

# **Acquisitive prescription, with special emphasis on extraordinary acquisitive prescription**

## **Abstract**

The topic of the thesis is the traditional private law institution of acquisitive prescription. Although acquisitive prescription has not lost its significance even after the recodification of private law (on the contrary, it has acquired a new meaning in many respects), recent sources do not pay due attention to it and many secrets of acquisitive prescription remain unknown, which this thesis seeks to remedy. The thesis is therefore conceived as a comprehensive treatise on acquisitive prescription, touching upon various aspects of this institution and bringing new insights into the subject. In short, the work is not intended to be a mere compendium of notories.

The work specifically discusses the historical development of acquisitive prescription, which provides some timeless conclusions. There is also an analysis of the prerequisites for acquisitive prescription under the current Czech Civil Code: the individual passages discuss possession and the quality it must achieve to lead to acquisitive prescription, as well as the rights that can be acquired by prescription, the subjects of acquisitive prescription and the acquisitive prescription period. The work is not based only on a general description but is based on a critical analysis of the current case law of courts of all instances and doctrine, as well as on the search for answers to problematic questions that have not yet been clarified.

The thesis seeks to penetrate into the matter of acquisitive prescription more deeply and beyond the recent domestic sources, and therefore pays attention, for example, to the question of the relationship between the norms regulating acquisition the right of ownership by prescription and the norms postulating acquisition of the right of ownership from a non-entitled person, or whether possession *contra tabulas* can be in good faith/without unfair intention, or whether persons with limited legal capacity can also acquire the right by prescription, or what effect acquisition the right of ownership by prescription has on defects encumbering the thing. Last but not least, the thesis deals with the various consequences of acquisitive prescription. The thesis is not just a grey theory, but also deals with practical examples and *de lege ferenda* proposals. Particular emphasis is given to extraordinary acquisitive prescription, which is why the differences from ordinary acquisitive prescription and the nature of possession without unfair intention are highlighted.

**Key words: acquisitive prescription, possession, unfair intention**