

The Court: Regional Court Nitra
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Date of the decision: 28. 04. 2022
Name and surname of the judge, JUDr. Katarína Marčeková
Higher Court Office:
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Ruling

The Regional Court in Nitra in the Senate composed of the President of the Senate JUDr. Katarína Marčeková and the members of the Senate Mgr. Ingrid Radošická Vallová and Mgr. Andrea Szombathová-Poláková in the legal case of the plaintiffs. XX. XX. XXXX, residing in Z. I., E. XXXX/X, 2. P. U., born in. XX. XX. XXXX, residing in Z. I., L. V. XXXX/XX, both represented by. JUDr. Sonia Sobonova, lawyer, with registered office in Nové Zámky, F. Kapisztóryho 2, ID No: 50 364 511, against the defendants: 1. E. B., born in. XX. XX. XXXX, residing in Z. I., L. XX, 2. T. B., born in. XX. XX. XXXX, residing in Z. I., L. XX, both represented by. JUDr. Karol Pešl, attorney at law, with registered office in Nové Zámky, Hlavné nám. 7, on the defendants' appeal against the judgment of the District Court of Nové Zámky of 31 May 2021 No. 4C/19/2018-311, as follows

r u l e d :

The Court of Appeal annuls the judgment of the Court of First Instance and refers the case back to the Court of First Instance for further proceedings and a new decision.

r e a s o n i n g :

1.1 By the judgment under appeal, the Court of First Instance established that the plaintiffs in the 1st and 2nd rows are joint owners of immovable property situated in the municipality of Z. I., cadastral territory Z. I., registered by the District Office Nové Zámky, Cadastral Department, as newly created parcels of the register "C", parcel numbers determined by the expert opinion of Ing. Yveta Strhanova No. 1/2019 dated 11. 01. 2019 as amended by its Supplement No. 1 dated 08. 04. 2020 and geometric plan No. 742/20 as: parcel No. 8935/6 - built-up area and courtyard with an area of 19 m², parcel No. 8947/4 - fruit orchard with an area of 3452 m², parcel No. 8950/4 - vineyard with an area of 769 m², parcel No 8951/4 - orchard with an area of 5517 m², parcel No 8952/4 - built-up area and courtyard with an area of 126 m², parcel No 8952/6 - built-up area and courtyard with an area of 117 m², with the share of the plaintiff in the 1st row, Mrs O. G, born. U., born in. XX. XX. XXXX, permanently residing at E. XXXX/X, Z. I. of the size of 1/2 to the whole and with the share of the plaintiff in the 2nd row, Mr. P. U., nee. U., born in. XX. XX. XXXX, permanently residing in L. V. XXXX/XX, Z. I. of the size of 1/2 to the whole. Expert opinion Ing. Yveta Strhanova No. 1/2019 of 11.01.2019, as amended by its supplement No. 1 of 08.04.2020 and geometric plan No. 742/20 is part of the judgment. On the costs of the proceedings, the Court ruled that the plaintiffs in the 1st and 2nd rows are entitled to 100% of the costs against the defendants in the 1st and 2nd rows, the amount of which will be decided by the court of first instance after the final decision terminating the proceedings has become final, by a separate order to be issued by the court clerk. The decision was based on the provisions of Article 137(c) of the CSP, Article 1(a), (b), Article 2(1) of the Act on the protection of the rights of the defence. No. 140/2014 Coll. on the acquisition of ownership of agricultural land and on amendment and supplementation of certain acts, Section 42(2)(c) of the Act on the acquisition of ownership of agricultural land and on amendment and supplementation of certain acts. 162/1995 Coll. on the cadastre of real estate and on the registration of ownership and other rights to real estate (Cadastral Act), § 1 para. 2 of the Regulation of the National Council of the Slovak Republic No. 104/1946 Coll. n. SNR, § 2 para. 1, first and second sentence, para.

3 of Act No. 148/1947 Coll. on measures to implement the Czechoslovak-Hungarian Population Exchange Agreement, § 1, § 2, first sentence, § 3(1), (4) of Government Decree No. 30/1948 on the property left in the Czechoslovak Republic by persons relocated to Hungary under the Czechoslovak-Hungarian Population Exchange Agreement, and stated that from the extract from LV No. XXXX of the cat. Z. I., the Court finds that the ownership of the property which is the subject of these proceedings, i.e. plot No. 4081/17 - arable land with an area of 10 000 m², is registered in favour of the plaintiff in points I and 2 in part B in the form of a 1 for 1 share in the whole and in favour of the plaintiff in the second row in the form of a 1 for 1 share in the whole. The note to both owners states: 'the authenticity of the cadastral data for par. reg. EKN No 7081/7/obvious misspelling, the correct spelling should be 4081/7/, is called into question. The ownership right is also registered in LV No. XXXX for the part of the parcel reg. EKN No 4081/7, P1164/14'. From the extract of LV No. XXXX cat. Z. I., the court found that the ownership of the real property which is the subject of these proceedings, i.e. plot No. 4081/7 - arable land with an area of 63 948 m² is registered in point I in part B in favour of the defendants in the 1st and 2nd row in the proportion of 1/1 to the whole. In the note to both owners it is stated: ', the authenticity of the cadastral data for par. reg. EKN No 4081/7 is disputed. The ownership right is also registered in LV No. XXXX to the part of the parcel reg. EKN No 4081/17, P1164/14'. The plaintiffs in the 1st and 2nd rows have ownership of the property, namely par. reg. EKN No. 4081/17 - arable land with an area of 10 000 m² were acquired by virtue of the inheritance decree No. D4810/92, Dnot 274/93 from the late Mr. P1164/92, who was the heir of the deceased, by virtue of his death. O. U.. On the basis of the Lease Agreement for the use of land of 15.10.1996, the plaintiff in the first row leased to the company Poľnohospodár Nové Zámky, a. s. the real estate, namely par. reg. no. 4081/17 with an area of 10 000 m². A new lease agreement between the same parties was concluded on 12.02.2001, as well as on 01.08.2005 and 21.11.2016. A lease agreement was also concluded between the farmer Nové Zámky, a. s. and the plaintiff in the second row on 21.11.2016 for the same property in share 1. The defendants acquired the property by a purchase contract of 16.10.2002 from P. K. P. K. acquired the property in question from his mother T. E. on the basis of the decision of the former State Notary Office in Nové Zámky No 4D 1954/79-18 of 08.02.1980. On the basis of the lease agreement from 01.01.1995 P. K. leased the subject properties to Poľnohospodár Nové Zámky, a. s., by the amendment to the lease agreement No. 61/06 of 01.01.2015 the defendant in the 1st row also leased the subject properties to Poľnohospodár Nové Zámky, a. s. By consulting the original PKN file No. 4052 of the cat. z. z. Z. I. (U.-Y.), the court found that parcel No. 4081/7 was registered in part A1 as an arable land with an area of 63 948 m². The original owner of this property was listed in part B2 K. E. in the share of 2/3 together with his wife T., nee. K. in the share of 1/3. On the basis of the entry of 12 December 1947, it was entered under B3 that confiscation was noted according to the request of the PPPR in Bratislava - Working Group 10 in Nové Zámky dated 05.12.1947 No. 4095/47/10-B. From the minutes of 7 December 1948, written at the office of the Administrative Commission of the City of Nové Zámky at the meeting of the Local Peasant Commission on page 2, the court finds that the amount of K.E.'s property was retained by the Commission for redemption on the basis of the previous confiscation decision and irrespective of the decision of the Confiscation Commission in Nové Zámky of 24 June 1948, namely, out of an area of 275 955 m², it allocates a part of 10 000 m², par. no. 4081/17, to P.U. and his wife, O., née O., née K. A.. From the certified copy of the Land Acreage issued by the Land and Land Reform Board in Bratislava on the ownership of land No. 6446/948-10/B, the court considered it proved that the acreage was issued in favour of P. U. and his wife O., nee O., nee A., on the ownership of land No. 6446/948-10/B, on the ownership of land No. 6446/948-10/B. The subject of the assessment was the real estate registered in PKN Insert No 4052 as parcel No 4081/7 - a field of 10 000 m², which, according to the assessment, belonged to K. E. in its entirety. These properties were to be acquired by P. U. and his wife, O., née O., on the basis of the assessment. A., each in the proportion of one half. The land survey submitted by the plaintiffs in the case-file bears the date of 18 December 1948 and the illegible signature of the person who issued it (the commissioner) and the stamp of the office which issued it. From the decision of the State Notary Office in Nové Zámky No 4D1954/79-18 of 08.02.1980, the court considered it established that the succession of T. E., née T. E., was discussed in the proceedings. K., born in. XX. XX. XXXX, who died XX. XX. XXXX, par. no. 4081/7 in PKN insert no. 4052 according to point B2 in its entirety was acquired by P. K.. P. K. on the purchase contract of 16.10.2002 sold to the defendants in the 1st and 2nd row to their undivided co-ownership, among other properties, also par. no. 4081/7 marked as arable land with an area of 63 948 m², registered on LV no. XXXX for cat. area XXXX for the cat. Z. I.. From the decision of the District Court of Nové Zámky file no. D4810/92, Dnot 274/93 in the matter of

