



El recurso de casación civil (Spanish Edition)

Juan Montero Aroca

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El recurso de casación debería ser en la actualidad instrumento para garantizar la seguridad jurídica y la igualdad en la aplicación de la ley. Con el recurso no se trata tanto ni principalmente de hacer justicia en el caso concreto, cuanto de atender a fines de interés general, especialmente a la unificación en la interpretación de la norma material. La función esencial del recurso es asegurar la unidad del ordenamiento jurídico y la aplicación igual del mismo para todos. Y sin embargo las cosas están sucediendo de otra manera. La casación debería ser instrumento jurídico de uso poco normal, dado que con una primera instancia y con un recurso de apelación cabría esperar que los ciudadanos vieran satisfecho su derecho a la tutela judicial. No está sucediendo así y el recurso de casación se está utilizando en la práctica como una instancia más, como una fase casi necesaria en los procesos en los que la ley permite que se llegue al mismo. La existencia de varios miles de recursos de casación al año hacen necesaria una obra como la presente en la que el estudio es eminentemente práctico, aunque sin renunciar a darle el sentí general que la casación tiene. Por otro lado una obra sobre la casación civil debe atender también al recurso extraordinario por infracción procesal. Los dos recursos sólo tienen sentido si se estudian de modo complementario. Y esto es lo que se hace en el libro, lector, que tienes en las manos.

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