

Summary

The principle of registration and material publicity in the register of immovables under Czech law

The aim of the thesis is to analyse two institutes important for the law of immovables. The first institute is represented by the principle of registration and by the opposite consensual principle of acquisition ownership to immovables. The second one is the principle of material publicity in the register of immovables. Both institutes are closely related.

The thesis is divided into two main parts. First part deals with the mode of acquisition ownership to immovables. It consists of six chapters. First chapter introduces a general base of the problem. Second chapter describes briefly historical evolution of acquisition ownership to immovables and is divided into two subchapters, first one is about the evolution up to the Second World War, the second deals with the modern evolution of the problem since the end of the Second World War. Third chapter introduces the recent legal regulation and discusses its main deficiencies. Fourth chapter presents the law regulation which is proposed to approval within the scope of the bill of a new Civil Code. This bill has been passed by the Czech government in April 2009 and then introduced before Parliament. The proposers of the bill considered both variants of regulation – the recent regulation based on the principle of registration and also the opposite variant based on the consensual principle. That is why the fifth chapter compares both principles, their advantages and disadvantages and presents also some modifications of both variants. The principle of registration means that for transfer of real estate (immovable) the registration (entry) in the register of immovables is necessary, not only signature of a contract. The consensual principle means that signature of a contract is sufficient. Sixth chapter is the conclusion of the first part.

Second part of the thesis deals with the principle of material publicity in the register of immovables. It is also divided into six chapters. First one introduces generally the principle of material publicity. The principle of material publicity means that if someone acts in bona fide that some information in a public register is truth (real), his bona fide is protected even if it was untrue (wrong). Second chapter explains the meaning of this principle for the register of immovables. Third chapter summarizes the brief historical evolution of the principle. Fourth

chapter describes the recent legal regulation, which is absolutely insufficient to protect innocent purchasers and their rights. This chapter includes also a subchapter that pays attention to judicature connected with discussed problem. Fifth chapter introduces the proposed legal regulation which aims to embed duly the principle of material publicity into Czech law. Second part is summarized in its chapter six.

The conclusion of the thesis is that the recent legal regulation of real rights abounds with deficiencies and in some parts it is insufficient to provide legal safeguard to individuals. These serial shortcomings should be repaired by the new regulation included in the proposed Civil Code. Lot of proposed regulations returns back to sophisticated historical law that was in force before the Second World War. Some possible improvements of the recent legal regulation are also proposed in the thesis.