inheritance from the estate of neb. O. U., nee. A., the court found that the claimants in the 1st and 2nd row acquired equally each one half of the real estate in the cat. Z. I., in PKN Insert No. 4052 as par. no. 4081/17 - a field of 10 000 m². It is clear from the conceptual parcel plan of the confiscated land of the former owner K.E. dated 26.10.1948 that par. no. 4081/7 in cat. Z. I. From the decision No 4905/47-10/B. of 05.12.1947 of the Land and Land Reform Commission - Section B, Working Group for Land Reform in Nové Zámky, the court finds that a petition was submitted to the District Court in Nové Zámky on the basis of Section 5(1) of Act No 90/1947 Coll., that a request be made in the land register of the cadastral territory of Z. I. be made in Insert No. 4052 (among others) for the immovable property registered in the name of K. E. and Mme. T., nee. K. in their entirety were confiscated by the decision of the Confiscation Commission in Nové Zámky of 2 December 1946, No. 31/24.3/46. The District Court issued an order under file no. Čd 3642/47 on 13.12.1947, by which it granted the petition and ordered to mark the confiscation continuation of, among others, entry 4052 of the cat. Z. I. From the judgment of the District People's Court in Nové Zámky, file no. Tlud 141/46 of 08.01.1947, it was established that the defendant K. E., born on 08.01.1947, had been convicted of the crime of confiscation of the property of the defendant. XX. XX. XXXX is acquitted of the charge of the crime of collaboration. From the decision of the Confiscation Commission in Nové Zámky No. 6/48.II of 24.06.1948 it was established that K. E. and his wife T., born in. K. are not persons to whom the provisions of Section 2(1) of Regulation No. 104/1945, as amended by Regulation No. 64/1946 Coll. SNR and Decree No 89/1947 Coll. SNR, and therefore their agricultural property is not confiscated. The plaintiffs submitted a decision - a concept of the Land and Land Reform Board dated 06.02.1950, by which K.E. was informed that his property had been confiscated by the Confiscation Commission in Nové Zámky and that, as at 01.10.1948, 2 759 552 m² had been taken from the property and allocated to the allottees, and the allottees immediately took possession and use of, inter alia, properties in the cat. z. z. z. Z. I. registered in insert no. 4052. The plaintiffs originally sought to establish ownership of immovable property, namely par. of the EKN register No. 4081/17 - arable land with an area of 10 000 m², which property is registered in LV No. XXXX for the cat. Z. I. The credibility of the cadastral data on this parcel has been questioned on this LV, on the grounds that LV no. XXXX in part of parc. reg. EKN No 4081/7 - arable land with an area of 63 948 m² is registered in the ownership right in favour of the defendants in the 1st and 2nd row. The notification of the District Office Nové Zámky, Cadastral Department shows that from the original PK par. no. 4081/7 registered in the insert no. 4052 was created par. no. 4081/17, which was allocated to JH. U. and his wife O., nee. A. on the basis of a conceptual plot plan of the confiscated land. In the present case, there is a duplicate registered ownership right to part of the area - 10 000 m² of the original PK par. no. 4081/7 registered in the BSM of the defendants in its entirety, acquired on the basis of the purchase contract V-4147/02, and at the same time to the allotment par. no. 4081/17 with an area of 10 000 m² acquired by the plaintiffs each in the proportion of one half, on the basis of the inheritance resolutions ref. no. D 4809/92, D 4810/92. Due to the existence of duplicate ownership of the same property, the cadastre referred the duplicate owners to settle the matter by out-of-court agreement or through the competent court.

1.2 The Court examined as a preliminary question whether the plaintiffs in this legal case had a compelling interest in bringing the action as envisaged by section 137(c) of the CSP. The Court considered that it had been established that the plaintiffs' claims were registered in the LV no. XXXX cat. Z. I. and on LV No. XXXX the plaintiffs and the defendants are listed as duplicate owners, thus, the urgent legal interest in the determination of the ownership right to the aforementioned real estates on the part of the plaintiffs has been proven, the urgent legal interest is always proven if it concerns the determination of the ownership right to real estate (judgment of the Supreme Administrative Court of the Slovak Republic, Case No. 2 Cdo 163/2005). In the present case, the subject of the proceedings was the determination of the plaintiffs' ownership right to par. reg. EKN No. 4081/17 with an area of 10 000 m² - arable land, registered at LV No. XXXX for the cat. Z. I.. After consulting LV XXXX for cat. Z. I., the court found that the defendants in the 1st and 2nd row are listed as owners of par. no. 4081/7 with an area of 63 948 m² - arable land. In view of the above, the court held that, if the subject-matter of the proceedings is par. reg. E, it is necessary, in the light of Art. No. 140/2014 Coll. on the acquisition of ownership of agricultural land and on amendment and supplementation of certain acts, the ownership rights to the land must be arranged so that they are clearly and distinctly entered in the cadastral map, therefore, it invited the plaintiffs to submit a geometric plan, which would be aimed at the parcels reg. E and registered on the basis of the geometrical plan as land reg. C, the court taking into account the

arrangement of the ownership rights to the land, with reference to the prohibition on land fragmentation. In view of the fact that the geometrical plan of the expert Ing. Yveta Strhanová were measured parc. reg. E and registered as newly created par. reg. C, these properties were clearly and distinctly oriented in the terrain, the boundaries were drawn on the spot, thus eliminating the duplication of the registration of the parcels that were registered as par. reg. E and which, on the basis of the geometric plan, were specified as duly marked as newly created par. reg. C, became precisely identifiable parcels of reg. CKN. The court held that the plaintiffs had established in the proceedings that they had acquired the right of ownership by inheritance from their predecessor in title, namely the late O. U., nee. A., on the basis of the decision of the District Court in Nové Zámky, Case No. D 4810/92, Dnot 274/93. O. U. was the wife of P. U. and together with her husband, on the basis of assessment No. 6446/98-10/B, they acquired the real estate registered in PKN file No. 4052 of the cat. Z. I., as par. no. 4081/17 - land with an area of 10 000 m². This fact was contested by the defendants, who argued in the proceedings that they had acquired ownership of the property on the basis of a purchase contract of 16.10.2002, by which they acquired ownership of the property registered in cat. Z. I., as par. no. 4081/7 - arable land with an area of 63 948 m² from the legal successor of neb. T. E., nee. K., namely from P. K.. The defendants objected that the original owner K. E. of the real estate, registered in PKN insert no. 4052 for cat. Z. I., the property in question had not been confiscated because K. E. had been acquitted by a court decision for the offence of collaboration by a judgment of 08.01.1947, K. E. and his wife T. had been designated by the confiscation commission as persons covered by the provisions of Decree No 104/1945 Coll., therefore their property had not been confiscated. However, the plaintiffs have submitted evidence in the proceedings which shows that, on the basis of the minutes of the office of the Administrative Commission of the City of Nové Zámky dated 07.12.1948, it was determined that the confiscated property of K. E. would be received by P. U. and wife O., nee. A., namely par. no. 4081/17 with an area of 10 000 m². In addition, they submitted Decision No 648/1950 of the Land and Land Reform Board, by which K.E. was notified that his property as at 01.10.1948 was being confiscated, inter alia, the property in PKN Insert No 4052 of the cat. z o.o. (cat. Z. I. It is clear from the content of those documents that the property of K. E. and his wife, T., was confiscated.

1.3 The land title deed is a public document proving the allottee's ownership of the agricultural property allocated to him, on the basis of which the competent registry court shall make an entry of ownership in favour of the allottee without the condition of any additional justification (Article 1(2) of Regulation No 104/1945 Coll. of the National Council of the Slovak Republic). Pursuant to Decree No 104/1945 Coll. and Decree No 104/1946 Coll. of the National Council of the Slovak Republic, the Land and Land Reform Board issued land ownership certificates, the district national committees issued land ownership certificates pursuant to Act No 104/1945 Coll. and Decree No 104/1946 Coll. 142/1947 Coll. and Act No. No. 46/1948 Coll., issued rationing deeds. These land allocations and allotment certificates were, and still are today, documents of ownership of the allottees of the allotted properties and are, in principle, documents capable of being entered in the land register. In order to be capable of being registered (with all the consequences arising therefrom), these deeds had to be legally perfect (Judgment of the Supreme Court of the Slovak Republic, Case No 1Cdo/56/2003). The general courts are not entitled to examine their validity or legality outside the scope of administrative justice, but in principle only with regard to whether they were null acts, i.e. acts whose defects are so serious (in terms of the negative quality of the defect) that the presumption of their correctness does not apply. Such acts do not require a special process to remove the defect (or the acts themselves), but no one has to respect them and they are seen as non-existent from the outset. If the decree has been issued by a body authorised to do so and contains all the essential elements, it has the nature of a public document with all the legal consequences that this entails. If the measure has not been issued by the competent authority or if it lacks the elements required by law, it is not a public document. The legal consequence of a defect in such a document is therefore not its nullity but the fact that it is not a public document and is therefore not capable of producing the effects provided for in Article 1(2) of the Regulation.

1.4 The court, after taking evidence, found that the Decree issued by the Land and Land Reform Board in Bratislava on the ownership of land No. 6446/948-10/ were allocated to the ownership of the allottees P. U. and his wife O., nee. A. of the former owner K. E. in the whole. These were the properties registered in PKN Insert No 4052 as plot No 4081/7 - a field of 10 000 m². Following the amendment of the action, the plaintiffs sought a declaration of ownership of the parcels of the CKN register, namely parcel no.

