of the lesser concerning a leased thing

Real right
--

enforced by Roman law by real ACTION

--

enforced on those violating another person's right to a thing, eg. Theft

Classification of things:

Res
--
(narrow sense) **thing/corporeal object**

--
(broad sense) thing that made up part od one’s patrimony or estate

--
(jurist jargon) interest, achievement, matter, lawsuit

Things outside the trade/estate:
- “res extra nostrum patrimonium”
- Could not be aquired in ownership (res extra commercium)
- One of the following:
  a. Subject to divine law, eg. Temples, alters, tombs
  b. Belonged to everyone, eg. Air, sea, beach
  c. Belonged to the state/community, eg. Bridges, mines, theatres, parks, public roads

Things within the trade/estate:
- “res in nostro patrimonio”
- Aquired in ownership (res in commercio)
- Could be: a. Possessed, then
  b. Right of ownership obtained, then
  c. A limited real right established

1. Corporeal things (res corporales) -- > **touched/observed**
  --
  susceptible to ownership & possession

Incorporeal things (res incorporales) --
cannot be touched/observed
  --
  abstract & exist for juristic purposes
  --
capacity/right that formed part of a person's assets
  eg. Right to servitude, inheritance, usufruct

- This distinction was first made by **Gaius** (jurist of preclassical period) who wrote
  **Institutes/Institutiones** (a source of classical law, classification of Roman law) in 160 AD.

2. Replaceable things (res fungibiles) --
generic (of the same kind)
Non-replaceable things (res non fungibiles) --
Non-generic
*Ordinary horse vs. racing horse.

3. Joint things --> multiple components (single things) combined to form a unit, eg. Flock of sheep, herd of

4. Divisible & indivisible things (relevant in co-ownership)

5. Consumable & non-consumable things (res consumptibiles & res non consumptibiles)

6. Movable and immovable things (res mobiles & res immobiles)

7. Fruits -- economic benefits from use of a thing
   --> Fructus naturalis = produced in nature, eg. Fruits, crops, wool, milk, young animals
   --> Fructus civiles = obtained after the establishment of a contractual relationship, eg. Rent from property, interest from investments

8. Res mancipi -- matters of some economic importance during the early Roman period
   --> associated with agriculture
   --> Includes: a. Land & buildings in Italy
                  b. Certain rural praedial servitudes (iter, actus, via en aquaeductus) over such land
                  c. Slaves
                  d. Certain beasts of drought and burden, eg. Oxen, horses, mules & donkeys

   --> Formal modes of conveyance of ownership, used only by Roman citizens, i.e. Mancipatio & in iure cessio (transport/transfer of property)

   Res nec mancipi -- all other things not mentioned above (irrespective of economic value)
   --> ownership transferred by informal modes, i.e. Traditio & in iure cessio

   - This distinction existed before the 12 Tables in 450 BC (1) & was formally abolished in 531 AD by Justinian (4).

Mancipatio – formal juristic act which served to acquire ownership; fell into disuse in the postclassical period (3)

Traditio - informal method of delivery; the praetor gave legal protection to people who had acquired res mancipi by this means in the republican period & the res mancipi/res nec mancipi distinction became blurred (2)

*(1) – (4): chronological time sequence

Dominium = ownership