

THE LEGAL NATURE OF SELLING LANDS USED IN AGRICULTURE AND SYLVICULTURE AT AUCTION

Márton NAGY*

Abstract

The main aim of my research is the examination of the legal nature of the topic as well as getting acquainted with its legal practices. Furthermore, my intention is the exhibition of accidental ambivalent provisions, and in certain controversial or under-regulated cases to make a proposal for de lege ferenda.

The main fields of my study are, on the one hand, investigating the merger of undivided common property as potential political influence at auctions and also on what grounds the order of bidders are determined among those having pre-emption rights according to the current land transactions regulation. In my article special attention is paid to land purchase at auctions. A common property is usually not ceased at an auction but if it is to be done so, the buyer must meet the 20-kilometer criterion according to the land transactions regulation. Based on the result of my research I declare that if the buyer fails to meet this criterion, he cannot take part in the auction, which prevents the property from being merged hindering the aim of the legislation, which promotes the merger of the properties.

I consider it unjustified that the winner of the auction enjoys a prerogative over those with pre-emption right ranked equally just like the contractor in case of posting. This is not clearly included in any legislation, nor does the judicial practice provide precedents concerning this issue, thus I am obliged to rely on logic and analogy as means of legal interpretation when drawing conclusions.

In my article I also refer to the fact that auctioning lands occupies a special place among real estates concerning their legislation. Under no circumstances can the acquisition of a land at an auction belonging to agriculture and sylviculture be regarded derivative acquisition, but only a form of contract that includes special conditions including warranty, which is a unique form of original acquisition.

The constant changing of the related legislation justifies the fact that this lawmaking procedure is in progress incorporating newly emerged cases while contributing to a constantly improving legal system.

Keywords *agricultural law, agriculture auctions, sylviculture auctions, land transaction, joint ownership, pre-emption, court implementation, derivative acquisition, original acquisition*

* Student, University of Miskolc Faculty of Law email: nagynagymarton@gmail.com, This study was developed under the guidance of Prof. Dr. Csilla Csák, professor, dean (email: jogkincs@uni-miskolc.hu)