8935/6 - built-up area and courtyard with an area of 19 m², parcel no. 8947/4 - orchard with an area of 3 452 m², parcel no. 8950/4 - vineyard with an area of 769 m², parcel No 8951/4 - orchard with an area of 5 517 m², parcel No 8952/4 - built-up area and courtyard with an area of 126 m², parcel No 8952/6 - built-up area and courtyard with an area of 117 m², with the share of the plaintiff in the first row, Mrs O. G, born. U., born in. XX. XX. XXXX, permanently residing at E. XXXX/ X, Z. I., of the size of 1/2 to the whole and with the share of the plaintiff in the 2nd row, Mr. P. U., nee. U., born in. XX. XX. XXXX, permanently residing at L. V. XXXX/XX, Z. I., the size of 1/2 to the whole, while the expert evidence - expert opinion No. 1/2019 of expert Ing. Yveta Strhanova was proven in the proceedings (together with its supplement No. 1 and expert opinion), that the targeted land is created according to the land ownership measurements from the original parcels EKN No. 4081/7 and 4081/17. The plaintiffs are the legal successors of the deceased O. U., née A., by virtue of the resolution of the District Court of Nové Zámky, Case No D 4810/92, Dnot 274/93. In the inheritance proceedings, they acquired the aforementioned immovable property in joint ownership in one half each. The defendants derived their right of ownership from the contract of sale concluded with P.K., who is the legal successor of the deceased T.E., née K., arguing that the original owner, K.E., was not confiscated because he was acquitted of the offence of collaboration, and that, moreover, a decision had been issued declaring that K.E. and T.E., née K., were not the persons whose property should have been confiscated. However, following that decision, it was again decided that part of the property of K. E. and T. E., nee K. had been allocated by the local peasant commission to the property of P. U. and his wife, nee O., who were the property of P. U. and his wife, nee O. A., by a minute of 07.12.1948. The fact that this was not merely an arbitrary act of the local peasants' commission is evidenced by the fact that K. E. and T. E., née K. were notified by the Land and Land Reform Board by letter of 06.02.1950 that their property had been taken away and confiscated on 01.10.1948 and allocated to the allottees by a working party. The confiscation on the basis of the decision of the Confiscation Commission of 02.12.1946 under No. 31/24.3/46 was also notified to the District Court of Nové Zámky and a petition was filed for the confiscation to be marked on the immovable property registered in the name of K. E. and T. E., née K., which was granted by the court by order of 13.12.1947. Neither of those decisions has been annulled either by the court or by any administrative authority. The Court therefore concludes that the land ownership decree of 18.12.1948 complies both formally and substantively with all the statutory conditions and requirements. It was issued by the Land and Land Reform Board in Bratislava, i.e. by the competent authority pursuant to Article 1(1) of the Regulation. It indicates who issued it, the legal provision under which it is issued, the matter to which it relates, is dated and signed by the Commissioner, contains the name and surname of the former owner, the name of the person in whose favour it is issued, the precise identification of the properties to which it relates and the other conditions under which the allocation to the properties referred to therein takes place. It is therefore undoubtedly an assessment which must be regarded as 'perfect' and which is in the nature of a public deed capable of establishing the right of ownership of the allottee, P. U. and his wife, O., née O. A., to the immovable property referred to therein, including that which is the subject-matter of the dispute. After expert evidence, it was established in the proceedings that parc. EKN No. 4081/17 as well as No. 4081/7 are identical to the surveyed state and the surveyed plots are not created from other CKN plots. The decree was issued under the jurisdiction of the competent authority, therefore its legality could only be reviewed by a procedural procedure under the administrative justice system. Since the acquisition of ownership by allotment did not, in principle, require an intabulation, the lack of registration did not affect the ownership of the allotment. Therefore, the fact that there was no entry in the land register concerning the allotment procedure was not decisive from the point of view of ownership, even in the present case. From the evidence thus adduced, the Court of Appeal came to the legal conclusion that the plaintiffs' predecessor in title was the person who had duly acquired ownership of the properties on the basis of a duly issued assessment, i.e. the plaintiffs in the 1st and 2nd rows had lawfully acquired ownership of the properties in question by inheritance from their predecessors in title. On the contrary, the defendants acquired the property from a non-owner, and it is clear that P.K. could not have acquired the property in question in good faith, having inherited it from the person from whom the property was confiscated. Although the defendants claimed that K. E. and his wife T., nee. K. were not confiscated the properties in question, it is clear from the temporal sequence between the various decisions that the decisions by which the properties were confiscated were never revoked, despite the fact that K. E. was acquitted on 08.01.1947 of the offence of collaboration, but in 1948, by decision of 24.01.1947, he was acquitted of the offence of collaboration, by decision of 24.01.1947, and by decision of 24.01.1948, by decision of

24.1948, by decision of 24.01.1947, by decision of the Court of First Instance of the European Communities. 06. 1948 he was designated as a person whose property would not be confiscated, but by decision of the Land and Land Reform Board of 01. 10. 1948 the properties were confiscated from him and subsequently, by a decree of 18. 12. 1948, allocated to P. U. and his wife O., née U. Although the defendants acquired the immovable property on the basis of a purchase contract of 2002, the court has already stated that this purchase contract was concluded with a non-owner, thus it could not establish ownership rights to the immovable property and the defendants as purchasers could not have acquired the immovable property in good faith and in good faith. In view of this fact, the court upheld the action in its entirety and ruled that the plaintiffs were the owners of the properties in question, each in a share of one half. The defendants objected to the fact that at the time of the issue of the property in 1992, the disputed parcel was merely imaginary without being actually registered as a land and book parcel with real boundaries in nature, therefore the plaintiffs could not dispose of it as their own, they were not a party to the transformation of the cooperative after 01.01.1993 and they could not subscribe for shares. The Court noted that the defendants' arguments at issue were not related to the proceedings for the determination of ownership, and the Court was not obliged to deal with every single objection raised by the parties to the dispute, only with the substantive arguments. The defendants further argued that they had held the properties in good faith since 1992, whereas the plaintiffs could not have held the properties in good faith because they were not in use at all and were in the use of the cooperative. As regards this claim, the Court noted that the lease contract for the use of the property was concluded by both the plaintiffs and the defendants, it concerned the same property and the Farmer, a.s. paid rent to both parties to the dispute, therefore, the Court did not address the issue of actual possession of the property, as it is clear that the agricultural holdings concluded lease contracts duplicatively for some of the land, but this does not affect the issue of the determination of the ownership right. An integral part of the judgment is also the expert opinion of the expert Ing. Yveta Strhanova, which measured the land par. reg. CKN.

1.5 The court decided on the costs of the proceedings pursuant to Article 255(1) of the Civil Dispute Procedure Code by awarding 100% of the costs to the fully successful plaintiff, the amount of which will be decided by the court of first instance after the final decision terminating the proceedings by a separate order to be made by the court officer pursuant to Article 262(1) and (2) of the Civil Dispute Procedure Code (CSP)

2. The defendants appealed against that judgment within the statutory time-limit, citing Section 365(1)(f) and (h) of the Civil Dispute Procedure Code. It is apparent from paragraph 50 of the judgment under appeal, with reference to paragraphs 48 and 49 thereof, that the basic legal title for the determination of the ownership of the immovable property in favour of the plaintiffs as co-owners is Land Title Decree No 6446/948-10/B of 18.12.1948 of the former owner, K.E., which was submitted by the plaintiffs. The defendants point out that the only relevant confiscation order in respect of the landed property of the named former owner was the confiscation order of the Confiscation Commission of 02.12.1946 under No 31/24.3/46, which, however, was also issued in respect of his wife. The defendants point out that K. E. and the wife of K. E. T., nee. S. were both co-owners of the confiscated property, and they therefore ask whether the decree is legally correct in substance. They also point out that the decision of the Confiscation Commission in Nové Zámky No 6/48.II of 24 June 1948 established that K. E. and Mme. T., nee. S. are not persons to whom the provision of Section 2(1) of the Regulation No. 104/1945 as amended by Regulation No. 64/1946 Coll. No. 89/1947 Coll. n. SNR, therefore, their agricultural property is not confiscated. This decision of the relevant confiscation commission therefore deconfiscated and annulled the previous decision of 2 December 1946 concerning the property of the defendants' predecessors in title. They pointed to the fact that, pursuant to Decree No 104/1945 Coll. of the National Council of the Slovak Republic on which persons were to be regarded as persons of German or Hungarian nationality (ethnicity) or as traitors, enemies of the Slovak and Czech peoples and of the Czechoslovak Republic, the confiscation commission at the seat of the District National Committee in whose district the property subject to confiscation was located decided on that matter within the statutory period until 30 June 1948. The property thus confiscated was allocated to individual allottees in accordance with the allotment plans. The declared decision of the relevant confiscation committee No. 6/48.II of 24.06.1948 was duly produced in the proceedings, but despite the fact that it was taken note of by both the Court of First Instance and the plaintiffs during the trial, the Court of First Instance did not

