REAL ESTATE MANAGEMENT GAINED BY FOREIGN CITIZENS IN ROMANIA

MANAGEMENTUL IMOBILELOR DOBÂNDITE DE CETĂȚENII STRĂINI ÎN ROMÂNIA

O. P. SÂMAN, A. COROIAN[1], I. BORLOVAN[1], L. SÂMBOTIN[1], LIGIA PREDA[1]

[1]Banat's University of Agricultural Sciences and Veterinary Medicine Timişoara, Agricultural Management Faculty, Timisoara, Romania ovidiusaman@yahoo.com

Abstract: *According to the Romanian Constitution, foreign citizens and stateless persons may acquire ownership of private land under the terms resulting from Romania's accession to the European Union and other international treaties to which Romania is part, on a mutual basis, as provided by an organic law, and as well as lawful inheritance. A delicate problem arises when a foreign citizen is marrying a Romanian citizen it may apply the principles of the community of goods, such as a foreign citizen may acquire some assets from the husband of the Romanian citizen.*

Key words: *foreign citizen, community assets, heritage, family code*

INTRODUCTION

Property acquired by either spouse during marriage are common property, any contrary agreement is invalid under the provisions of Article 30 of the Family Code. Only certain items, limited by Article 31 of the Family Code can be determined by law., shall be considered to own property of each spouse. They will be hit of absolute nullity of any agreement occurred either between spouses or between them and third parties, which would affect the legal regime of property of spouses. In this context, they will be null: agreements concluded between the spouses which would change the legal status of goods as, for example, those which would establish that certain goods, although acquired during marriage, to become

the personal property of one of the spouses; agreements concluded in this regard, even before marriage;

MATERIALS AND METHODS

1) Application of management principles in the field of property law;
2) Scientific concepts and solutions to achieve an effective system of property management;
3) Study on the institutions and organizations involved in bookkeeping, management and preservation of property rights;
4) Techniques and management systems of evidence and ownership;
5) Development of features through the development of evidence systems interlinked;
6) Proposals for optimization of management activities in the field of property law.

RESULTS AND DISCUSSIONS

A good will have mutual ownership even if both spouses or only one of them made the act of purchase. The goods acquired with income from work of one spouse and the loan was acquired by one spouse shall be common property. For a good to be common, is required that the purchaser to have the status of husband in time of its acquisition. Is common both the property acquired by either spouse and the spouses jointly acquired. It is irrelevant whether the act of acquisition included both spouses or one of them.

In the regard of properties, they are joint property even if the document of acquisition or the advertising the property appears only one spouse, even if the act of acquisition ends during the marriage.

In principle, the presumption of community is applied to any category of goods, if they were acquired by spouses during marriage, except those which shall be considered by law own property. (...) Because the legal documents for real estate needs to be authentic, notary public is obliged, by virtue of its active role, to discern the true relationship between the parties and refuse to act when violation of preparing legal imperative. To acts of for acquisition of of properties is not required to express manifestation of the

will of the spouses, as the law requires for legal acts of alienation. (...) This does not mean that the property acquired in such conditions will form the sole property of the husband contained in the act of acquiring, instead, the property is under the jurisdiction of the community of goods, whether in the act of acquisition is simply one spouse or either do not mention is made therein, he got married. The exception from this rule, of course, real estate acquired pursuant to Article 31 letter. b) of the Family Code ., to be considered their husband's property buyer. Notary public can not, even if both spouses require to determine the act of acquisition of ownership shares of each spouse, as the legal regime established by the legislature of property acquired during marriage is joint property of the common property.

According to article 44 paragraph 2 of the Constitution, private property is guaranteed and protected equally by law, regardless of ownership. Under that provision, combined with the universality principle stated in Article 15 of the same law, failure to reject request for tabulation for a Romanian citizen who owned land acquired by an authentic act, because he signed a marriage mixed violate fundamental rights and freedoms, as an extent is obvious discriminatory.

Another problem that can occur is to determine whether the foreign citizen, married to a Romanian citizen, may acquire in the joint property ownership of land. In other words, if a property site could enter common property of spouses who completed a mixed marriage. Joint property applies only to economic relations between spouses and its regime is governed by family law. In this way the right of property, spouses do not even have a share of delimited ownership on the whole. Therefore, it can sustain the land bought by the Romanian citizen married to a foreign citizen is the common good only to the extent that the entire assets of the the spouses is common. By enrolling in the land owner's name, Romanian citizen - married to (...), without mentioning if the property is jointly or own, we believe that the ban stipulated does not affect in the Romanian Constitution. Mentioning for the person married to enroll in order to ensure enforceability against third parties of a good whether gained during marriage. Community of goods falls upon for entire assets of the the spouses acquired after marriage and do not determined solely on individual asset - land. On those assets, the foreign citizen has a share in it and is delimited to the court assigned responsible for the land, in case of a separation of the Romanian citizen. In this case, the a

foreign citizen husband will receive compensation other assets of the estate, which can be acquire on property.

CONCLUSSIONS

The legislator has preferred not only that the community of property regime in the joint property of spouses, of the separation of goods, but gave a binding established by regulations, by imposing them accordingly.

Juridical literature is unanimous in considering that the provision of Article 30 para. (1) of the Family Code . is only available in principle to be carried by other regulations on property relations between spouses covered by Article 30-36 of the Family Code . In the these circumstances, the provision of Article 30 para. (2) of the Family Code , which establishes absolute nullity for any agreement contrary to the community of goods, for all legal acts between spouses, between them and third parties which circumvent the provisions relating to matrimonial community.

REFERENCES

1. ADAM I., Proprietatea publică şi privată asupra imobilelor în România, Ed. All Beck, Bucureşti, 2000;
2. CHIRICA D., Drept civil. Contracte speciale, Ed. Lumina Lex, Bucureşti, 1997;
3. NICOLAE M., Tratat de publicitate imobiliară. Introducere în publicitatea imobiliară, Ed. Universul Juridic, Bucureşti, 2006;
4. *** Constituția României;
5. *** Codul de Procedură Civilă;
6. *** Legea cadastrului şi a publicității imobiliare nr. 7/1996, republicată.