REVIEW

by **Prof. Dr. Ventsislav Petrov Stoyanov**

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for the dissertation "THE EFFECT OF THE TESTAMENT UNDER BULGARIAN INHERITANCE LAW“

by part-time Ph.D. student **Nikola Petev Yovchev**

for awarding the educational and scientific degree "Ph.D.", field of higher education 3.Social, Economic and Legal Sciences; professional field 3.6. Law

The reviewer was appointed as a member of the Scientific Jury by order RD-21-932/07.05. 2024 of the Rector of Paisii Hilendarski University of Plovdiv.

The dissertation submitted by the Ph.D. student is 251 pages long, to which a bibliographical reference is added. The thesis itself is divided into six chapters, an introduction and a conclusion. This is a classical scheme for structuring a dissertation, which allows focusing on the significant legal facts related to the topic.

The exposition begins with an analysis of the testament in Ancient Rome, which is logical, since the foundations of civil law are usually associated with the achievements of Roman jurists. It then moves on to an analysis of inheritance law in Bulgaria, focusing on the Inheritance Law of 1890. Chapter one of the scholarly work can be defined as a historical overview of the testament.

The second chapter of the study is devoted to the legal nature of the testament. The author has rightly focused on the defining characteristics of a testament - unilateral transaction, transaction mortis causa, gratuitous and revocable act and formal transaction. In this part of the study, some inaccuracies are made and the formal nature of the act is incompletely indicated. Here, indeed, an expanded definition of testament is constructed by distinguishing it from other similar institutes. This concerns the testament and the general testamentary disposition, the testament and the private succession, and various hypotheses provided for in the Inheritance Act are considered here. The idea that the Ph.D. student should include in this chapter the comparison between testament and life insurance can be regarded as a positive one. It is also appropriate to consider the modalities in the context of the testament - condition, term and burden.

Chapter Three is devoted to the types of testaments and their practical features. The main focus is on the two types of testaments: direct and indirect. As a criterion the author takes the effect of the testament, whether it occurs directly or occurs indirectly. It seems to me that in this part of the study he could borrow in his presentation postulates already established in our legislation and legal literature concerning the acquisition of inheritance. It is about the two systems of acquisition by the heirs of the inheritance left after the death of the testator. The first, where the inheritance passes to the heirs automatically, ipso iure, and the second,

which is based on acceptance of the inheritance left after the death of the testator. This will highlight what is essential about the testament as a mode of acquisition, namely the acceptance of inheritance, which was introduced expressly by the Inheritance Law of 1949. Acceptance as an act of will is valid for both types of testament. In this chapter, the testament of real, bond and other rights is considered quite generally. This is done in more detail in the next part. In addition, this chapter examines translational and legislative succession.

Chapter four deals with the subject of the testament. Here the author examines the various rights that can be acquired through a testament. All these rights are part of the heir's estate.

Chapter five of the dissertation discusses the grounds for the invalidity of the testament as well as its annulment. In practice, this chapter provides a thorough analysis of Article 42 of the Inheritance Law, which governs the grounds for the nullity of a testament, and Article 43, which governs the grounds for voidability. The author rightly focuses on the provisions of the Inheritance Law because they are a special law in relation to the Obligations and Contracts Law and it is well known that the special law derogates from the general law. All the grounds of nullity and voidability are consistently dealt with. The analysis is thorough and the conclusions reached are correct.

Chapter six deals with the responsibility of legatees. It is the smallest part of the dissertation. Here, the subject of analysis is the claim under Art. 66 para. 2 of the Inheritance Law, the potestative right under Art. 68 of the Inheritance Law, as well as the responsibility of the legatees in case of restoration of a reserved part.

The dissertation ends with a conclusion that summarizes the findings of the study. The author concludes each chapter with implications pertaining to the analysis conducted, but these implications apply to the entire thesis at the end.

The dissertation highlights the following major contributions:

1. The topic of the validity of the testament has not been fully developed in the Bulgarian legal literature. Some of the issues discussed in the work have been dealt with in separate works, but have not been considered in their systematic relation.
2. The analysis is based on case law, mainly of the higher courts, which is also involved in the relevant interpretation of the legal norms governing the institution of the testament.
3. The work has a historical part that traces the development of hereditary legal relations and, in particular, the testament. This study is not an end in itself, but seeks to highlight the main social needs that led to the emergence of the legal institute and to indicate the changes it undergoes in view of the needs of civil turnover.
4. A comparative legal analysis of the permissions granted by the French and Italian civil codes is also carried out. On the basis of the relationship between the laws of succession of the three countries, proposals relating to the interpretation of the legal rules and proposals de lege ferenda are made.
5. In view of the outdated conceptual apparatus, as well as the legal framework (the Law of Inheritance is from 1949), provisions have been examined through the prism of modern societal needs.

6. An attempt is made to differentiate and delineate the testament. For this purpose, its main features as a legal institution are indicated and a definition is proposed.

To the mentioned contributions can be added the clear and precise statement of the dissertation, the used scientific apparatus and judicial practice. The work is easy to read, and the practice used makes it a necessary aid for legal practitioners as well.

Critical remarks may be made to the work (some were mentioned in the course of the review), but these do not diminish the value of the study.

The abstract is 32 pages long. It correctly follows the exposition of the dissertation. It contains a general description of the work, and the contributions are also indicated at the end.

The Ph.D. student is the author of four articles on the topic of the thesis.

C O N C L U S I O N

On the basis of the above statement, I confidently propose to the Scientific Jury to award the educational and scientific degree "Ph.D." to Nikola Petev Yovchev, a part-time doctoral student, for his dissertation work "The Effect of the Testament under Bulgarian Inheritance Law", field of higher education 3. Social, Economic and Legal sciences, professional field 3.6. Law.

Reviewer:

Prof. Dr. Ventsislav Petrov Stoyanov

13.06.2024