deal with the fact and did not take the relevant evidence into consideration at all. The Court did not quote accurately from the content of the relevant decision and did not take into account the fact that the land in question belonged by ownership not only to K. E. but also to his wife, Mrs T. E., née T. E., née K. E. S., and was therefore held jointly. This is clear from the land register entry No 4052 for the cat. U. - Y. (Z. I.) in part B/2. They pointed out that the letter of the Land and Land Reform Board of 6.2.1950 refers only to the withdrawal and allocation, but not to the confiscation of the property on 1.10.1948. Apart from the decision of the confiscation commission of 02.12.1946, by which the property of their named predecessors in title was confiscated for the first and only time, no other such decision was taken by the confiscation commission and, therefore, the assertion of the court in paragraph 50 of the judgment under appeal that K.E.'s property was confiscated by the decision of the Land and Land Reform Board of 01.10.1948 is not based on the truth. On the basis of the above, the defendants are of the opinion that this reasoning and, consequently, the assessment of the situation is not correct and objective and is contrary to law. The decision of the concerned Confiscation Committee No. 6/48.II dated 24-6-1948 has become both final and effective and it has not been established on the evidence that the same has been challenged on appeal and set aside by any other decision. On the contrary, its legal validity and effectiveness is proved by the fact that their predecessor in title, Mr P.S., in 1980 legally inherited, among others, the disputed immovable property from the original owner, Ms T.E., née T. E. S. in its entirety. The Court is deeply at odds with what it has found and how it interprets that finding. It cannot fail to see the disregard of a decision of a higher legal authority by a lower legal authority, i.e. the disregard of the decision of the Confiscation Commission by the local Peasants' Commission. This follows, in view of the competence, from the law in force at the time, namely Regulation No 104/1945 Coll. SNR. In so far as the Court refers to the letter of the Land and Land Reform Board of 6 February 1950, which notified K. E. and T. E., née K. E., of the fact that the Confiscation Act had been adopted by the Confiscation Court, the Court of First Instance found that, in the case of K. E. and T. E. S. that their property had been confiscated and confiscated as of 01.10.1948, the defendants claim that this was an administratively delayed notification based on the original confiscation carried out by the Confiscation Commission of 02.12.1946 under No 31/24.3/46. At the time of the issuance of the allotment decree, i.e. neither on 07.12.1948 (minutes of the local peasant commission) nor on 18.12.1948 (the relevant land ownership decree issued), the confiscation of the landed property of the defendants' predecessors in title no longer existed. The defendants therefore claim that the plaintiffs' predecessors in title acquired the allocated property from a non-owner, since the Czechoslovak State was no longer the owner of the allocated property at the time of the issuance of the decree in question. The land ownership decree of 18.12.1948 submitted by the plaintiffs was issued without justification and unlawfully. Consequently, the defendants consider it to be a mere formal legal act without legal justification giving rise to the legal effects of the acquisition of ownership. In the present case, there was no need to examine whether the conditions for confiscation were met, since the confiscation was a proven deconfiscation, for which clear evidence was adduced, namely the decision of the confiscation commission under No 6/48.II of 24 June 1948. Notwithstanding the above, the Court concludes that the defendants acquired the property from a non-owner, and it is clear that P.Q. could not have acquired the property in question in good faith in his possession, having inherited it from the person from whom the property was confiscated. The defendants are unable to explain the court's finding when, on the one hand, it speaks of the confiscation of K.E.'s property by the decision of the Land and Land Reform Board of 01.10.1948, and, subsequently, by the decree of 18.12.1948, allocated to P.U. and his wife O., née O., née A., it being evident that the said P. Q. had acquired them from his legal predecessor, T. E., née T. E., née U. Q. by a valid inheritance, namely by decision of the former State Notary in Nové Zámky under No 4D 1954/79-18 of 08.02.1980, which became final on 18.04.1980, i.e. not after K. E. The defendants note that, in view of the deconfiscation, the property in question could have been acquired by Mr P. Q. even after him. They acquired the disputed property by way of a proper transfer, among others, from P. Q. on the basis of the purchase contract under No 60/02-E of 16.10.2002, on the basis of which the registration of the ownership right was authorised by the former Land Registry Administration of Nové Zámky under No V 4147/2003 on 08.01.2003. The validity and effectiveness of the acquisition titles in question were in no way contested by the plaintiffs during the proceedings. No evidence was produced to prove their invalidity and ineffectiveness vis-à-vis third parties, including the plaintiffs. The defendants are of the opinion that the issuance of the land titles was arbitrary and capricious on the part of the Land and Land Reform Board in Bratislava, without respect for the deconfiscation decision of the relevant confiscation commission. Accordingly, the defendants' right of ownership as purchaser, in so far as they acquired the

right of ownership in good faith, is protected and not extinguished. Having regard to all those facts, the defendants are also of the opinion that, in assessing the plaintiffs' action, account must be taken of their defence, the protection of their property rights, to which they have always claimed in good faith, respecting the legal entries also in respect of the disputed property. They objected to the court's assertion that the defendants' arguments (that the plaintiffs could not dispose of the disputed plot as their own, that they were not parties to the transformation of the cooperative after 1 January 1993 and that they could not subscribe for shares) were irrelevant to the proceedings for the establishment of ownership, and that the court was not obliged to deal with every single objection raised by the parties to the dispute, only with the essential arguments. According to the defendants, these are precisely the substantive arguments relating to the circumstances of the parties' disposal of the disputed property. In its judgment, the Court gave a very simplistic assessment of the leases executed by the parties in respect of the disputed property. They pointed out that the competent land registry in Nové Zámky, when registering the ownership rights also in the disputed property in favour of the defendants, did not object to or point out any duplicate ownership of the property which should call the defendants' good faith as purchasers into question. The District Office of Nové Zámky - Cadastral Department only pointed out the duplication of ownership by its notification of 30 September 2014, i.e. for more than 11 years the defendants were in good faith that the disputed real estate also belonged to them. Therefore, they fulfil the condition of retention of title pursuant to Section 134 of the Civil Code. In acquiring ownership, they acted in reliance on the correctness of the information in the statutory public register to the effect that there were no other owners registered in duplicate in respect of the property at issue. They also referred to the very constitutional protection of their property rights, which is consistent with the principle of legal certainty and the protection of acquired rights. In assessing the action, it is therefore also necessary to take account of their defence, the protection of their property rights, which they acquired in good faith at the time when the relevant administrative decision became final, since even with the greatest care, which they exercised, they could not have foreseen that duplicate ownership might be registered in respect of the disputed properties. They referred to their actual bona fide possession, emphasising the distinction between formal possession, even if legally exercised in the plaintiffs' case, and possession which is both factually legitimate and legally exercised in good faith in the defendants' case. Neither the allottees nor their descendants, the plaintiffs, other than the formal and even partly indefinite lease agreements, have shown in any other way that they have taken care of the properties at issue with the care of a proper landlord, that is to say, that they have had possession of them in good faith in fact. On the contrary, the defendant in the first tier first represented Mr P.Q.'s predecessor in title for many years in a tenancy relationship in respect of agricultural properties, including the disputed one with the tenant in question. After acquiring them, he and the defendant in the second row then executed the tenancy agreements with the tenant themselves, also specifying the properties, as was also the case when representing the predecessor in title in the leases in question. The defendant in the first row was for several years not only an employee of the former JRD but also a founder and employee of the tenant, Farmer, Inc., and thus had an overview of the location and position of his agricultural properties. Although a lease agreement was concluded with the plaintiffs for their dubious land, it was always for only 5 years, as the parcel was not identifiable. If it had been a known and identifiable parcel of land, the tenant Farmer, Inc. would certainly not have entered into a lease with the plaintiffs for only 5 years. The leases of the defendants' predecessor in title and the defendants were for 25 years and for a further 15 years. The defendants pointed out that the parcel of land identified by the plaintiffs was not known to the cooperative at the time and therefore had not been subject to the transformation for the transfer of the JRD to a joint stock company on 01.01.1993, otherwise the key on the basis of which the principle of 45 thousand PLN would apply would have been valid, and that it had not been subject to the transformation of the JRD to a joint stock company on 01.01.1993. The plaintiffs could either have subscribed for the property and would have received 9 shares of 5 000 CZK each, or the plaintiffs could have subscribed for the property and would have received 9 shares of 5 000 CZK each. As this act on the part of the plaintiffs did not take place, they did not exhaust the possibility of drawing in kind, nor did they become shareholders in the company, and therefore, according to Mr. U., the defendant in the second row, received only rent and benefits in kind, but he did not speak of dividends. Both the defendants are ordinary shareholders and their predecessor in title, Mr P.Q., was also an ordinary shareholder of the tenant. The facts given were disregarded by the court and no evidence was taken in this regard. The court's legal opinion in the judgment under appeal shows a certain bias without any objective explanation of legality and fairness. The court evaluated all the evidence produced only in

favour of the plaintiffs, but none in favour of the defendants, and without proper reasoning. The defendants acted in good faith from the outset in acquiring even the disputed property and took proper care of the property, not only formally but also in reality. Their ownership of the disputed immovable property is both moral and legal. They asked the Court of Appeal to dismiss the action as unfounded after examining the judgment under appeal. In the event of success, the 1st and 2nd defendants sought an award of 100% of the costs of both the first instance and appeal proceedings.

