

## **ACQUISITION OF PROPERTY FROM A PERSON OTHER THAN THE OWNER IN CZECH AND GERMAN SYSTEM OF LAW**

The purpose of my thesis written on the topic ‘Acquisition of property from a person other than the owner in Czech and German System of Law’ is to analyse historical development of acquisition from non-owner and its future tendencies. This concept constitutes an exception from the principle of ‘*no one can transfer a greater right than he himself has*’. This work compares current Czech legislation with German system of law, and also with legal regulation of acquisition from non-owner in the new Civil Code, Act No. 89/2012 Sb., which will be effective from January 1<sup>st</sup>, 2014. The topic is extremely interesting, both for the current effective legislation in this field, which is not entirely satisfactory, and for its topicality due to the adoption of the new Civil Code, which will bring the institute back to the Czech law environment. What is more, it is a fragmented area without a separate comprehensive monograph.

The thesis is composed of six chapters, each of them dealing with different aspects connected with the concept and its exceptions.

Chapter One is introductory and defines basic terminology used in the thesis. It deals with an ownership generally, with its content and means of acquisitions of property.

Chapter Two describes basic principles of the institute, i.e. conflict of protection of property rights with the protection of good faith. Finding a compromise between these opposing principles is closely related to searching for an answer regarding the question: ‘How to regulate the acquisition of a person other than the owner best?’

Chapter Three examines the development of this issue in its historical context. It is subdivided into three parts, describing Roman law, where the principle ‘*nemo plus iuris ad alium transferre potest, quam ipse haberet*’ was born, famous modern codifications of private law in different countries, and finally the development in the Czech law after 1<sup>st</sup> and 2<sup>nd</sup> World War.

Relevant current Czech legislation and case law are described in chapter Four. It focuses on the civil and commercial law and the imbalance of the protection of the acquirer between those two codes, and also on other special cases. It draws attention to the weaknesses and compares current Czech legislation with the legal regulation according to the Act No. 89/2012 Sb., which brings major news and is described in the next chapter Five.

Chapter Six concentrates on the regulation of this institute in German law, not only to highlight the differences in different approaches to this issue in different jurisdictions, but also because the German legislation is considered to be very precise.