https://doi.org/10.22364/jull.13.08

Acquisition of Ownership Through Prescription (Usucaption)

Dr. iur. **Jānis Rozenfelds**
Department of Civil Law Science, Faculty of Law
University of Latvia
E-mail: *janis.rozenfelds@lu.lv*

The article contains comparative analysis of acquisitive prescription, its legal and factual preconditions and consequences in Latvian law. The purpose of the acquisitive prescription is to remove legal uncertainty created by internal defects of the conditions of acquisition of the property *inter vivos*. However, the complex system of acquisitive prescription under Latvian law does not always achieve this goal. It seems that the system is overly complicated. The cases in which acquisitive prescription is the last resort for the claimant to ascertain his or her ownership of immovable property are leaving the question of ownership unsolved. Introduction of another, simplified alternative to the existing one could be helpful for the solution of numerous cases of failed attempts to prove ownership.

Keywords: prescription, acquisition, immovable, title, possession, good faith, registration.

Contents

Introduction

Acquisitive prescription terminates the ownership of one person and establishes the ownership of another. Acquisitive prescription is a combination of encroaching by the latter on property owned by the former and waver of rights by inaction on the part of the former.

Acquisitive prescription differs from ordinary prescription (statute of limitation). The latter precludes the owner from exercising the right. For instance, obligation after expiration of prescription period could not be enforced. However, this does not necessarily mean that this has changed structure of the rights. If the defendant did not object, i.e., did not base his or her defence on prescription, or if she or he paid after expiration of this term, the payment could not be reclaimed,[1] as is also the case under Italian law.[2]

In order for the acqusition of title to an immovable through prescription under Latvian law, the following is required: 1) subject-matter that may be acquired through prescription;[3] 2) a legal basis;[4] 3) good faith on the part of the holder;[5] 4) uninterrupted possession;[6] 5) elapse of the set period;[7] and 6) that the owners of the property are legally able to exercise their right over the property.[8]

The purpose of this article is to find out whether such regulation provides legal certainty, which is the purpose of acquisitive prescription.

1. Subject Matter That May Be Acquired Through Prescription

Things that may be acquired by prescription are called *res habiles* (Latin).[9] Ownership through prescription may not be acquired with regard to subject matter, which cannot be privately owned,[10] of which the law absolutely prohibits the alienation,[11] and the subject matter obtained by criminal means.[12]

In case No. SKC-11, 2010,[13] Supreme Court decided to leave the judgment unamended and to dismiss the complaint over the validity of the existing judgment, which dismissed the re-vindication claim by the heirs of deceased owner of the apartment from the acquirer in good faith. The apartment changed hands several times before the defendant in the case bought the apartment. The first acquirer, who bought the apartment, was dealing with the representative of the owner. The person who represented the owner of the apartment in this transaction apparently operated using a forged letter of attorney, which was issued at the time when the issuer of the proxy was already dead (brutally murdered).

[1] Civil Law, § 1911.

[2] The Italian Civil Code and Complementary Legislation, § 2934. Translated in 1969 by Mario Beltramo, Giovanni E. Longo, John H. Merryman. Supplemented, translated and edited by Mario Beltramo (from 1970 through 1996). Subsequently supplemented, translated and edited by Susanna Beltramo. Book three. Property Rights. Articles 810–1172. Release 2007-1, Issued April 2007. Oceana, Book three, Booklet 5, p. 3.

[3] Civil Law, §§ 1000–1005.

[4] Civil Law, §§ 1006–1012.

[5] Civil Law, §§ 1013–1017.

[6] Civil Law, §§ 1018–1022.

[7] Civil Law, §§ 1023–1024.

[8] Civil Law, §§ 1025–1029.

[9] Black's Law Dictionary Seventh Edition. *Garner, B. A.* (ed.-in-chief). St. Paul, Minn: West Group, 1999, p. 1310.

[10] Civil Law, § 1000.

[11] Civil Law, § 1001.

[12] Civil Law, § 1003.

[13] Par nekustamā īpašuma labticīga ieguvēja aizsardzības priekšnoteikumiem. Augstākās tiesas civillietu departamenta spriedums lietā Nr. SKC-11/2010 [On preconditions for the protection of the acquiror of the immovable in good faith in the case No. SKC-11/2010]. *Jurista Vārds*, 28.09.2010. Available: https://juristavards.lv/doc/218519-par-nekustama-ipasuma-labticiga-ieguveja-aizsardzibas-prieksnoteikumiem/ [last viewed 22.01.2020].

The documents for the entry in the Land Register of the acquirer on the face of them gave him the right of ownership, which, in fact, was not acquired. The court ruling confirmed that the first acquirer did not become an owner. However, in view of majority of seven judges, presumption that consecutive acquirers acted in good faith, i.e., the principle of public reliability of Land Register outweighed the fact that the apartment was obtained by criminal means.

One of seven judges wrote a dissenting opinion,[14] in which he cited Article § 1003 of Civil Law. In his opinion, the immovable property, once acquired by "criminal means", remains forever contaminated by this "original sin", and for this reason may not be acquired by anyone, unless returned to the true owner. Acquisition by prescription of such property naturally is out of question. Such rigorous following of the principle of causality as is reflected in this dissenting opinion found a lot of followers.

Amendments to the Criminal Procedure Law entered into force on 1 January 2011, and provided that during pre-trial criminal proceedings, the property may be recognised as criminally acquired by decision of a person directing the proceedings (investigative judge) and returned to the owner.[15]

The abovementioned amendments were contested in the Constitutional Court of Latvia. The applicant–AS DNB (investment bank) considered that the contested norms are incompatible with the norms of the Constitution of Latvia, in particular, with Article 105, which protects property rights and corresponds with Article 1 of Protocol No. 1 of the ECHR.

On 7 February 2011, the applicant purchased immoveable property at an auction. However, already in 2008, criminal proceedings with respect to the fact that this immoveable property had been obtained fraudulently had been initiated, the applicant allegedly not being aware of this. On 24 November 2011, a decision was adopted within the framework of criminal proceedings to seize this property and an entry was made into the Land Register. The applicant, in turn, had been granted the status of a third person in the criminal proceedings. On July 15 2015, concurrently with the decision by the official in charge of proceedings on terminating criminal proceedings, the immoveable property owned by the applicant was recognised as being criminally acquired and, on the basis of Section 360(1) of the Criminal Procedure Law, the decision was taken to return it to the owner, who had lost the immoveable property as a result of a criminal offence.