3. In their statement of appeal, the plaintiffs stated that they considered the judgment of the court of first instance to be lawful and fair, based on a reliable finding of the facts, based on a proper assessment of the evidence adduced, while respecting the case-law of the higher courts in the assessment of the issues in dispute. In their appeal, the defendants in the 1st and 2nd rows submit that the only decision on the confiscation of the former owner K.E.'s agricultural property was the Confiscation Commission's confiscation decision of 2.12.1946, No 31/24.3/46, which was also issued in respect of his wife T., who were both co-owners of the confiscated property, and thus the defendants in the 1st and 2nd rows contest the substantive correctness of that decision. As regards the above argument of the defendants in the first and second rows, they submitted that in proceedings for the determination of ownership it is not possible to examine the substantive accuracy of a document which was issued more than 70 years ago, and the court does not even have such jurisdiction. The defendants in the 1st and 2nd rows base their legal argumentation on the decision of the Confiscation Commission in Nové Zámky of 24 June 1948, No 6/48.II, on the basis of which they consider that it has been established that K.E. and his wife T. are not persons to whom the provisions of Article 2(1) of Regulation No 104/1945, as amended by Regulation No 64/1946 Coll. n. 1, apply. SNR and Decree No 89/1947 Coll. SNR, and therefore their agricultural property is not confiscated. The defendants in the first and second rows further submit that, since that decision followed in time the Confiscation Commission's confiscation decision of 2.12.1946, No 31/24.3/46, there was a 'deconfiscation' of the property and, therefore, a revocation of the 1946 decision of the Confiscation Commission. The arguments of the defendants in the first and second rows on this point of appeal are considered by the plaintiffs in the first and second rows to be legally irrelevant, firstly because, as the plaintiffs have repeatedly stated, the decision of the Confiscation Commission of 1948 in question, relied on by the defendants in the first and second rows, does not bear an official stamp attesting to its legal validity and enforceability. According to the wording of the decision itself, the persons who had been notified of the decision (paragraphs 1-16) had the opportunity to appeal against it to the Board of Commissioners within 30 days of its pronouncement. Act No 90/1947 Coll. on the implementation of the Land and Book Order concerning confiscated enemy property and on the regulation of certain legal conditions relating to the allocated property established special procedures for the implementation of the Land and Book Order. In Slovakia, its implementation, pursuant to Article 3(1) of that Act, in the case of land property confiscated pursuant to Regulation No 104/1945 Coll. SNR as amended by Regulation No 64/1946 Sb. n. SNR was entrusted to the Land and Land Reform Commission in Bratislava - given that, from the point of view of time, after the decision of the Confiscation Commission of 1948, to which the defendants in the 1st and 2nd rows refer, the land ownership assessment was issued by the Land and Land Reform Commission (on 18.12.1948), the land ownership assessment was issued by the Land and Land Reform Commission in Bratislava (on 18.12.1948), and the land ownership assessment was issued by the Land and Land Reform Commission in Bratislava (on 18.12.1948). 1948, No. 6446/948-10/B), i.e. by the authority which was designated by law to decide on confiscated property and which was served with the decision of the Confiscation Commission of 1948, it is highly probable that the said decision submitted by the defendants never became final and enforceable, since it has been annulled. That fact is also borne out by the conceptual plot plan submitted by the plaintiffs as an annex to the application in the proceedings before the Court of First Instance, which was drawn up on 26 October 1948, more than four months after the date of the decision of the Confiscation Commission of 1948, and which clearly states that it is the conceptual plot plan of the confiscated land of the former owner K. E. On the basis of that conceptual parcelisation plan, the land title assessment No 6446/948-10/B of 18.12.1948 was subsequently issued on 18.12.1948 in favour of the plaintiffs' predecessors in title, from which assessment the plaintiffs in the 1st and 2nd rows derive their ownership right to the disputed property. In the proceedings before the court of first instance, the plaintiffs in the 1st and 2nd rows also submitted a document from the State Archive in Nitra - the Minutes of the meeting of the sixth peasant commission of 07.12.1948, which temporally preceded the issuance of the land ownership assessment, in which, on page 2, the confiscate of the former owner K. E. is also

mentioned, which was allocated, according to the data on page 3 of the deed, inter alia, to P. U. and his wife O., née O., who were the owners of the land. A. (the plaintiffs' predecessors in title) in the area of 1 ha (i.e. the exact area in respect of which the plaintiffs claim title). The above-mentioned minutes were drawn up in connection with the issue of the land ownership assessment by the Land and Land Reform Board in Bratislava of 18 December 1948. If, therefore, the defendants in 1. and 2. row argue that the allocation of the confiscated land was based on incorrect data and was an administratively delayed decision by the Poverinstvo Poverinstvo Landwirtschaftstva i Land Reform, this argumentation is directly contradicted by the fact that the allocation of the confiscated land was discussed with the competent authority before the actual issue of the assessment, which fact is evidenced by the minutes and it is indeed highly unlikely that none of the acting authorities was aware that the 1946 Confiscation Commission decision had been reversed on the basis of the 1948 Confiscation Commission decision, which, moreover, is (in all likelihood) invalid. The arguments of the defendants in the 1st and 2nd rows, based on the 1948 decision of the Confiscation Commission, also suffer from other shortcomings, including, for example, the fact that, according to the documents submitted by the plaintiffs in the proceedings before the Court of First Instance, the confiscation of the land of the defendants' predecessors in title in the 1st and 2nd rows had already been carried out in 1947 on the basis of the proposal of the Land and Land Reform Commission - Section 'B' No. 4095/47-10/B of 05.12.1947, which forms part of the file and which shows that the Land and Land Reform Board requested the District Court of Nové Zámky to mark changes in the land and land register regarding the ownership of the real estate which had been confiscated from the former owner K. E. and his wife T., nee. Q., in its entirety. It is apparent from that application that the confiscation in 1947 included the property registered in Land and Land Registry No 4052, which included the parcel of land at issue in the dispute. The said application was granted by the District Court of Nové Zámky on 13.12.1947, when it issued an order which also ordered that the confiscation be continued in entry No. 4052. In relation to the land-book entry No 4052, the plaintiffs in the 1st and 2nd rows submitted that until 31.12.1950, i.e. until the entry into force of the so-called Central Civil Code, the ownership of immovable property was entered in the land-book. The legal order applicable at that time recognised two types of land registry entries - entry (intabulation) and recording (prenotation). By inscription, the right was created or extinguished. Since, until 1 January 1951, customary Hungarian law and the principle of intabulation were in force in Slovakia, the entry under B3 in the land and book entry, which was also submitted by the plaintiffs in the proceedings before the Court of First Instance, clearly shows the notation of confiscation pursuant to Regulation No 104/1945 Coll. SNR, as amended by Regulation No 64/1946 Sb. n. SNR. With regard to the document referred to in their appeal by the defendants in the 1st and 2nd rows - the decision of the Confiscation Commission of 1948 - they therefore add that that document was issued only after the confiscation of the immovable property to the former owner, K. E., and his wife, T., née T., and the former owner, K. E., née T., née T., née T. Q., which in itself renders it null and void, while the fact that the deed in question is not even filed in the State Archive of the Ministry of the Interior of the Slovak Republic appears to be very significant. The fact that the deed has no legal relevance is also demonstrated by the fact that it lacks any verification - either of its legal validity and enforceability or of the stamp of the State Archives as to the accuracy and completeness of the deed. In the light of the foregoing, the Court of First Instance quite rightly did not deal further with the deed in question on the ground of its legal irrelevance and the impossibility of verifying its correctness and completeness. In the proceedings before the Court of First Instance, the defendants in the first and second rows did not establish any facts which would plausibly refute the arguments of the plaintiffs in the first and second rows or the accuracy and completeness of the documentary evidence submitted by them. Similarly, the defendants in the first and second rows did not bear the burden of proof as to the 'deconfiscation' of the land of the defendants' predecessors in the first and second rows (footnote: Regulation 104/1945 Coll. SNR, as amended by Decree No 64/1946 Coll. SNR, does not recognise the concept of 'deconfiscation' and does not regulate the procedural procedure for 'deconfiscation', for which reason the term used by the defendants in the 1st and 2nd rows in the appeal is incorrect and non-existent). The defendants in the 1st and 2nd rows in the appeal further refer to the document produced by the plaintiffs in the proceedings, namely the concept note of the Land and Land Reform Board No 648/1950 of 06.02.1950, which shows that K.E.'s properties (land) totalling 27,59552 ha were taken away on 01.10.1948, which were then immediately allocated to the allottees for possession by the Working Group, and that the allottees have been using those properties since that time. Among the said properties was the one registered in Land and Land Registry No. 4052, which is the subject matter of the dispute. The 1st and 2nd defendants contend that the draft in question does

