English Abstract

This diploma thesis deals with the issue of acquisition of property from an unauthorised person. Such a possibility deprives the owner of legal protection of his/her ownership rights in favour of protection of good faith of the acquirer, who thus can acquire ownership even though the transferor is a neither an owner nor authorised for any other reason to dispose with the property. The new Civil Code which entered into force on 1 January 2014 introduces new rules governing such situations, while differing significantly from the previous legislation.

Legislation which was in effect until 1 January 2014 was inadequate, in particular due to dichotomy between Civil Code and Commercial Code. Another significant deficiency represented the lack of possibility of acquisition of immovable property registered in the cadastral register from an unauthorised person. Material publicity applied only to a limited extent and did not provide sufficient protection to persons who trusted that the rights recorded in the cadastral register also objectively existed.

The diploma thesis is divided into six chapters and analyses the institute of acquisition of property from an unauthorised person in its broader context. The first chapter describes ownership right and manners of its acquisition as well as the notion and theoretical conception of acquisition of property from an unauthorised person. The second chapter examines the origin of the nemo plus iuris rule and the historical evolution of acquisition of property from an unauthorised person as an exception from the said rule in Europe and on the Czech territory. The rules contained in the Civil Code of 1964 as well as the conflict of legal opinions of the Constitutional Court and the Supreme Court concerning the possibility of acquisition of immovable property registered from a person incorrectly listed as the owner in the cadastral register are described in more detail.

The third chapter inquires into the general conditions of acquisition from an unauthorised person pursuant to current legislation that are common to both property registered and not registered in public registers and both movable and immovable property. These requirements include the good faith of the acquirer, valid legal title and acquisition for a consideration. The last condition however applies only in certain cases. The fourth chapter analyses the legal rules governing acquisition of movable property and property not recorded in a public registry from an unauthorised person. Certain partial deficiencies
of the new legislation are discussed and possible interpretation of unclear provisions is suggested.

The fifth chapter deals with property recorded in public registers, specifically in the cadastral register. Material publicity and its effects are examined and possibilities of protection of the real, but not registered owner are described. The legislation is assessed as suitable. The last, sixth chapter contains a brief description of possession, acquisitive prescription and the relation between acquisition of property from an unauthorised person and acquisitive prescription.