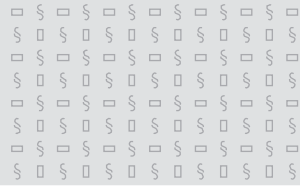




MASARYKOVA UNIVERZITA PRÁVNICKÁ FAKULTA

Possessio

Katedra dějin státu a práva
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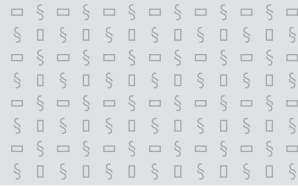
Terminology

- *Pos(t)+sedere = possidere*
- Factual domination over a thing
- *Possessor*
- *Ius possidendi* as a part of ownership triad
 - cf. it. *possedere*, eng. *possessions*
 - *Possessio ac ususfructus agri provincialis*
- *Beati possidentes*
- *Usucapio*



Requisites

- *Animus possidendi (animus rem sibi habendi)*
- *Corporalis possessio (corpus possessionis)*



Gaining of a possession

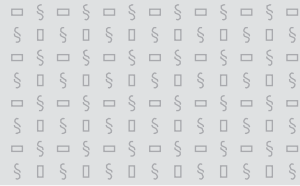
- *Animo utique nostro,*
 - *Subjective part, subjectively incapable does not have it*
 - *impuberes tutore auctore*

- *corpore vel nostro vel alieno.*
 - *servus*
 - *personae alieni iuris*
 - *in Iustinian times per liberam personam*



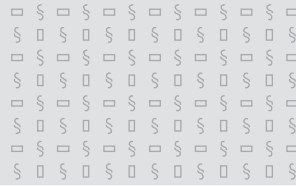
Means of a gaining

- *Occupatio* (not concerning the will of the previous owner)
- *Traditio* (=derivatively)
 - *apprehensio, omnes glebas circumambulare*
 - *traditio ficticia/symbolica, vacuum possessionem tradere usque ad terminum*
 - *traditio longa manu (ex turre)*
 - *traditio brevi manu* (a change of *animi* in case of detention)
 - *constitutum possessorium* (the owner sells a thing, but keeps it in a detention, the acquirer gains possession)



Extinguishment of a possession

- Death of the owner, without heirs, or extinguishment of a thing
- Missing of one of the requirements, but
 - *possessio animo retinetur*
 - *saltus hiberni et aestivi*
 - *servus fugitivus*



Interdicts concerning possession

- *Interdicta adipiscendae possessionis* - to claim gained things
 - *interdictum Quorum bonorum* - for the possessor of the inheritance
 - *interdictum sectorium* - for the winner of an auction
 - *interdictum Salvianum* - for the gain of the inventory in case when rent has not been paid
- *Interdicta retinendae possessionis* - protection of possession in court
 - *interdictum Utrubi* - movables, in last year
 - *interdictum Uti possidetis* - immovables
- *Interdicta recuperandae possessionis* - final decision
 - *interdictum de vi - intra annum*
 - *interdictum de vi armata* - even gained *vi, clam, precario*
 - *interdictum de precario* - 30 years



Means of controlling a thing

- Possession
- Detention (*possessio naturalis/corpore/pro alieno*)
 - Protection through owner
 - e. g. depositary, *conductor*
- Derived possession
 - Protection through interdicts
 - *sequester*, precarium, mortgage
- Possession of a right (*possessio iuris, quasi possessio*)
 - Factual performance of other rights than ownership
 - Interdicts as a protection of servitudes



Suntne vobis quaestiones aliquae?

Aliter gratias vobis ago...