

Voluntary auction conducted by the distrainor

Abstract

This thesis introduces other activity performed by the distrainor consisting in conducting an auction at the request of the owner or a person authorized to dispose of the thing. At present, it is used mainly by insolvency practitioner to liquidate the assets in the insolvency proceedings. The chosen title of this thesis expresses the main features of this other, less known activity of a distrainor, but it is not a term that would be known and used by any legal regulation valid in the Czech Republic. It is a special type of auction, in some respects similar to a public voluntary sale pursuant to Act No. 26/2000.

The distrainor is obliged to proceed in an appropriate manner in accordance with the provisions of the Code of Dstraint Procedure and Civil Procedure Code governing the enforcement of a decision, authoritatively granting performance in a situation where it is not performed voluntarily, by execution sale of movable and immovable property. The main difficulty arises in determining the scope and limits of appropriate applicability of individual legal provisions, voluntary auction is regulated by legal provisions used in enforcement sale,

The thesis tries to introduce the chosen topic in the theoretical and practical level. The content is compiled chronologically, as the individual questions arise before the distrainor during the auction. The introductory chapters are devoted to defining the relevant legislation, the circle of involved subjects, especially potential proposers, admissible chattels and property, through the legal title to conduct the auction and the related discussion of determining the costs of the auction. The main part of the thesis guides the reader through the process of the auction, from the first distrainor's decision in the case to the order awarding the properties auctioned, which fulfills the purpose of this auction, ie the transfer of ownership to the auction winner and handing over the proceeds to the proposer.

Klíčová slova: distrainor, voluntary auction, Code of Dstraint Procedure