The Constitutional Court held contested norms to be in compliance with Latvian Constitution.[16] All this could only give another devastating blow to already shattered faith in reliability of publicly available records of Land Register. Public reliability of the Land Register data is not the subject of this article. However, it is worth mentioning, that on top of the problem of unreliability

[14] Senatora Alda Laviņa atsevišķās domas lietā Nr. SKC – 11, 2010 [Dissenting opinion by Judge A. Laviņš in the case No. SKC–11, 2010]. *Jurista Vārds*, 28.09.2010.

[15] Criminal Procedure Law, §§ 356, 360. Available: https://likumi.lv/ta/en/en/id/107820-criminal-procedure-law [last viewed 22.01.2020].

[16] Judgement of the Constitutional Court in the case No. 2016-07-01. Available: http://www.satv.tiesa.gov.lv/web/viewer.html?file=/wp-content/uploads/2016/05/2016-07-01_Spriedums_ENG.pdf#search= [last viewed 22.01.2020].

of public registers,[17] the above amendments to the Criminal Procedure Law could create additional complexity to the issue of acquisitive prescription. The issue whether the subject matter that may be or may not be acquired through prescription becomes dependent on remote decisions by little-known institutions under procedures merely covered by the obligation of non-disclosure of an investigative secret.

Notably, understanding if person obtained the property by criminal means does not depend on whether that person himself or herself was aware of criminal activities as the situation described above clearly illustrates. Whether the acquirer in case No. SKC-11, 2010, did or did not know about his or her counterpart acting on the basis of forged documents was never scrutinized. However, unfair as it may seem at the first glance, such objective attitude must be considered correct, if taken into account in view of whether the given immobile property could or could not be regarded as a "thing" which could or could not be acquired through prescription because in this context the immovable property is regarded simply as something which either is available for acquisition through prescription (*res habilis*) or not.

Ownerless immovable property is another category of "things" which could not be acquired by anyone, i.e., it falls outside the category of *res habilis*. It does not matter whether a land plot never has been considered to be under ownership of anyone, or was abandoned, or the owner has passed away without leaving heirs, – such property could not be acquired by anybody, because it *ipso iure* belongs to the state from the very moment when the owner abandoned it or ceased to exist.[18] This novelty, which was introduced back in 1925 by the so-called Local Civil Laws of 1864[19] and included in the Civil Law of 1937, when this latter replaced the previous Civil Laws of 1864[20]. This innovation in practice does not lead to immediate seizure of land plot as soon as it becomes ownerless. Such

---

[17] *Torgāns, K.* Prettiesiski iegūta īpašuma tālāknodošanas sekas [The Consequences of the Alienating of Illegally Acquired Property]. *Jurista Vārds*, 07.12.2010. Available: https://juristavards.lv/doc/222168-prettiesiski-ieguta-ipasuma-talakpardosanas-sekas/ [last viewed 22.01.2020]; *Rozenfelds, J.* Lietu tiesību normu piemērošana tiesu praksē [Practice of Implementation of the Norms on Property Rights]. *Jurista Vārds*, 19.03.2011. Available: https://juristavards.lv/doc/228812-lietu-tiesibu-normu-piemerosana-tiesu-prakse/ [last viewed 22.01.2020]; *Kolomijceva, J.* Civiltiesību un krimināltiesību mijiedarbība [Mutual Interference of the Civil and Criminal Law]. *Jurista Vārds*, No. 17 (920). 26.04.2016, Available: https://juristavards.lv/doc/268472-civiltiesibu-un-kriminaltiesibu-mijiedarbiba/ [last viewed 22.01.2020].

[18] Civil Law, § 930.

[19] Original of the Civil laws of 1864 (Part III of the Codification of Local Laws or the CLL). Issued in Russian and German. Digitalized version of the original of the Civil laws (in Russian) of 1864 (Part III of the Codification of Local Laws). Available: https://www.lndb.lv/Search/Search?FreeFormQuery=1864&PageIndex=2&PageSize=12&SearchEndpointID=0&SearchResultViewMode=List&IsCustomViewMode=False&SortingField=Relevance&IsStopwordRemovalDisabled=False&IsDuplicateCollapsingDisabled=False&SelectedDocumentSets=DOM [last viewed 22.01.2020].

[20] Amendment regarding ownerless land belonging to the state was added to the § 713, which corresponds to the § 930 of CL by law of 1924 to the Latvian version of the Civil laws of 1864 or CLL. Civillikumi (Vietējo likumu kopojuma III daļa) Tulkojums ar pārgrozījumiem un papildinājumiem, kas izsludināti līdz 1935.gada 1. janvārim, ar dažiem paskaidrojumiem. Sastādījuši: Prof. Dr. iur. A. Būmanis, Rīgas apgabaltiesas priekšsēdētājs. H. Ēlerss, Kodifikācijas nodaļas vadītājs. J. Lauva, Kodifikācijas nodaļas sekretārs. Rīgā, 1935. g. Valtera un Rapas akc. sab izdevums [Civil Laws. Chapter III of the Collection of Local Laws. Translation with Changes and Supplementations up-to-date as of the 1 January 1935 with some Explanations. Compiled by Professor PhD A. Būmanis, Head of the Codification Subdivision Judge H. Ēlerss, J. Lauva, Secretary of the Codification Subdivision]. 1935, p. 113.

immovable properties are apprehended by state institutions on case by case basis. There are no known cases, when someone would contest the right of the state to heirless immovable property on the grounds of acquisitive possession. The law contains no provisions regarding this. There is a dilemma. On the one hand, it could be asserted that from the moment the immobile property has become state-owned *ipso iure*, there is no way how another person can acquire such land by. On the other hand, a plot of land that has been abandoned for a long time, uncared for by state or any other person, contradicts the very idea of the acquisition through prescription. It is created by law for maintaining order and preventing lawlessness. Examples of other legislations show that the land belonging to the state could be acquired through prescription, although the prescription period is significantly longer than ordinary prescription term. For instance, in Australia, there is a long-established principle of public reliability of land registration the form of Torrans system, such prescription period was 60 years, just like in English law, but this period has been later shortened to 30 years, still remaining twice as long as the usual 12–15-year period, in which the true owner could take repossession.[21]

2. Legal Basis

Acquisition in good faith in Latvian law may be a precondition for acquisitive prescription only if there is a legal basis for acquisition.[22] Latvian law does not recognize acquisitive prescription, if the acquirer cannot prove any title.