not state the confiscation of the property on 01.10.1948 but only its removal and allotment. In that connection, it must be borne in mind that it was merely a concept for the internal purposes of the Land and Land Reform Board, which, however, testifies to and proves the allegations made by the plaintiffs in the first and second pleas, but which is not required to comply with specific formal and substantive requirements. In the present case, that document was produced by the plaintiffs in the first and second pleas merely as corroborative evidence in support of the allegations made by the plaintiffs in the first and second pleas. At the same time, the actual taking and allotment of the land by operation of law was preceded by the confiscation and the decision of the Confiscation Commission, therefore the mere absence of a statement of confiscation in the said deed is again legally irrelevant. With regard to the argument of the defendants in the 1st and 2nd rows concerning the fact that the plaintiffs in the 1st and 2nd rows were not parties to the transformation of the cooperative after 01.01.1993, it is not entirely clear what the defendants are trying to prove by that argument. Although the plaintiffs were not parties to the transformation of the cooperative, that does not automatically call into question their ownership of the disputed land. The property which is the subject-matter of the dispute has been leased by the plaintiffs in the 1st and 2nd rows continuously since its acquisition from their predecessors in title to the company Poľnohospodár Nové Zámky, a. s., with its registered office at Komjatická 67, 940 85 Nové Zámky, ID No: 31 431 160, i.e. the plaintiffs in the 1st and 2nd rows have duly exercised their property rights in relation to the subject-matter of the action. The defendants in the 1st and 2nd rows also have no further arguments concerning the objections concerning the de facto possession of the immovable property in question, since the plaintiffs, who are not persons carrying out agricultural work, have the right to use the subject-matter of their ownership, inter alia, by renting it out to another person who is engaged in agricultural work. The plaintiffs' failure to carry out agricultural work on the property in question does not personally call into question or weaken their real and effective possession of the property, and the arguments of the defendants in the first and second rows, namely that the defendant in the first row handled the property with the care of a proper farmer and subsequently held various positions in the JRD as well as in the company Poľnohospodár, a.s., are completely irrelevant in the context of the assessment of the effective possession of the property in question. On the contrary, the plaintiffs in the first and second rows see their relevance in challenging the bona fides of the defendants in the first and second rows with regard to the fact that the property which they farmed also belonged to them. If the 1st defendant was an employee of the JRD and subsequently an officer in the company of the present tenant of the land, he should and could have ascertained that there was a duplicate title to the land registered in the Land Registry. On the contrary, the 1st defendant waited until the 2nd plaintiff, who applied to the cadastral office, on the basis of the land title deed, which, according to settled case-law, is a recordable deed, to register the 'E' parcel in question on the title deed, to deal with the issue in question. It was only at that point that the plaintiffs became aware that there was a duplicate title registered in respect of the parcel and from that point onwards they sought to resolve the matter, the defendants in the first and second rows categorically refusing any out-of-court settlement with the plaintiffs in the first and second rows. They submitted that the law belongs to the vigilant and therefore, like the plaintiffs, the defendants in the 1st and 2nd rows were in a position to discover that the entry in the Land Registry was duplicative, all the more so if the defendant in the 1st row was a person who understood the matter (he was not a layman, like the plaintiffs in the 1st and 2nd rows) and even more so if he had held positions in the cooperative society. It is therefore highly probable that the defendants were aware that the property in question did not belong to them, but chose to ignore that fact because they believed that the plaintiffs in the 1st and 2nd rows would never know about it. As regards the material publicity of the Land Registry, they stated that the information in the Land Registry is deemed to be reliable until the contrary is proved. It is therefore not possible for the defendants in the 1st and 2nd rows to rely solely on the entry in the Land Register and the defendants' 'disappointment', since the Land Register data admits proof to the contrary. Pursuant to the provisions of Section 70 of Act No 162/1995 Coll. on the Cadastre of Real Estate and on the Registration of Ownership and Other Rights to Real Estate (the Cadastral Act), the cadastral data contained in Section 7 of the Cadastral Act are reliable and binding only if the contrary is not proved. This principle, applied in the context of the keeping and administration of the land register, makes it possible to challenge the ownership right to immovable property of any owner by means of a declaratory action. With regard to the 1st and 2nd defendants' objection concerning the defendants' good faith in acquiring the disputed property from a non-owner, it should be noted that it follows from the text of the Constitution of the Slovak Republic that property acquired in breach of the law does not enjoy protection. If a situation arises where the seller (in this case

the legal successor - heir of the late K.E. and his wife T.), as a non-owner of the property, further transfers the ownership right to the buyer (in the present case to the defendants in the 1st and 2nd rows), it is an invalid legal transaction. At the time of the transfer, the seller is not the owner and therefore cannot transfer more rights than he himself has. If the transfer of ownership of immovable property is effected and the entry in the Land Register has been authorised on the basis of an absolutely invalid legal act, only the *modus*, i.e. the manner of acquisition - by entry in the Land Register - is given, but the *titulus*, i.e. the validly concluded contract, the legal reason for the acquisition, is clearly lacking. Thus, the plea of bona fide acquisition of the right of ownership cannot be raised. A buyer who has acquired a thing from a non-owner cannot object merely by claiming that he has acquired title to the property from the seller as the exclusive and unrestricted owner according to the data on the title deed registered in the Land Registry. He should have exercised due diligence and verified the title of acquisition of the vendor, which in the instant case was invalid. Therefore, if the seller is not satisfied with the title acquired at the time of the onward transfer, he cannot transfer more rights than he himself has. In such a case, although the acquisition of the property and the transfer itself is given the *modus operandi* of the decision to enter the property in the land register, the *titus* - a validly concluded contract between the transferor and the transferee *ex tunc* - is clearly missing. This conclusion also follows from the decision of the Constitutional Court of the Slovak Republic of 10.02. 2010 Case No. I. ÚS 50/2010- 11. K. E. and his wife T. was not the owner at the time of the transfer of ownership and no right can arise from a non-right. In the given situation, the defendants in the 1st and 2nd rows, as purchasers, should have exercised due diligence in good faith by verifying the legal basis for the acquisition of the seller's ownership right. Therefore, the title to the land in dispute is in favour of the original owners, i.e. the plaintiffs in the 1st and 2nd rows. As is evident from this decision of the highest instance of the general judiciary, in the present case, on the basis of the order of the District Court of Nové Zámky dated 13.12.1947, an irrebuttable legal presumption arose that the documents submitted in the petition of the Land and Land Reform Board - Section 'B' dated 05.12.1947 were not in accordance with the law. No. 4095/47-10/B of 12.12.1947, were legally perfect, since the court, after examining them, passed the order in question, by which it ordered that the confiscation continuation as per the proposal be marked, *inter alia*, in the concerned entry No. 4052. The 1st and 2nd respondents in the proceedings before the trial Court did not produce any such documents which would in any manner call into question the said presumption. In the present proceedings, the Court was not entitled to examine the merits of the validity of the 1946 confiscation decision on the basis of which the land ownership decree was issued by the Land and Land Reform Board in Bratislava, and the Court of First Instance therefore acted correctly and in accordance with the legal opinion of the higher court. For the reasons set out above, the appellants submit that the Court of Appeal should uphold the judgment under appeal in its entirety as being factually correct. They requested that the Court award the plaintiffs in the first and second rows 100% of the costs of the appeal proceedings.

4. The Regional Court in Nitra as the Court of Appeal (§ 34 of Act No. 160/2015 Coll. of the Civil Dispute Procedure Code- hereinafter referred to as the CSP), having found that the appeal was filed in due time, by the entitled party - the defendants in the 1st and 2nd row, against the decision of the court of first instance, against which the law allows an appeal (§ 355 par. 1 CSP), having found that the appeal has the statutory requisites (§ 127 and § 363 CSP), examined the contested judgment of the court of first instance within the limits set by the scope of the appeal (§ 379 CSP) and the grounds of appeal (§ 380(1) CSP), and in the light of the grounds of appeal (§ 380(1) CSP). 1 CSP), bound by the facts as found by the court of first instance, without the need to repeat or supplement them (§ 383 CSP), by the procedure without ordering an appeal hearing (§ 385(1) CSP *a contrario*) and, having examined the legality and substantive correctness of the contested decision, concluded that the contested judgment of the court of first instance should be set aside pursuant to § 389(1)(b) CSP and the case remitted back to that court pursuant to § 391(1) CSP. for a further procedure and a new decision.
5. By the action brought, the plaintiffs sought a declaration that the plaintiffs are co-owners in common of immovable property situated in the cadastral territory of Z. I., which are registered in LV No XXXX as parcel of register E No 4081/17 - arable land with an area of 10 000 m², namely the plaintiff in the 1st row in a share of 1 in the whole and the plaintiff in the 2nd row in a share of 1 in the whole. The plaintiffs substantiated their claim by the fact that the LV No XXXX for the cat. Z. I. is a duplicate

entry, because the ownership right is also registered on LV No. XXXX for the cat. Z. I. in favour of the defendants in the 1st and 2nd rows in the whole of the par. of register E No. 4081/17, while it is a duplicate registered ownership right to a part of the area of 10 000 m² of the original land and book parcel 4081/7. The plaintiffs in the 1st and 2nd rows acquired the property in question in joint ownership, each in the proportion of one half of the whole, on the basis of the Decree on inheritance, Nos D 4809/92 and D 4810/92, in conjunction with the Land Ownership Decree issued by the Land and Land Reform Board pursuant to Article 1(1) of Regulation No 104/1945 Coll. SNR from the confiscated property of the former owner K.E., listed under B2a/ in the land and book entry No 4052 for the cat. Z. I. The property which is the subject-matter of the action - par. register E, registered on the cadastral map as parcel no. 4081/17 - arable land with an area of 10 000 m², is continuously leased by the plaintiffs, as co-owners, to the company Poľnohospodár Nové Zámky, a. s., i.e. the plaintiffs duly exercise their property right in relation to the subject-matter of the action. Since there is duplication of ownership, the plaintiffs have a compelling interest in establishing ownership.

