Abstract

This thesis deals with determination of institutes that interfere with inalienability of title. By method of teleological interpretation it holds forth easement from a perspective of modification of the Act No 89/2012 Sb., Civil Code and relevant acts such as the Act No. 256/2013 Sb. on Land Register, including regulations. The introduction of the thesis deals with public register and the author explains known or newly-established legal principles of operation of the Public Register.

The main part of the thesis analyses the methods of limitation of title to real property in private interest, that are all limiting institutes that are subject to entry in public register (Czech term intabulace, i.e. recording of title into the Land Register) and that arise by two- and multilateral consensual act. Emphasised are re-established institutes that after more than fifty years have returned back into legal order, such as right of superficies, real burdens or problems of renewing the principle superficies solo cedit, but also the most important changes in the field of already known securing instruments, pledge and pre-emptive right including various judicial decisions, in particular assessment of problematic issues connected with recodification and their carrying into effect. Neither language opacity nor some colliding provisions remained aloof where a possible solution de lege ferenda was offered.

The act called by general public as the new Civil Code is without doubt a significant recodification act. Parts devoted to absolute property rights are processed in more details and more volume than in previous modifications. New Civil Code unified fragmented modification of plurality of legal regulations and at least in the field of property rights restored the sooner lost sense of the principle of autonomous will. The question is what direction of interpretation of sometimes rather causuistic provisions of a statute will be found by up to now short decision-making practice of courts.