

## **Acquisition of right *in rem* from unauthorised person to a thing registered in public register**

### **Abstract**

This thesis deals with the topic of acquisition of the ownership right to immovable property registered in the cadastral register from an unauthorized person on the basis of the provision of Section 984 of the Czech Civil Code. The thesis then focuses on the condition of good faith (*bona fides*) of the acquirer and its specific conditions in such cases. The thesis is divided into four main chapters.

The first chapter is devoted to an overview of the main legal principles that are reflected in this field. The second chapter provides a brief summary of the evolution of the legislation regarding this matter from the First Czechoslovak Republic to the present day. The third chapter is then devoted to the analysis of the good faith of the acquirer, based on the legislation, literature and case law, both current and historical. The fourth chapter then introduces the German legislation and compares the main points on which the legislation and practice in both countries are based.

The author concludes that the good faith of the acquirer in the entry in the cadastral register is presumed in the Czech legal environment; however, the courts impose significant requirements on the acquirer to exclude doubts about the correctness of the entry in the cadastral register. The principle of protection of public faith is thus significantly weakened by the protection of the ownership right of the real owners. In particular, the case law considers carrying out of a physical inspection of the property as a minimum standard. Nonetheless, the scope of the activity to be undertaken cannot be defined in advance for all cases, and the legal certainty of persons acting in reliance on the entry in the cadastral register is, therefore, largely undermined.

By contrast, the thesis concludes that the German legislation and practice are based on the premise that a person must in principle be aware of a discrepancy between the entry in the land register and the actual state. German practice does not deal with negligence in that sense. The German approach thus represents a more consistent implementation of the principle of protection of public faith and good faith of the acquirers. On the contrary, it places higher requirements on those affected by the incorrect entry, in accordance with the principle of *vigilantibus iura scripta sunt*.