Some systems, for instance, English law, regard a great variety of facts as a legal basis for acquisitive prescription. "A "paper" title is one where the documents on the face of them give the true owner the right to such possession."[23] Document means either deeds or entries on the register.[24]

Legal basis or title as a precondition for acquisitive prescription under Latvian law consists of two elements:

1) Transaction, which creates an obligation to deliver ownership (purchase, gift, barter etc.);
2) Actual delivery of the ownership, i.e., discharge of an obligation, which was created on the part of the deliverer by the transaction.

Latvian law makes a strict distinction between this transaction and actual delivery of the disposed-of movable into possession of the acquirer or registration of the acquirer in the Land Register as an owner of the disposed-of immovable.

Some authors suggest that an application for registration in the corroboration journal should as such be regarded as a transaction.[25] The alternative view[26] is that an application for registration only amounts to execution of the transaction between the owner and the acquirer (deed). However, it seems impossible to prove

[21] *Burns, F.* Adverse possession and title-by-registration systems in Australia and England. *Melbourne University Law Review*, Vol. 35(3), 2011, p. 787.

[22] Civil Law, §§ 1006–1012.

[23] *Jourdan, S.* Adverse Possession. Butterworths. LexisNexis, 2003, p. 63.

[24] Ibid.

[25] *Kalniņš, E.* Tiesisks darījums. Grām.: Privāttiesību teorija un prakse. Raksti privāttiesībās. Rīga: TNA, 2005, pp. 142–145.

[26] *Torgāns, K.* Darījumu notariālas formas nepieciešamības pamatojumi [Arguments on Behalf of Necessity of the Notarial Form of the Transactions]. *Jurista Vārds*, No. 51 (954), 20.12.2016, pp. 36–39. Available: https://juristavards.lv/doc/269849-darijumu-notarialas-formas-nepieciesamibas-pamatojumi/ [last viewed 22.01.2020].

legal basis, i.e., title, as a necessary precondition for acquisitive prescription by a person who could rely on transaction (purchase, barter, gift etc.) and could not prove that actual delivery has taken place.[27]

Transfer of property by contract *inter vivos* requires a transaction between the owner and the acquirer (deed). Delivery of property into the possession of the acquirer alone does not constitute a transfer of property to the acquirer. If one and the same movable property is sold to two buyers, then the priority will be given to the one to whom the property has been delivered.

In the sale of immovable property, the buyer whose contract has been registered in the Land Register, has the priority.[28]

Likewise, if any other kind of transaction is taking place in order to transfer ownership to someone else (barter, gift), stepping into the transaction itself does not transfer the ownership without actual delivery of the property taking place.

An application for registration alone may not be regarded as a legal precondition for transfer of an immovable to the acquirer. It is not sufficient, if the transaction (deed) is declared ineffective.

If a transaction (deed) is declared void, registration of ownership in the name of the acquirer can be rectified by court decision. In order to recover his or her property rights, the owner may bring an ownership action.[29] Even prescription (ten years for immovable property) is not sufficient for a possible defendant.[30] Courts may also reject the claim and rule in favour of the defendant, if it is believed that the defendant can rely on Land Register records. Acquirers of the immovable in Latvia are somewhat hesitant to register their ownership rights. In order to make participants to a transaction register their rights, sanctions are imposed on hesitant acquirers. The State fee for registration of ownership rights in the Land Register is calculated by applying a ratio of 1.5 %, if over six months have passed from the day of signing the document confirming the rights to be registered or from deletion of a statement that hinders voluntary registration of rights.[31]

In one of the recent court cases, court found that the claimant had bought immovable back in 2000. The vendor signed the purchase agreement but also a notarized application for registration. Such document under Latvian law is equal to delivery of the immovable.[32] However, due to various reasons, the claimant failed to register her rights. She only filed the claim over registration of her ownership in 2016, as having possessed the immovable property in good faith for more than 10 years. Her claim was discharged by the court of first instance, but dismissed by the court of appeal, whose decision was overturned by the Supreme Court, which decided to revoke the whole judgment or a part

---

[27] *Rozenfelds, J.* Reform of the Property Law Chapter of the Civil Law of Latvia: Problems and Solutions. Latvijas Universitātes 71. zinātniskās konferences rakstu krājums Tiesību interpretācija un tiesību jaunrade. Rīga: LU Akadēmiskais apgāds, 2013, p. 33.

[28] Civil Law, § 2031.

[29] *Rozenfelds, J.* Ownership Claim. *Journal of the University of Latvia. Law.* No. 6, *Lazdiņš, J.* (ed.-in-chief). Riga: University of Latvia, 2014, pp. 91–107.

[30] Civil Law, § 1009.

[31] Regulation "On State Fee for Registering Ownership Rights and Pledge Rights in the Land Register", No. 1250, adopted on 27 October 2009, § 16.[1]

[32] Civil Law, §§ 992, 993.

thereof, and transfer the case for re-examination to an appellate court. [33] The case is still pending.

There is a long line of court decisions, confirming an ownership of the plaintiff, who has signed an agreement (purchase, barter, gift etc.) and moved into the house behaving like an owner (paying taxes etc.), although failing to register the ownership. It should be taken into account that such procrastination in the past did not preclude the acquirer from vindication of the immovable still registered in the name of previous owner.[34] If the court felt that the interests of the claimants in abovementioned cases outweighs the extremely strict demands for acquisitive transaction be completed and turned a blind eye to the fact that only claimants themselves could be blamed for failing to do so, this only proves once more that rigorous conditions of usucaption as provided for by Latvian law are sometimes not in step with common apperception of the law in the society.

Another trend which features prominently in numerous cases where claim is based on acquisitive prescription is inability of the party to produce evidence of the existence of the legal basis for acquisition, because during transitional period from Soviet occupation period towards market economy the neglect towards private property led to lack of decent paperwork.[35]

There are decisions whereby Supreme Court has ruled to revoke the whole judgment or a part thereof, and transfer the case for re-examination to an appellate court or the court of first instance, urging for more lenient attitude by the court towards lack of necessary documents, for example, the required construction permits.[36]

The difference between the existing terms for prescription (§§ 999–1029 CL) and a more lenient approach, which is based simply on the fact of uninterrupted possession for at least 30 years, is known as that of *longi temporis prescriptio* (the so-called ordinary prescription)[37] and *longissima temporis prescriptio* (the so-called extraordinary prescription)[38] in Roman law. The latter does not require either a title or a good faith.

