

Abstract

This thesis „*Contractual acquisition of ownership*“ deals with the fundamental questions of contractual acquisition of property law in the Czech Civil Code. Some of the parts of the project are comparative. The author takes into account both the older national regulations of contractual acquisition as well as the different approaches in the same field in some foreign legal systems.

In the introduction the author highlights the importance of property law (this right forms one of three fundamental pillars of private law – together with „man“ and „contract“) as well as the possibility to transfer it to another.

First chapter shows that – from the general point of view – acquisition of property law as such may be based on a number of different modes. The paper contains an overview of particular modes and its dividing into relevant categories. The acquisition based on contracts is a type of derivative acquisition.

Next chapter is devoted to some general questions of contractual transfer of ownership. Some decisive (general and special) legal principles are offered: namely the principle of the autonomy of the will, the principle of the absence of formality of contracts and finally the „nemo dat“ principle (*nemo dat quod non habet*). This part of the project also focuses on the basic conceptual elements of contractual transfer of property and describes prospective theoretical approaches.

Third chapter brings the description of the legal regulation of contractual transfer of ownership in the Czech republic (and former Czechoslovakia) from historical perspective.

Fourth chapter is devoted to detailed description of the contractual acquisition of property law in the present Czech Civil Code. This part focuses on the legal regime of movables, immovables registered in the land registry and immovables that are not subject of this registration. The author dislocates some problematic points of the regulation in the code. Some very crucial legal institutes absent (e. g. good faith acquisition) etc.

The last fifth chapter focuses on the regulation of contractual transfer of ownership in the draft of the new Czech Civil Code. The draft intends to leave the present concept of *titulus* and *modus* (the contract is followed by the transfer of possession of the movable). Contrary to this the regulation of the transfer of

immovables will be kept in the present form (the change of property law is caused by the contract and the following registration in the land registry). The draft of the new Czech Civil Code is in many ways of a higher quality, more accurate and more logical than the present Civil Code. Coming of the draft in force is therefore able to bring more legal certainty for legal practice.