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Summary

PhD thesis "Rei vindicatio supplementary claims"

The doctoral dissertation includes an in-depth analysis of all significant issues related to the so-called rei vindicatio supplementary claims.

The main scientific goal of the work was to carry out a comprehensive analysis of supplementary claims, regulated in art. 224-225 k.c. (civil code) and art. 228-230 k.c., and their assessment as an instrument for the efficient restoration of the owner's property to a level that would have been possible if his ownership had not been violated. This analysis was carried out in order to systematize the current views expressed in the literature and in the judgments of the Supreme Court and common courts.

The highly functional nature of the structure of complementary claims, resulting primarily from the simplification of the rules of legal liability to general rules, caused a growing interest in this institution in the post-1989 period. The constantly increasing volume of cases in which the subject of the examination are the premises of art. 224 § 2 k.c., art. 225 k.c. and art. 230 k.c., it turned out to be a challenge for science and practice. The attempt concerned the development of certain standards resulting from the interpretation of the indicated provisions, in particular regarding the scope of their application. The analysis presented in the dissertation showed that some views and patterns are not accurate and require revision.

The considerations were focused on such elements as: (1) the essence and function of complementary claims and their obligatory and independent (relative to rei vindicatio) character; (2) premises for supplementary claims; (3) the content of complementary claims; (4) maturity and (5) limitation of claims; (6) an active and passive legitimation with the issue of its splitting; (7) the scope of application of supplementary claims regulations; (8) the convergence of standards decoded from the provisions of art. 224-225 k.c. and art. 228-230 k.c. with other private law norms, including art. 18 paragraph 1-3 u.o.p.l.; (9) claim for reimbursement for unauthorized use of joint property by the co-owner.

In the light of considerations regarding the construction of supplementary claims, the main idea of the dissertation was formulated. In this case, I used a claim for reimbursement for unauthorized use of a thing, taking into account its important role and emphasizing the element related to the time perspective. According to this view, the claim for reimbursement is not subject to fragmentation and does not detach (become independent) in the scope of each day when

the rei vindicatio is justified. Independence this occurs in cases when: a) rei vindicatio has been satisfied; b) the owner has already applied for rei vindicatio; c) the owner did not bring an action under art. 222 § 1 k.c., but at the time of seeking payment of reimbursement for the unauthorized use of a thing rei vindicatio is entitled. These situations are characterized by fulfillment of the premises of a rei vindicatio (in one case the claim is already satisfied) and the possibility of its supplementation using the legal instruments provided for in art. 224 § 2 k.c. and art. 224 § 2 k.c. in conjunction with art. 225 k.c. On the other hand, in the case of loss of ownership by acquisitive prescription or in the case of voluntary disposal of goods (without first initiating a recovery complaint), such a linkage will not take place.

In the summary, the regulation of rei vindicatio supplementary claims was positively assessed. The revised allocation of risk resulting from changes in the rules of responsibility in relation to the general principles, does not raise major objections. A very important advantage of the institution discussed is that it allows in a large part (sometimes even entirely) - in a relatively simple way - to satisfy the interest of the owner deprived of power over the thing. The less appreciated, or sometimes misunderstood, advantage of supplementary claims is that they form a system of well-harmonized legal instruments. On the one hand, this linkage results from the fact that in a given factual situation there may be a basis for at least two complementary claims, and on the other hand, their structure excludes the risk of unjust enrichment.

The views of doctrine and jurisprudence shaped for years are not worth approving. The research results presented in the work prove that the scope of application of supplementary claims regulations is systematically broadened. This results in applying the provisions of art. 224-225 k.c. and art. 228-230 k.c. to situations that do not correspond to the hypotheses of mentioned norms. The tendency of extending the complementary claims structure leads to treating this solution too widely. At the same time, the idea of these claims is lost as an exceptional legal instrument, tailor-made for the relationship between the deprived owner of the property and the unauthorized holder of the thing. Therefore, it is necessary to postulate a return to the classical approach to supplementary claims, according to which these claims function only together with a rei vindicatio.

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