Land registration, which has existed for more than 30 years, becomes irreversible under German law.[39]

---

[33] Judgement by the Supreme court No. SKC-74/2019. Available: file:///C:/Users/JanisR/Downloads/Anonimizets_nolemums_378829-2789.pdf [last viewed 22.01.2020].

[34] *Rozenfelds, J.* Ownership Claim. *Journal of the University of Latvia. Law.* No. 6, *Lazdiņš, J.* (ed.-in-chief). Riga: University of Latvia, 2014, pp. 91–107.

[35] Judgement of the Supreme Court, case No. SKC-1065/2012. Available: http://at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/civillietu-departaments/hronologiska-seciba?year=2012 [last viewed 22.01.2020]; Judgement of the Supreme Court, case No. SKC-115/2017. Available: http://at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/civillietu-departaments/hronologiska-seciba?year=2017 [last viewed 22.01.2020].

[36] Judgement of the Supreme Court, case No. SKC-7/2010. Available: http://at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/civillietu-departaments/hronologiska-seciba?year=2010 [last viewed 22.01.2020].

[37] Ibid., §§ 141-146, pp.65–73.

[38] *Baron, Ju.* Sistema Rimskogo Grazhdanskogo prava. Vypusk vtoroj [System of Roman Civil Law. Second edition]. Perevod L. Petrazhickago. Tret'e izdanie. S.-Peterburg: Sklad izdanija v knizhnom magazine N. K. Martynova, 1909. Kniga pervaja. Razdel pervyj, V, § 147, p. 73.

[39] § 900 BGB. Available: https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p3694 [last viewed 22.01.2020].

3. Good Faith on the Part of the Holder

Term "good faith" points to the subjective attitude of the person. A person who acts "in good faith" could be understood as "the encroacher who labours under the misimpression that he occupies his own land".[40]

There is no legal definition of good faith in Latvian law. There is only one section in the CL, where a short description of what is meant by acquisition in good faith is provided. This very brief description is applicable only in transactions between spouses and only as regards movable property.[41]

Good faith is based on objective criteria. It may relate only to facts.[42]

Acquisition in good faith is a momentous fact. A person has either acquired property in good faith or otherwise. As a momentous act, the acquisition in good faith could never be turned into its antipode – the acquisition in bad faith. The acquisition in good faith is presumed. This presumption could be overturned by proving that the acquirer either knew or he or she should have known that there were obstacles for acquiring the property. These obstacles for acquiring property are factual, not legal. The acquirer could not claim ignorance of positive law. Usually the obstacles for acquiring property appear in the shape of better rights exercised by another person. For instance, acquirer based his or her right on purchase, being unaware that the vendor did not have the right or authority to sell.

Possession in good faith, contrary to acquisition, is a lasting condition. One who possesses in good faith can become a possessor in bad faith. For instance, from the time when action is brought against the defendant, the defendant shall be presumed a possessor in bad faith, even if he or she until then has been in possession of the property in good faith.[43]

The two categories indicated above – acquisition in good faith and possession in good faith – are rather frequently confused.[44]

In the context of the problem of acquisitive prescription, uncertainty could arise from the unclear wording of the law.

Although the wording used with regard to property is "possessed",[45] it must be concluded from the context that possessors' knowledge must be scrutinized regarding the facts which apply at the moment of acquisition. Holders in good faith are those who are convinced that no other person has a greater right to hold the property than they.[46]

The right over the property could not be "greater" or "smaller". Either it exists or it is non-existent. A person's knowledge as to whether their right exists or not is another thing. A person could become aware of the facts previously unknown. So, whereas it is impossible for any person to make defective acquisition of the property good, the reverse is also impossible. Only the person who in reality

---

[40] *Fenell, L. E.* Efficient Trespass: The Case for "Bad Faith" Adverse Possession. *Northwestern University Law Review*. Vol. 100, No. 3, printed in USA, 2006, p. 1038.

[41] Civil Law, § 122.

[42] Civil Law, § 1013.

[43] Civil Law, § 1053.

[44] *Rozenfelds, J.* Lietu tiesību normu piemērošana tiesu praksē. Aktuālas problēmas [Practice of Implementation of the Norms on Property Rights. Actual Problems]. *Jurista Vārds*, 19.03.2011, No.16 (663), pp. 7–9. Available: https://juristavards.lv/doc/228812-lietu-tiesibu-normu-piemerosana-tiesu-prakse/ [last viewed 22.01.2020].

[45] Civil Law, § 1013.

[46] Civil Law, § 912.

did not acquire ownership could become aware of this fact within period of time limitation set by law.

If the distinction between possession in good faith or bad faith depends simply on the knowledge of certain facts, then person who should have known that this particular immovable property already had an owner who could rely on the registration in the Land Register could not be considered possessor in good faith from the very moment she or he acquired the property. This leads us to inevitable dilemma: either we have to accept the principle of public reliability of the Land Register data and thereby deny the very possibility to acquire immovable by prescription, or we have to admit that this principle has certain limits, i.e., it does not deserve to be called a principle.

4. Uninterrupted Possession

Someone basing acquisition of their ownership on prescription must prove a possession and a continued possession throughout all the required period. However, if they prove the beginning of their possession and its continuation when the prescriptive period has elapsed, it will be presumed that their possession has continued without interruption during the interim, as well. Where a dispute arises, someone who has acquired an ownership on the basis of a prescriptive period must prove their legal basis for possession; if he or she has done so, then that person will also be presumed to be a holder in good faith, so long as the contrary is not proved. The legal basis of acquisition need not be proved documentarily in every case; other methods of proof are also admissible.[47]

5. Elapse of the Set Period

Ownership of a property may be acquired through prescription, if the acquirer has held it as his or her own for the period set by law, that is, one year for movable property[48] and ten years for immovable property.[49]

Someone who has held an immovable property for a ten-year period in line with the rules on prescription[50] and who has not registered the property in their name in the Land Register, will be recognised as having acquired the immovable property through prescription, and has the right and the duty to apply for the acquisition be registered in the Land Register in their own name.[51]

Beginning of the term is the moment when a person acquired possession of the property (if the delivery followed the transaction between the owner and the acquirer, or (if the property in issue already was in the possession of the acquirer – the moment when the transaction came into force (by way of *constitutum possessorium*).[52]

The case would be specific, if the possession had started before 1 September 1 1992. The possession which has been established in line with the law up-to-date as of 1 September 1992 should be protected in accordance with the CL.[53]

---

47 Civil Law, §§ 1030-1031.
48 Civil Law, § 1023.
49 Civil Law, § 1024.
50 Civil Law, §§ 1000-1022.
51 Civil Law, § 1024.
52 Civil Law, § 886.
53 Law "On Time and Procedures for Coming into Force of Introduction, Inheritance Law and Property Law Part of the Renewed Civil Law of the Republic of Latvia of 1937", § 12.