6. Pursuant to Section 389(1)(b) of the CSP, the appellate court shall set aside the decision of the court of first instance if the procedural procedure of the trial court has prevented a party from exercising its procedural rights to such an extent that the right to a fair trial has been violated, if that deficiency cannot be remedied in the proceedings before the appellate court.
7. The appellate court's review activity encompasses both substantive and procedural law. The appellate court must therefore examine not only the legality of the decision with respect to substantive law, but also the legality of the proceedings from which the challenged proceedings arose. In deciding on an appeal against a judgment appealed against, the Court of Appeal is bound both by the scope of the appeal (except as provided for in section 379 of the Civil Dispute Procedure Code) and by the grounds of appeal. In the notice of appeal, the appellant, by his dispositive act, effectively defines not only the scope but also the grounds for the appellate court's review.
8. The subject matter of the proceedings is the determination of the plaintiffs' ownership rights, due to the duplication of the plaintiffs' and defendants' ownership rights to real estate located in the municipality of Z. I., cadastral territory Z. I., registered by the District Office Nové Zámky, Cadastral Department as newly created parcels of the register "C", parcel numbers determined by the expert opinion of Ing. Yveta Strhanova No. 1/2019 dated 11. 01. 2019 as amended by its Supplement No. 1 dated 08. 04. 2020 and geometric plan No. 742/20 as: parcel No. 8935/6 - built-up area and courtyard with an area of 19 m², parcel No. 8947/4 - fruit orchard with an area of 3 452 m², parcel No. 8950/4 - vineyard with an area of 769 m², parcel No. 8951/4 - orchard with an area of 5 517 m², parcel No. 8952/4 - built-up area and courtyard with an area of 126 m², parcel No. 8952/6 - built-up area and courtyard with an area of 117 m², while originally both the plaintiffs and the defendants were parcels of the E. Since, despite the duplication of ownership, only the plaintiffs are seeking to establish ownership by the present action, if their action were to be upheld, that would remove the disputability of the duplication of ownership between the parties. Should their action be dismissed, the dispute would remain unresolved.
9. The Court of First Instance correctly dealt with the titles of acquisition on the part of both the plaintiffs and the defendants, evaluated the documents submitted by the parties in the course of the proceedings and dealt with the assessment of the plaintiffs' right of ownership. The evidence adduced by the Court of First Instance and the documents submitted by the parties show the following sequence of decisive facts with regard to the assessment of the ownership rights of the plaintiffs' predecessors in title and of the defendants' predecessors in title.
10. From the decision of the Commission for Agriculture and Land Reform dated December 5, 1947 (case file p. 155), it follows that on December 2, 1946, under no. 31/24.3/46, a confiscation decision was supposed to have been issued by the Confiscation Commission in Nové Zámky. Based on this decision, the Commission for Agriculture and Land Reform in Bratislava proposed that in the land registry of the cadastral area of Z., including land record no. 4052, the properties registered in the name of K. E. and his wife T., née H., be fully marked as confiscated under Decree No. 104/1945 Sb. n. SNR, as amended by Decree No. 64/1946 Sb. n. SNR, for the purposes of land reform. Based

on this decision, the District Court in Nové Zámky issued a resolution on December 13, 1947 (case file p. 155 verso), granting the request and ordering the registration of the confiscation in land records nos. 757, 1632, 1529, 2297, 2456, 2756, 3860, 4051, 4052, 4053, and 4704 of the cadastral area of Z. I. These facts were subsequently reflected in the land registry entry for land record no. 4052 (case file p. 157), where entry B3 stated that, pursuant to the request of the Commission for Agriculture and Land Reform in Bratislava, Working Group in Nové Zámky, dated December 5, 1947, no. 4095/47-10/B, confiscation under Decree No. 104/1945 Sb. n. SNR, as amended by Decree No. 64/1946 Sb. n. SNR, was recorded. Subsequently, on June 24, 1948, the Confiscation Commission, established under § 1(8) of Decree No. 104/1945, as amended by Decree No. 64/1946 Sb. n. SNR and Decree No. 89/1947 Sb. n. SNR, met in Nové Zámky and issued a decision under § 1(7) of the cited decree (case file p. 129), ruling that K. E. and his wife T., née H., were not persons to whom the provisions of § 2(1) of Decree No. 104/1945, as amended by Decrees No. 64/1946 Sb. n. SNR and No. 89/1947 Sb. n. SNR, applied, and therefore their agricultural property was not confiscated. This decision was preceded by a judgment of the District People's Court in Nové Zámky dated January 8, 1947 (Tlud 141/46, case file p. 195), in which the court ruled that the accused K. E., born on XX July XXXX in Z. I., residing in Z. I., F. XX, was acquitted of charges under § 29(2) of Decree No. 55/1945 Sb. n. SNR, in connection with the offense under § 3 of Decree No. 33/1945 Sb. n. SNR. Despite the decision of the Confiscation Commission of June 24, 1948, a record written on December 7, 1948, at the office of the Administrative Commission of the city of Nové Zámky, during a session of the Local Agricultural Commission, stated (case file p. 160) that, with regard to the confiscated property of K. E., part of the property was retained for purchase under Act No. 46/1948 Sb., and the Local Agricultural Commission allocated only the portion of the property to be used based on the previous confiscation decision, regardless of the decision of the Confiscation Commission in Nové Zámky on June 24, 1948. The area allocated was 27.5955 hectares, and this property was assigned, among others, to P. U. and his wife O., née A.. Subsequently, on December 18, 1948, the Commission for Agriculture and Land Reform in Bratislava issued a land ownership ruling (no. 6446/948-10/B, case file p. 12), transferring ownership of former owner K. E.'s land to P. U. and his wife O. A.. This land included agricultural properties in the cadastral area of Z. I., with a total area of 1.00.00 ha, listed in the allocation plan under land record no. 4052, parcel no. 4081/17, arable land, with an area of 1.00.00 ha. By a notice dated February 6, 1950 (case file p. 153), the Commission for Agriculture and Land Reform informed K. E. that, based on an official record drawn up by the working group, it was confirmed that his property had been confiscated by the Confiscation Commission in Nové Zámky. Of this property, as of October 1, 1948, a total of 27.5955 hectares had been taken and allocated to recipients by the Working Group, who immediately took possession and use of the property, and had been using it since that time. This included properties recorded under land record no. 4052, among others.

11. Pursuant to Article 1(1) of Regulation (EC) No ... 104/1946 Coll. Before the payment of the allocation price, the Land and Land Reform Board may issue to the allottees, in advance of the payment of the allocation price, acreage certificates of ownership of the land allocated to them pursuant to Decree No 104/1945 Coll. in the wording of Decree No 64/1946 of the National Council of the Slovak Republic.

12. The land title deed is a public document proving the allottee's ownership right to the allocated agricultural property, on the basis of which the competent registry court shall make an entry of the ownership right in favour of the allottee without the condition of additional justification (Article 1(2) of Decree No 104/1945 Coll. of the National Council of the Slovak Republic).

13. Regulation No. 104/1946 Coll. n. SNR on the issue of statements of ownership of land allocated pursuant to Regulation No 104/1945 Coll. n. SNR as amended by Regulation No 64/1946 Sb. n. SNR (hereinafter referred to as the Regulation) regulated, as its title implies, the issue of land ownership certificates for land allocated pursuant to Regulation No 104/1945 Sb. n. SNR.

14. According to Section 1(1) of the Ordinance, the Land and Land Reform Authority was authorised to issue land ownership certificates to allottees. It defines a land survey as a public document proving the allottee's ownership of the allotted land property, on the basis of which the competent land registry court makes a record of the ownership right

in favour of the allottee without the condition of a further apology (§ 1(2) of the Regulation). It is clear from the foregoing that, if the assessment has been issued by an authorised body and contains all the essential elements, it has the character of a public document with all the legal consequences arising therefrom. If the assessment has not been issued by the competent authority or if it lacks the essential elements required by law, it is not a public document. The legal consequence of a defect in such a document is that it does not have the character of a public document and is therefore not capable of producing the effects provided for in Article 1(2) of the Regulation.

15. According to the Regulation of the National Council of the Slovak Republic No. 104/1945 Coll. and the Regulation of the National Council of the Slovak Republic No. 104/1946 Coll., the land ownership assessments were issued by the Land and Land Reform Board; according to the Law No. 142/1947 Coll. and the Law No. 46/1948 Coll., the District National Committees issued allotment deeds. These land allocations and allotment deeds were, and still are today, documents of ownership of the allottees of the allotted properties and are, in principle, documents capable of being entered in the land register. In order to be capable of being registered (with all the consequences arising therefrom), these deeds had to be legally perfect (Judgment of the Supreme Court of the Slovak Republic, Case No. 1Cdo 56/2003).

16. The correctness of the assessment and its compliance with the regulations in force at that time cannot be examined at present and this administrative act must be considered as a legal act without errors, on which the court must base itself in accordance with Section 135(2) of the CPC. Even if the decision issued by the authority empowered to do so is defective, such a decision cannot be regarded as a null and void (non-existent) act. Only an act which was issued by a non-competent public authority, i.e. outside the competence of that authority, may be regarded as null and void. If the decision was taken within the competence of the competent authority, its legality can be reviewed only by a procedural procedure within the administrative justice system; it is not, however, subject to review by the ordinary courts. The same conclusion was reached by the Supreme Court of the Slovak Republic in its judgment in Case No. 4 Cdo 123/2003, which was published in the journal *Zo soudnej praxe* under no. 44/2004, in which it expressed the opinion that the acreage and allotment deeds, as public documents, were and are currently documents of ownership of the allottees to the allotted real estate and are insertionable documents, that outside the framework of administrative justice the general court is not entitled to examine the substantive correctness of an administrative act, that it can examine it only with regard to whether it is a null and void act, as well as that a null and void act is an administrative act issued by the so called "administrative court", and that the administrative court is not entitled to examine the substantive correctness of an administrative act. The Court also finds that a nullity is not a nullity which has been established by an administrative authority which has absolutely no competence in the matter of subject matter. The same conclusion was also adopted by the Supreme Court of the Slovak Republic in its judgment No. 5 Cdo 110/2000, published in the magazine *Zo soudnej praxe* No. 40/2001, as well as in its judgment of 27 November 2007, Case No. 5 Cdo 110/2000, published in the journal *Zo soudnej praxe* No. 40/2001, and in its judgment of 27 November 2007, Case No. 2 Cdo 337/2006, similarly also in the resolution case no. 4 SŽ 88/1995, which was published in the Collection of Decisions and Opinions of the Courts of the Slovak Republic under no. 65/1995 and in the resolution case no. 4 SŽ 34/1997, which was published in the Collection of Decisions and Opinions of the Courts of the Slovak Republic under No. 77/1998.

