

RESIDENTIAL LEASE

ABSTRACT

This thesis aims to provide complex analysis of a legal institute of residential lease based on current legal framework (in particular Act No. 89/2012 Sb.) in comparison with the previous legal framework (in particular Act No. 40/1964 Sb., in the version effective on 31 December 2013) while considering the historical context of older legal frameworks of residential lease and the milestones in the development of civil law on our territory.

The thesis is structured into 3 chapters which are further divided into subchapters, sections and subsections.

The first chapter is devoted to the development of legal framework of residential lease on our territory (except for Roman law framework) until 1989. The beginning of the first chapter outlines the Roman law together with the medieval Koldín's Code. Subsequently are described general characteristics within the historical context of the key Civil Codes which were in force in the specific period on our territory including the General Civil Code (Imperial Patent No. 946/1811 Sb. z. s.), the Civil Code of 1950 (Act No. 141/1950 Sb.) and the Civil Code of 1964 (Act No. 40/1964 Sb.). The legal frameworks of residential lease, or personal use, which were included in the mentioned codes, are elaborated on in more detail in this chapter together with relevant parts of accompanying and related legislation, including the period case law. Specifically, the Code of Civil Judicial Procedure (Act No. 113/1895 Z.ř.), first-republic laws for the protection of tenants (Act No. 275/1920 Sb. z. a n., Act No. 130/1922 Sb. z. a n., Act No. 85/1923 Sb. z. a n., Act No. 85/1924 Sb. z. a n., Act No. 48/1925 Sb. z. a n., Act No. 44/1928 Sb. z. a n.), laws from the Protectorate of Bohemia and Moravia (in particular Act No. 177/1940 Sb. z. a n. and Act No. 63/1941 Sb. z. a n.), the Civil Procedure Code of 1950 (Act No. 142/1950 Sb.) and the Housing Management Acts (Act No. 138/1948 Sb., Act No. 67/1956 Sb. and Act No. 41/1964 Sb.).

The second chapter is devoted to the preceding legal framework of residential lease included in the Civil Code of 1964 (Act No. 40/1964 Sb.), in the version effective on 31 December 2013. Its introduction describes in generality the basis of the development of law on our territory after November 1989 together with a significant amendments to the Civil Code of 1964 which were in that period related to the residential lease (Act No. 509/1991 Sb., Act No. 107/2006 Sb. and Act No. 132/2011 Sb.). That is followed by a detailed analysis of residential lease with an accompanying case law which is divided into individual subchapters concerning

the legal nature of the residential lease regulation, the constituent elements of the residential lease including the definition of an apartment as an object of residential lease, the subjects of residential lease and the establishment of residential lease, the rights and obligations resulting from residential lease, rent, the change of subjects of residential lease as a result of the transfer of residential lease, exchange of an apartments or change its ownership and termination of residential lease together with an analysis of individual notice reasons and apartment replacements. Special attention is devoted to the regulation or more precisely to the deregulation of rent during that period. The conclusion of the second chapter describes special types of lease (namely sublease, lease of a cooperative apartment and lease of a special purpose apartment).

Third chapter is devoted to the current legal framework of residential lease according to the new Civil Code (Act No. 89/2012 Sb.) in the version effective on the date of the conclusion of this dissertation's manuscript work, i.e. on 9 July 2018. Its introduction describes the process of recodification of the civil law from the period of 1989 and Civil Code with its, for the time being, only amendment (Act No. 460/2012 Sb.). Subsequently follows detailed analysis of legal framework of residential lease based on comparison with the preceding legal framework where the most attention is devoted to the individual differences between the laws. Given that the current legal framework of residential lease does not have well-developed uniform and consistent case law yet, the main starting point and support of this thesis is coming from the legal framework applicable on our territory until 31 December 2013 including rich accompanying case law. It is therefore important to understand the presented opinions, i.e. the selection of opinions already presented in the third chapter, as contributions to an open discussion concerning the issues of this thesis.

Key words: Residential lease. Civil Code. Civil law.