This mechanism could be applicable to various cases provided by laws on privatisation.[54]

The elapse of the prescription period for immovable property does not take place without the person actively enforcing his or her rights. Person has the right and the duty to exercise this right to register property in the Land Register. Until the acquirer does this, he or she only has the rights provided for in Section 994, Paragraph two – person has the right *in personam*, i.e., claim, but not yet the right *in rem*. Ownership could only be acquired by a positive activity of the interested person. It does not come into existence *ipso iure*[55], as was the case under Civil Laws of 1864, i.e., until CL of 1937 came into force.

One interwar publication addresses this amendment by focussing on the changes in the wording of the law.[56] The author of this publication claimed that by adding this additional phrase, the legislator had aimed at precluding acquisition through adverse possession of immovable property ipso iure. In other words, change in the wording of Section 1024 precluded the so-called usucapio contra tabulas[57], which in the context of the abovementioned publication meant that adverse possession of the immovable property, which already had been registered under the name of the adversary is no longer possible.

This rather simple idea that usucaption of the immovable property could not coexist with the system of obligatory public land registration, which seems self-evident and is accepted by other legal systems[58] has somehow gone unnoticed by Latvian legal scholars and judges.

Apart from this all but forgotten publication, so far little if any attention has been paid to the altered wording of the law. Some authors still insist that the immovable property, although already registered in the name of one owner, could be acquired through prescription by another person.[59] This assertion is rooted in well-known interwar decision by the Supreme Court, which is based on the wording of the Section 855 of Civil Laws of 1864 (analogue of Section 1024 CL without the addition of the last sentence, which intended to remove the very possibility to acquire an immovable *ipso iure*).

When CL of 1937 was drafted, there was another, much longer period for acquisition of the immovable held by the claimant. The previous law included several norms devoted to the possession held from "immemorial time."[60]

The wording of this chapter of the Civil Laws of 1864 suggests that it was introduced for situations, where, due to lack of any evidence, it was impossible

---

[54] Land Reform in the Cities of the Republic of Latvia Law; Land Privatisation in Rural Areas Law; Law "On Privatisation of State and Local Government Residential Houses".

[55] *Ipso iure* [Latin "by the law itself"], i.e. by the operation of the law itself, despite the parties' actions, the property will revert to another person. Black's Law Dictionary Seventh Edition. *Garner, B. A.* (ed.-in-chief). St. Paul, Minn: West Group, 1999, p. 834.

[56] Publication of unknown date included in the collection of works by this author: *Vīnzarājs, N.* Ieilguma nozīme civiltiesību sistēmā. Civiltiesību problēmas [Significance of the prescription in the system of civil law]. *Kalniņš, E.* (ed.). Published by Erlens Kalniņš and Viktors Tihonovs. Rīga, 2000, pp. 83–94.

[57] *Usucapio* (Latin), i.e. usucaption – the acquisition of ownership by prescription. Black's Law Dictionary Seventh Edition. *Garner, B. A.* (ed.-in-chief). St. Paul, Minn: West Group, 1999, p. 1542.

[58] *Jourdan, S.* Adverse Possession. Preface. Butterworths. LexisNexis, 2003, pp. VI–VII.

[59] *Grūtups, A., Kalniņš, E.* Civillikuma komentāri. Trešā daļa. Lietu tiesības. Īpašums. Otrais papildinātais izdevums. Rīga: Tiesu namu aģentūra, 2002, p. 158.

[60] Civil Laws of 1864, §§ 700–706.

to establish whether such possession was acquired legally. One hundred years would be regarded as "immemorial" for the purposes of this chapter. Existence of the possession from immemorial time could be proved by evidence of witnesses under condition that:

1) Their memories reach back "at least one generation, i.e., 40 years";
2) They acknowledge not only that the possession in issue remained all the time in the present state, but also that "they never heard of older people anything contrary to that".[61]

In one of the commentaries on a contemporary court decision from the interwar period (Judgement of the Supreme Court of 1931 in Case No. 2091), when the aforementioned rules were enforceable, was inserted that possession from immemorial time does not lead to acquisition by prescription. Such possession only provides the evidence sufficient to presume that the possession in issue was acquired by legal means.[62]

This specific kind of possession was linked to the so-called extraordinary prescription, which was based on "very long" prescription (*longissimi temporis praescriptio*). The latter did not rely on any title of good faith of the possessor. [63]

The chapter on possession from "immemorial time" was not included in CL. As interwar period of *de facto* independence was so short-lived, the issue of acquisition without title never came into being. Now, whereas the beginning of land reform in Latvia is approaching the 30th anniversary and acknowledging that there is an abundance of unsettled cases of ownership due to inability by interested parties to produce a proper documentation, the time could be right to introduce more lenient terms of acquisitive prescription.

6. Ability of the Owners of the Property to Exercise Their Right Over the Property

> *If there are legal impediments to the exercise by the owner of a property, against whom a prescriptive period is running, of his or her rights in regard to such property, then during the time such impediments exist, the prescriptive period ceases to run.*[64]

Some of the legal impediments are outdated. For instance, absentees are regarded as persons protected during the period of their absence against the consequences of the prescription. [65]

Such rule contradicts the principle that

> *Actions against natural persons shall be brought before a court based on their declared place of residence.*[66]

---

[61] Civil Laws of 1864, § 704.

[62] Civillikumi ar paskaidrojumiem. Otrā grāmata. Lietu tiesības. Sastādījuši: Sen. F. Konradi un Rīgas apgabaltiesas loceklis A. Walter. Likuma teksts Prof. Dr. iur. A. Būmaņa, H. Ēlersa un J. Lauvas tulkojumā. "Grāmatrūpnieks" izdevumā. 1935. Neoficiāls izdevums, 70. lpp.

