ABSTRACT

Proving in the process of termination and settlement of community property of spouses

This thesis deals with the issue of evidence in civil proceedings in the process of termination and settlement of community property of spouses, primarily from the point of view of civil procedural law. However, it is necessary to discuss briefly the issues of civil substantive law. Therefore, Chapter One analyses general questions about community property of spouses as a concept of civil substantive law – the formation, alteration, termination and settlement of community property.

The following chapters are listed according to the course of civil proceedings.

Chapter Two focuses on the commencement of civil proceedings and the trial.

Chapter Three concentrates on evidence. First, it answers some general questions about evidence and then it addresses the issue of evidence specifically in the process of termination and settlement of community property. Next it focuses on the stages and general principles of evidence, on the concept and the subject of proving and on individual means of proof. Subsequently, the thesis scrutinizes the position of the court and the parties to a case in the proving process and deals with the issue of burden of allegation and burden of proof. Furthermore, the chapter summarizes the specifics of the process at issue.

Chapter Four considers decision as the outcome of the examination of facts and law by a court.

Regular and extraordinary remedial measures are discussed in Chapter Five.

In case that the obligated party does not fulfil its obligation voluntarily the next stage is the enforcement of the judgment which is dealt with in Chapter Six.

The thesis concludes that the process of termination and settlement of community property of spouses is described as the so-called *iudicium duplex*. This means that in this process both parties are in the position of a petitioner and a respondent. The court is not bound by the suggestions made by the parties in the claim how to settle the items, because a certain way of settlement results from legislation. However, the court can only settle the items that have been listed in the claim.

In the process of proving the principles for a contentious proceedings apply. Some of the means of proof are more likely to be used, especially expert’s opinion. The process of
termination and settlement of community property of spouses and the evidence in this process are significantly influenced by case law.