

Acquisition of property from unauthorized person

Abstract

Acquisition of property from unauthorized person, the subject of the thesis, represents an original way of acquiring property rights and breakthrough to the civil law principle *nemo plus iuris ad alium transfere potest quam ipse habet* – no one can transfer more rights to another than they have themselves (nemo dat rule). The Civil Code allows for the right of ownership to pass to a bona fide transferee under certain conditions, even if from a person who lacked the appropriate authorization to transfer. The legislator thus takes into account, in particular, the protection of good faith as a general principle of law and the fact that, in the case of items not registered in public registers, it is not possible to establish reliably who is the owner.

This thesis focuses on the acquisition of ownership rights from unauthorized person to movable property, the aim is to provide a general interpretation of the mentioned institute, to analyze the Civil Code regulation in relation to it and to compare it with foreign legislation. The thesis is divided into four parts, the first of which is devoted to the interpretation of the basic knowledge of civil law doctrine in relation to the subject, the inclusion of the institute in the system of property rights as a way of acquiring the right of ownership, the importance of the division of things in the legal sense for the acquisition from the unauthorized and the interpretation of good faith as a condition of an acquisition, the second part contains a brief outline of the historical development of the acquisition from the unauthorized in Roman law and civil law codifications applicable on the Czech territory. The core of the thesis is formed by the remaining two parts, in which the legal regulation of the acquisition of property by unauthorized person is critically analyzed, the questions of possible interpretative ambiguities of the provisions of the Civil Code are addressed, as well as the question of possible conflict with other interests protected by law and the compatibility of the institute with the constitution (third part), the institute of the Czech Civil Code is compared with the legal regulation of Art. 2276 of the French Civil Code and the principle *en fait de meubles, la possession vaut titre* - as far as movables are concerned, possession establishes a title.

Key words: acquisition of property, good faith, comparison with the French legislation