[63] *Baron, Ju.* Sistema Rimskogo Grazhdanskogo prava. Vypusk vtoroj [System of Roman Civil Law. Second edition]. Perevod L. Petrazhickago. Tret'e izdanie. S.-Peterburg: Sklad izdanija v knizhnom magazine N. K. Martynova, 1909. Kniga pervaja. Razdel pervyj, V, § 147, c. 73.

[64] Civil Law, § 1025.

[65] §§ 1027, 1502.

[66] Civil Procedure Law, § 26.

Ability of the owners of the property to exercise their right over the property could be paralysed by occupation of the whole state.

"During wartime, the running of a prescriptive period shall cease in cases provided for in Section 1898, Clause 1[67]" (i. e., when the work of a court has been temporarily completely interrupted due to war conditions).[68]

As uninterrupted *de facto* independence of Latvia never exceeded even a 30-year period, the issue whether institutions in general and the courts in particular established by occupational powers counts.

Private property was virtually non-existent during the period of Soviet occupation. It was gradually restored only after *de facto* independence was regained (21 August 1991).[69] The Civil Law was reintroduced[70] with minor changes.

The attitude towards individual acts by Soviet institutions by no means could be characterised as an outright denial of any legal meaning of establishing various rights regarding ownership and use of land, let alone movables.

On the one hand, almost all laws regarding the terms and procedure for applying for restoration of property rights by previous owners or by their heirs (two of these dealt with restoration of nationalized land;[71] two other acts regulated restoration of nationalized dwelling houses.[72]) included declaration of invalidity of Soviet legislation. On the other hand, rights in immovable property, which could arise from the erection of the buildings "in regard with the law which was in force before 1 September 1992" are declared as legal under the re-established Civil Law.[73]

During discussions over the principles of restoration of property rights, which were seized by Soviet occupational powers, there were attempts to apply acquisitive prescription to the owners who had acquired such rights under

---

67 Civil Law, § 1029.

68 Civil Law, § 1898.

69 Law on the Statehood of the Republic of Latvia. Available: https://likumi.lv/ta/en/en/id/69512-law-on-the-statehood-of-the-republic-of-latvia [last viewed 22.01.2020].

70 Law "On Time and Procedures for Coming into Force of Introduction, Inheritance Law and Property Law Part of the Renewed Civil Law of the Republic of Latvia of 1937" (effective since 01.09.1992). Available: https://likumi.lv/doc.php?id=75530 (in Latvian) [last viewed 22.01.2020]; Law "On Time and Procedures for Coming into Force of Obligations Law Part of the Renewed Civil Law of the Republic of Latvia of 1937" (effective since 01.03.1993). Available: https://likumi.lv/doc.php?id=62911 (in Latvian) [last viewed 22.01.2020]; Law "On Time and Procedures for Coming into Force of Family Law Part of the Renewed Civil Law of the Republic of Latvia of 1937" (effective since 01.09.1993). Available: https://likumi.lv/doc.php?id=57034 (in Latvian) [last viewed 22.01.2020].

71 Land Reform in the Cities of the Republic of Latvia Law of 1991. Available only in Latvian: https://likumi.lv/doc.php?id=70467 [last viewed 22.01.2020], and the Land Privatisation in Rural Areas Law of 1992. Available: https://likumi.lv/ta/en/en/id/74241-on-land-privatisation-in-rural-areas) [last viewed 22.01.2020].

72 On the Denationalisation of Building Properties in the Republic of Latvia. Available: https://likumi.lv/ta/en/en/id/70829-on-the-denationalisation-of-building-properties-in-the-republic-of-latvia [last viewed 22.01.2020]; On the restoration of the ownership of dwelling houses to the rightful owners, available only in Latvian at: https://likumi.lv/doc.php?id=70828 [last viewed 22.01.2020].

73 Law "On Time and Procedures for Coming into Force of Introduction, Inheritance Law and Property Law Part of the Renewed Civil Law of the Republic of Latvia of 1937", § 14.

the Soviet legislation.[74] This idea was met by fierce criticism, citing, *inter alia*, Section 1029 of CL[75]

However, inconclusive judgements regarding the attempts to legalise ownership acquired on the basis of individual grants of so-called land use for construction of individual dwelling houses show that more lenient terms for acquisition could be appropriate.

Summary

1. Acquisition by prescription under Latvian law rarely, if ever serves its target, i.e., to achieve legal certainty. Conditions for acquiring ownership, which are based on the principle of causality of the acquisition *inter vivos*, are far too complicated for being applied in reality.
2. Latvian law lacks another, more lenient form of acquiring the so-called *longissimi temporis prescriptio*, which would be applicable to various, sometimes very complicated and even murky cases of acquiring ownership. There are situations when the parties simply cannot produce the necessary documentation in order to support their case. It would be preferable to open a possibility to solve such cases through abovementioned, more lenient conditions of acquisition through prescription for a significant time period (30–40 years), rather than leave such cases interminably pending.
3. The principle that any ownerless plot of land automatically, i.e., *ipso iure* should be regarded as state-owned does not work. Leaving such plots unattended for indefinite time does not serve the interests of society, which aspires for law and order. It would be much better to allow the long-term occupants of such abandoned lands to acquire ownership.
4. It would be good to establish an amendment in the CL that a person who claims acquisition of the immovable property on grounds of prescription could not be regarded as possessor in good faith, if she or he is claiming an immovable which is already registered as being in ownership of somebody else.
5. It would be recommendable to establish an amendment in the Section 1065 after the wording "if the owner has, in good faith, entrusted a moveable property to another person, delivering it pursuant to a lending contract, bailment, pledge or otherwise, and such person has given possession thereof to some third person/ In this case, there may be allowed only an action *in personam* against the person to whom the owner has entrusted his or her property, but not against a third person who is a possessor in good faith of the property." the following: "if an action *in personam* against the person to whom the owner has entrusted his or her property is not filed within the period of one year since the property was delivered to this person, the latter could claim that she or he has acquired this property through prescription".
6. In order to balance the interests of the society, it would be fruitful to open the discussion whether the principle that the state should take care of every

[74] *Bojārs, J.* Uz denacionalizējamo īpašumu iestājies ieilgums [Acquisitive prescription should be applied to the property which otherwise would be denationalized]. *Neatkarīgā Cīņa*, 27.11.1991.

