

SUMMARY

Settlement of Joint Marital Property

This paper globally examines the problematic of the settlement of joint marital property in the Czech law. It treats the theoretical analysis of the basic terms that are allied with the topic stated before and highlights various points of view of the theory and judicature. It solves the practical issues adherent to the settlement of property relations of the spouses and tries to formulate partial proposals de lege ferenda.

The introductory section points out the importance of quality legal regulations of the settlement of joint marital property and describes the way how the marital property relations used to be settled till 1998 when the existing regulation came into operation and when there was the transformation of tenancy by entirety to joint marital property. Later this thesis deals with situations that result in the dissolution of the joint marital property and when the law demands for the realisation of its settlement.

Successive parts of this work are devoted to the term of settlement itself and analyse all the different specifics of possible situations linked with the settlement of joint marital property, including its dissolution as a result of insolvency proceeding. Three following legal methods of settlement are described in detail: agreement of the spouses, court decision and legal presumption. This work takes in notice adjustments of the settlement of joint marital property not only from the perspective of property impact upon the spouses and their family, but also emphasizes the necessity of respecting rights of the third party, especially creditors. The biggest attention is paid to the settlement in the judicial proceeding as it is the most difficult way of settlement for which there is still a lot of questions without clear resolution. The text explains purpose of the legal settlement principles, evaluates their use when settling per curiam and points out unwritten rules that are often enforced in decision-making of the courts. This treatise attempts to take critical view of standpoint of judicial practise and recommends direction that the judicature should follow. Procedural and fee problems related to the settlement of joint marital property were not left out.

Various supplementary issues are treated in addition to the basic scope of this thesis. These are related to the execution that concerns the property belonging to the joint marital property and points at the actual problems with which courts are being occupied.

The closing part examines the government bill of new civil code from the perspective of adjustment of settlement of the joint marital property, compares it to the present valid statutory text and evaluates contribution of individual regulations of legal practise. At the same time, it highlights the problematic parts of the concept and recommends partial corrections and additional complements.