

ABSTRACT THESIS

TITLE OF THESIS:

Contract for the sale of enterprise

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The theme of the thesis is „contract for the sale of enterprise“. The theme itself is very accentuated within the frame of legal practice. The main goal of this work is to outline the development genesis of the legal term enterprise since the time of classical roman law period to the contemporary legal regulation and subsequently, after defining the fundamental charts of the contract for the sale of enterprise, to answer specific questions resulting from the contract for the sale of enterprise in specific situations, i.e. the question of joint ownership of enterprise, legal frame of joint ownership relating to particular components of the enterprise, question of plurality on one or both parties to a contract a its consequences in commercial and labour law. The assess of creation of active and passive solidarity and its impact on the sale of enterprise i salso emphasized. Among the thesis goals also belongs the finding the answer on query of specific property values (for example the shares in cooperative society) with respect to the person who acquires the enterprise and with respect to possible plurality of buyers. The goal of the work is also to treat the contractual process and also comparison with other forms of disposal with enterprise. Among the thesis goals also belongs the systematic analysis of particular components of legal act consisting in the contract for the sale of entrprise and also defining eligible parties to a contract and contractual provisions as well as consequences of selling of enterprise with respekt to particular elements of enterprise.

As regards to the scientific method, that are applied in this thesis, I must stress the method of comparison with particular elements of generalisation at the assessing of the development trend of legal provisions (those methods were applied especially at the initial part of thesis, dealing with the development of legal term „enterprise“). Method of analysis is especially applied within the frame of particular questions of contemporary legal provisions and courts decisions and the analysis of legal provisions results in use of analogy on assessed questions, which were, in the course of drafting the thesis, found difficult from the interpretative point of view.

The content of the first part of thesis comprises the definition of legal term „enterprise“ and the development of this legal institute since the period of roman law to contemporary legal regulation. The legal regulation comprised in „General civil code“ (as regards to the defining the legal term „enterprise“) is accentuated following the „after-war“ legal regulations, for which the turnover in regarding the enterprise as the object of law is typical.

The following part of thesis deals primarily with the defining the relationship between the enterpriser (as the owner of enterprise) and enterprise and subsequently the part deals with the defining the question of joint ownership in the case of enterprise. The focus of following chapter is question of joint ownership and relation between joint ownership and employees. The question of owner's plurality is further developed in following chapters devoted to the questions of solidarity in commercial law contracts, with the accent on the sale of enterprise, spouses joint ownership, question of cooperative society and know how.

Extensive particular chapter is devoted to the questions of contractual process and within the scope of this chapter the comparison of selling the enterprise with other legal occurrence of selling the enterprise not on the basis of free will but on the basis of Insolvency act, property execution and mortgage deed. Individual chapter is also devoted to the question of government enterprise.

As a considerable chapter I may assess the chapter devoted to the question of legal personality with respects to contractual process in case of selling the enterprise and especially with respect to persons and body corporate. The following chapter deals with essential appurtenances of the contract for the sale of enterprise as well as the impacts of contract on particular components of enterprise.

One of the most difficult questions within the frame of the sale of enterprise is transfer of obligations. On the basis of generalisation the thesis endeavours to chart the fundamental principles of the transfer of obligations as a result of making the contract for the sale of enterprise. This chapter is also devoted to the question of the institution of objection against contract from the part of creditor.

The key question within the frame of essential appurtenances of the contract for the sale of enterprise is price. The chapter comprises the analysis of price agreement, the question of price formativ with respect to economical methods.

Following chapter describes the period after the contracting to the future and is dedicated to the consequences of existing contract and its impact on trade name. The chapter also comprises analysis of competitive clause and questions relating to company register. Individual subchapter is dedicated to the question of rescission of the contract.

From the point of view of thesis goals I can conclude, that the thesis charts the answers on the majority of questions, which were placed on the fly of drafting the thesis, although some questions, respectively results of legal analysis may be subject to legal discussion and they should be reanalyzed. The important legal conclusion of the thesis is admissibility of plurality of parties to contract in case of contract for the sale of enterprise, including the conclusion that substantive law deals with this plurality in accordance with the sense of this type of contract.

Key words: selling of the enterprise, joint ownership, obligations, solidarity;