[75] *Rožukalns, V.* Ieilgums uz laupījumu neattiecas [Prescriptions do not apply to looted property]. *Neatkarīgā Cīņa*, 14.01.1992.

abandoned land plot it would be necessary to introduce a prescription term for any claims towards a person who has settled on an abandoned plot of land.

7. Since "adverse possession advances important policy goals [..], and has created comprehensive civil law regimes that carefully balance owners' and squatters' interests",[76] apart from the 10 year period for acquisitive prescription it would be necessary to establish a 30 year period of acquisitive prescription, i.e., if a person or his or her predecessors have held an immovable property, which is not registered in the name of any other perso, for more than 30 years, they could claim ownership through prescription.
8. It is established by case law that someone who has held an immovable property for ten years, in line with the rules on prescription may acquire ownership as a result of discharge of an ownership claim against someone who is registered as an owner. If the court satisfies the claim, it should then also rule the previous registration of the owner as rectified. The rights of a claimant to immovable property based on a judgment should be registered in the Land Register.[77]

The article contains comparative analysis of acquisitive prescription, its legal and factual preconditions and consequences in Latvian law. The purpose of the acquisitive prescription is to remove legal uncertainty created by internal defects of the conditions of acquisition of the property *inter vivos*. However, the complex system of acquisitive prescription under Latvian law does not always achieve this goal. It seems that the system is overly complicated. The cases in which acquisitive prescription is the last resort for the claimant to ascertain his or her ownership with regard to immovable property leave the question of ownership unsolved. It seems that introduction of another, simplified alternative to the existing one could be helpful in solving the numerous cases of failed attempts to prove ownership.

Sources

Bibliography

1. *Balodis, K.* Ievads civiltiesībās [Introduction to Civil Law]. Rīga: Zvaigzne ABC, 2007.
2. *Burns, F.* Adverse possession and title-by-registration systems in Australia and England. *Melbourne University Law Review*, Vol. 35(3), 2011.
3. Civillikumi ar paskaidrojumiem. Otrā grāmata. Lietu tiesības. Sastādījuši: Sen. F. Konradi un Rīgas apgabaltiesas loceklis A. Walter. Likuma teksts Prof. Dr. iur. A. Būmaņa, H. Ēlersa un J. Lauvas tulkojumā. "Grāmatrūpnieks" izdevumā. 1935. Neoficiāls izdevums [Civil Laws with Comments. Book Two. Rights in Things. Compiled by Judge F. Konradi and A. Walter. Text of the law translated by A. Būmanis, H. Ēlerss and J. Lauva. Unofficial edition published by company "Grāmatrūpnieks"].
4. *Fenell, L. E.* Efficient Trespass: The Case for "Bad Faith" Adverse Possession. *Northwestern University Law Review*. Printed in USA, Vol. 100. No. 3 (2006).
5. *Goymour, A.* Squatters and the criminal law: can two wrongs make a right? *The Cambridge Law Journal*, 2014.
6. *Grūtups, A., Kalniņš,* E. Civillikuma komentāri. Trešā daļa. Lietu tiesības. Īpašums. Otrais papildinātais izdevums [The Commentary on Civil Law. Third Chapter. Rights in Things. Ownership. Second, Supplemented Edition]. Rīga: Tiesu namu aģentūra, 2002.

[76] *Goymour, A.* Squatters and the criminal law: can two wrongs make a right? *The Cambridge Law Journal*, Vol. 3, No. 73, 2014, p. 486.

[77] Land Register Law, § 44.

7. *Jourdan, S.* Adverse Possession. Butterworths. LexisNexis, 2003.
8. *Kalniņš, E.* Tiesisks darījums. Privāttiesību teorija un prakse. Raksti privāttiesībās [Legal Transaction. Theory and practice of the Private Law. Essays on Private Law]. Rīga: TNA, 2005.
9. *Rozenfelds, J.* Reform of the Property Law Chapter of the Civil Law of Latvia: Problems and Solutions. Latvijas Universitātes 71. zinātniskās konferences rakstu krājums Tiesību interpretācija un tiesību jaunrade [Collected Abstracts of the University of Latvia 71th Scientific Conference]. Rīga: LU Akadēmiskais apgāds, 2013.
10. *Rozenfelds, J.* Ownership Claim. *Journal of the University of Latvia. Law,* No. 6. *Lazdiņš, J.* (ed.-in-chief), Riga: University of Latvia, 2014.
11. *Vīnzarājs, N.* Ieilguma nozīme civiltiesību sistēmā. Civiltiesību problēmas [Significance of the prescription in the system of civil law]. *Kalniņš, E.* (ed.). Published by Erlens Kalniņš and Viktors Tihonovss, Rīga, 2000.
12. *Baron, Ju.* Sistema Rimskogo Grazhdanskogo prava. Vypusk vtoroj. Perevod L. Petrazhickago. Treťe izdanie. S.-Peterburg: Sklad izdanija v knizhnom magazine N.K. Martynova, 1909. Kniga pervaja. Razdel pervyj [*Baron, J.* System of Roman Civil Law. Second edition. Third publication. Translation by L. Petrazhycky. St. Petersburg, 1909].

Normative Acts

1. Republic of Latvia Cabinet Regulation No. 1250, adopted 27 October 2009 "On State Fee for Registering Ownership Rights and Pledge Rights in the Land Register". Available: https://likumi.lv/ta/en/en/id/200087-regulation-regarding-state-fee-for-registering-ownership-rights-and-pledge-rights-in-the-land-register [last viewed 22.01.2020].
2. Civil Law of the Republic of Latvia. Available: https://likumi.lv/ta/en/en/id/225418-the-civil-law [last viewed 22.01.2020].
3. Civil Procedure Law of the Republic of Latvia. Available: https://likumi.lv/ta/en/en/id/50500-civil-procedure-law [last viewed 22.01.2020].
4. Land Register Law of the Republic of Latvia. Available: https://likumi.lv/ta/en/en/id/60460-land-register-law [last viewed 22.01.2020].
5. Law "On Land Privatisation in Rural Areas" of the Republic of Latvia. Available: https://likumi.lv/ta/en/en/id/74241-on-land-privatisation-in-rural-areas [last viewed 22.01.2020].
6. Law "On Privatisation of State and Local Government Residential Houses" of the Republic of Latvia. Available: https://likumi.lv/ta/en/en/id/35770 [last viewed 22.01.2020].
7. Law "On Land Reform in the Cities of the Republic of Latvia". Available: https://vvc.gov.lv/index.php?route=product/category&path=60_109 [last viewed 22.01.2020].
8. Law "On Time and Procedures for Coming into Force of Introduction, Inheritance Law and Property Law Part of the Renewed Civil Law of the Republic of Latvia of 1937" (effective since 01.09.1992). Available: https://likumi.lv/doc.php?id=75530 (in Latvian) [last viewed 22.01.2020].
9. Notariate Law of the Republic of Latvia. Available: https://likumi.lv/ta/en/en/id/59982-notariate-law [last viewed 22.01.2020].

