

DISTINGUISH BETWEEN PLEDGE AND MORTGAGE

PLEDGE

MORTGAGE

DEFINITION

The delivery of property by one party under its ownership to another party as security for the performance of an obligation.



The use of property by one party under its ownership as security for the performance of an obligation to the other party without transferring such property.

CHARACTERISTICS



The pledgor shall **transfer** its property to the pledgee



There is no transfer of property but only a transfer of documents proving the legal status of the mortgaged property.

COLLATERAL



Only property that exists and can be held, kept and disposed of at the time of pledging can be pledged.

Can mortgage existing property, off-plan property, or property currently being rented, etc.



RIGHTS AND OBLIGATIONS OF SECURED PARTIES

- Only having the right to enjoy the yield and profit derived from the pledged property when there is an agreement.
- Preserving the pledged property.
- Having lower risk than the pledgor (due to directly keeping the collateral).



- Not having the right to enjoy the yield and profit derived from the mortgaged property.
- No need to preserve mortgaged property.
- Having higher risk than the mortgagor (due to not keeping the property, fake documents, change in property, etc.).



Legal basis: Article 309 and 317 Civil Code 2015.