Case Law

1. Decision of the Constitutional Court of the Republic of Latvia. Case No. 2016-07-01. Available: http://www.satv.tiesa.gov.lv/web/viewer.html?file=http://www.satv.tiesa.gov.lv/wp-content/uploads/2016/05/2016-07-01_Spriedums_ENG.pdf#search= [last viewed 22.01.2020].
2. Judgement of the Supreme Court Case No. SKC-11/2010. *Jurista Vārds*, 28.09.2010. Available: https://juristavards.lv/doc/218519-par-nekustama-ipasuma-labticiga-ieguveja-aizsardzibas-prieksnoteikumiem/ [last viewed 22.01.2020].
3. Judgement by the Supreme court No. SKC-74/2019. Available: file:///C:/Users/JanisR/Downloads/Anonimizets_nolemums_378829-2789.pdf [last viewed 22.01.2020].
4. Judgement of the Supreme Court Case No. SKC-1065/2012. Available: http://at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/civillietu-departaments/hronologiska-seciba?year=2012 [last viewed 22.01.2020]. Judgement of the Supreme Court Case No. SKC-115/2017. Available: http://at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/civillietu-departaments/hronologiska-seciba?year=2017 [last viewed 22.01.2020].
5. Judgement of the Supreme Court Case No. SKC-7/2010 Available: http://at.gov.lv/lv/judikatura/judikaturas-nolemumu-arhivs/civillietu-departaments/hronologiska-seciba?year=2010 [last viewed 22.01.2020].

Other Sources

1. The Italian Civil Code and Complementary Legislation. Translated in 1969 by Mario Beltramo, Giovanni E. Longo, John H. Merryman. Supplemented, translated and edited by Mario Beltramo (from 1970 through 1996). Subsequently supplemented, translated and edited by Susanna Beltramo. Book three. Property Rights. (Articles 810-1172). Release 2007-1 Issued April 2007. Oceana, Book Three, Booklet 5.
2. German Civil code BGB Available: https://www.gesetze-im-internet.de/englisch_bgb/englisch_bgb.html#p3694 [last viewed 22.01.2020].
3. Senatora Alda Laviņa atsevišķās domas lietā Nr. SKC-11, 2010, *Jurista Vārds*, 28.09.2010 [dissenting opinion by Judge A. Lavins in the case No. SKC-11, 2010]. Available: https://juristavards.lv/doc/218520-senatora-alda-lavina-atseviskas-domas-lieta-nrskc112010/ [last viewed 22.01.2020].
4. *Torgāns, K.* Prettiesiski iegūta īpašuma tālāknodošanas sekas [The Consequences of the Alienating of Illegally Acquired Property]. *Jurista Vārds*, 07.12.2010. Available: https://juristavards.lv/doc/222168-prettiesiski-ieguta-ipasuma-talakpardosanas-sekas/ [last viewed 22.01.2020].
5. Rozenfelds J. Lietu tiesību normu piemērošana tiesu praksē [Practice of Implementation of the Norms on Property Rights. Actual Problems]. *Jurista vārds*, 19.03.2011. Available: https://juristavards.lv/doc/228812-lietu-tiesibu-normu-piemerosana-tiesu-prakse/ [last viewed 22.01.2020].
6. *Kolomijceva, J.* Civiltiesību un krimināltiesību mijiedarbība [Mutual Interference of the Civil and Criminal Law]. *Jurista Vārds*, 26.04.2016., Nr. 17 (920). Available: https://juristavards.lv/doc/268472-civiltiesibu-un-kriminaltiesibu-mijiedarbiba/ [last viewed 22.01.2020].
7. Original of the Civil laws of 1864 (Part III of the Codification of Local Laws or the CLL). Were issued in Russian and German. Digitalized version of the original of the Civil laws (in Russian) of 1864 (Part III of the Codification of Local Laws). Available: https://www.lndb.lv/Search/Search?FreeFormQuery=1864&PageIndex=2&PageSize=12&SearchEndpointID=0&SearchResultViewMode=List&IsCustomViewMode=False&SortingField=Relevance&IsStopwordRemovalDisabled=False&IsDuplicateCollapsingDisabled=False&SelectedDocumentSets=DOM [last viewed 22.01.2020].
8. Latvian version of the Civil Laws of 1864 or CLL. Civillikumi (Vietējo likumu kopojuma III daļa) Tulkojums ar pārgrozījumiem un papildinājumiem, kas izsludināti līdz 1935. gada 1. janvārim, ar dažiem paskaidrojumiem. Sastādījuši: Prof. Dr. iur. A. Būmanis, Rīgas apgabaltiesas priekšsēdētājs. H. Ēlerss, Kodifikācijas nodaļas vadītājs. J. Lauva, Kodifikācijas nodaļas sekretārs. Rīgā, 1935. g. Valtera un Rapas akc. sab izdevums [Civil Laws. Chapter III of the Collection of Local Laws. Translation with Changes and Supplementations up-to-date as of the 1 January 1935 with some Explanations. Compiled by Professor PhD A. Būmanis, Head of the Codification Subdivision Judge H. Ēlerss, J. Lauva, Secretary of the Codification Subdivision], 1935.
9. *Torgāns, K.* Darījumu notariālas formas nepieciešamības pamatojumi [Arguments on Behalf of Necessity of the Notarial Form of the Transactions]. *Jurista Vārds*, 20.12.2016., No. 51 (954), pp. 36–39. Available: https://juristavards.lv/doc/269849-darijumu-notarialas-formas-nepieciesamibas-pamatojumi/ [last viewed 22.01.2020].