17. In the case under consideration, the Decree issued by the Land and Land Reform Board pursuant to Article 1(1) of Regulation No. 104/1946 Coll. n. No 6446/948-10/B of 18 December 1948 on the ownership of land met all the legal conditions and requirements both in form and content. It was issued by the Land and Land Reform Board in Bratislava, i.e. by the competent authority pursuant to Article 1(1) of the Regulation. It indicates who issued it, the legal regulation under which it is issued, the matter to which it relates, is dated, bears the signature of the Commissioner, contains the name and surname of the former owner, the name of the persons in whose favour it is issued, the precise identification of the properties to which it relates and the other conditions under which the allocation to the properties referred to therein is made. The decision in question, which must be characterised as an administrative act, was issued by an authority empowered to do so within the limits of its jurisdiction. It is therefore undoubtedly a deed of allotment which must be regarded as 'perfect' and which has the

character of a public deed capable of establishing the title of the allottees to the immovable property referred to therein, including that which is the subject-matter of the dispute, irrespective of its factual correctness, which is not currently open to review by the ordinary courts.

18. In the appeal, the defendants questioned the accuracy of the assessment in terms of its content, stating that the Land Ownership Certificate No. 6446/948-10/B of 18.12.1948 stated that the properties were those of the former owner, K. E., whereas the only decision on confiscation of agricultural property dated 02.12.1946 under No. 31/24.3/46 had also been issued in respect of his wife, and both K. E. and husband. T., nee. S. were both co-owners of the confiscated property.

19. Claims of defects in the confiscation proceedings were also addressed by the Supreme Court of the Slovak Republic in the proceedings under Case No. 4 M Cdo 12/2014 of 29 September 2015, in which it stated, *inter alia*, that the confiscation decision in question was issued almost 70 years ago, whereas from 1945 to 2005 the plaintiff considered herself to be the owner of the land in question by virtue of the confiscation pursuant to Decree No. 104/1945 Coll., No. The legal certainty of persons and the preservation of the necessary authority of the State require that a final decision of a court or administrative authority, on the basis of which a person acquires or is deprived of ownership of an object, must be an unquestionable legal fact having future effects, irrespective of whether a written copy of such an act still exists (in the present case, from the letter of the Ministry of the Interior of the Slovak Republic of 20. 1/46-III., et al., has not been preserved in its entirety - cf. No I. 332-353). Otherwise, it would have been possible to claim defects in the proceedings after an unreasonably long period of time and thus disturb a legal situation which had lasted for several decades. Thus, the burden of allegation and the burden of proof at trial would burden beyond justification the party in evidentiary need by such allegation. Where the confiscation of property (its process, effects, legality) is challenged in a declaratory action, the burden of proof in such proceedings is on the owner of the confiscated property, who challenges the confiscation, to prove that he or she does not have the legal conditions for confiscation of the property. The passage of time is thus a material fact which must be given factual effect (cf. also the Communication of the Czech Constitutional Court of 1 November 2005 in this regard)... The failure to preserve the complete administrative authority's file for almost seven decades, containing facts confirming the manner in which the confiscation commission's decision was delivered to persons residing in an unknown place at that time, cannot be attributed to the plaintiff.

20. This decision of the Supreme Court of the Slovak Republic was also reviewed by the Constitutional Court of the Slovak Republic, in a decision under case No. I. ÚS 379/2016 of 29 March 2017, in which the Constitutional Court of the Slovak Republic stated that the mere allegation of defects in the decision issued in the confiscation proceedings is not in itself capable of calling into question the effects of confiscation, because the legal title of the transfer of ownership was not the legal act, but the decree itself. The Court of Appeal is rightly of the view that, in cases such as the present one, it is in the interests of fair decision-making to apply the general principle that an expansive approach must not call into question or open up matters which, many decades ago, established legal relations. In disputes in which the lapse of time since the relevant facts significantly exceeds even the retention or preservation periods, the requirement to prove the existence of legal acts (decisions) is inappropriate, since the principle of the presumption of correctness applies even here in cases of doubt.

21. In the case in question, in PK Insert No. 4052 (No. 157), the co-owners were listed as E. K. in the proportion of 2/3 and S. T. in the proportion of 1/3, and it is true that in the land title deed No. 6446/948-10/B, only K. E. is listed as the former owner. However, it is also clear from the decision of the Land and Land Reform Board of 5 December 1947 (no. 155), including the decision of the Confiscation Commission of 24 June 1948 (no. 129), the document which the plaintiffs rely on in their favour, that the confiscation concerned both the property of K.E. and the property of K.E., as well as his wife, and the mere fact that she is not mentioned in the assessment does not in itself call into question the effects of the assessment, and it is clear that there was only an error in the issue of the assessment in not mentioning K. E.'s wife, T., née T., in the assessment. With regard to the area of parcel No 4081/17, registered in PK No 4052, the shares of K. E. (2/3) and his wife T. (1/3) and the area acquired by the assessment by P. U. and Mrs. S., the shares of K. E. (2/3) and his wife T. (1/3) were not entered in the assessment. O. (1.00.00 hectares), however, even K. E.'s acreage alone would have been sufficient to

allocate the property to the allottees, therefore the Court of Appeal concluded that, due to the above-mentioned error, the assessment cannot be used as a public deed proving the property right of the allottees P. U. and Mme. O. can be called into question.

22. The Court of Appeal, like the Court of First Instance, considered all the documents submitted by the parties in their temporal context, in addition to the land ownership assessment, and considered that, in the context of the assessment of the confiscation proceedings in question, the evidence submitted must be viewed not only individually but also comprehensively and in relation to each other. The Court of Appeal, taking into account the documents described in paragraph 10 of this decision, concluded that, although the Confiscation Commission in Nové Zámky, under No 6/48.II, had issued a decision on 24 June 1948 (no. 129), according to which K. E. and Mme.T., gen. S. are not persons to whom the provisions of Article 2(1) of the Regulation apply. 104/1945 as amended by Reg. No. 64/1946 Coll. n. 89/1947 Coll. n. SNR, and therefore their agricultural property is not confiscated, that decision alone is not sufficient for the defendants to conclude that there has been deconfiscation, since the subsequent decisions of the competent authorities do not so indicate. Also, the assessment itself, from which the plaintiffs derive their right of ownership, was not issued until 18.12.1948, i.e. after that decision, and it is a public document proving the right of ownership of the allottees P. U. and Mme. O., and the decision of the Confiscation Commission of 24.6.1948 was also served on the PPPR, so they must have known about that decision and issued the assessment anyway. After the decision of the Confiscation Commission dated 24.06.1948, the minutes dated 07.12.1948 and also the notification of the Custodian dated 06.02.1950 were also drawn up, which are the only documentary evidence that the defendants dispute the title of acquisition of ownership by the plaintiffs' predecessors in title. It is clear from the minutes of 7 December 1948 that the confiscation of K.E.'s property was to continue irrespective of the decision of the Confiscation Commission in Nové Zámky of 24 June 1948, which shows that they were aware of that decision and yet it was disregarded. There is also no merit in the defendants' contention in the appeal that it is apparent from paragraph 50 of the judgment under appeal that K.E.'s immovable property was confiscated by the decision of the Land and Land Reform Board of 1 October 1948. This is not apparent from the judgment under appeal. In this part of the reasoning, the Court merely states what is apparent from the notification of the Land and Land Reform Board of 06.02.1950, namely that K.E. was informed that his property had been confiscated by the Confiscation Commission in Nové Zámky and was told how much of that property had been taken and allocated to the allottees as at 01.10.1948.

23. In the Court of Appeal's view, the Court of First Instance was correct in its conclusions regarding the acquisition of the right of ownership by the plaintiffs' predecessors in title, despite the fact that the defendants had already stated in their first statement of defence that they had acquired the disputed immovable property in good faith and in good faith from a legal descendant of the original owners, P. Q. and had been disposing of the property as their own without interference since at least January 2003, when the registration of the title was authorised, the Court of Appeal did not deal with that defence and did not assess the case from that point of view, even though, in the Court of Appeal's view, it was necessary to do so. Since there is, to date, a duplication of entries in the Land Register in respect of the properties in question, unless the defendants also acquired the right of ownership from their predecessors in title by inheritance and subsequently by contract of sale, both the plaintiffs and the defendants are now registered as the owners of the properties in question following the decisions of the Land Register, Therefore, in view of the defendants' arguments, both in the course of the proceedings before the court of first instance and in the appeal proceedings, it is also necessary to deal with the case in the light of the provisions of Section 134 of the Civil Code and to take into account the arguments of the parties to the dispute and the documents submitted by them which are decisive for the assessment of the case from that perspective. The Court of Appeal considered that such a course of action by the court infringed the defendants' right to a fair trial, which is intended to enable everyone to have real access to a court without any discrimination, and that this right corresponds to the court's obligation to hear and determine the case. The right to a fair trial is fulfilled by the courts finding the facts and, after interpreting and applying the relevant legal rules, reaching a decision in such a way that their findings of fact and conclusions of law are not arbitrary, unsustainable or made in manifest error by the courts acting in such a way as to defeat the purpose and essence of the right to a fair trial. However, the right to a fair trial does not include the right of a party to have the general court agree with its legal views,

proposing and evaluating evidence (IV. ÚS 252/04), nor does it include the right of a litigant to be successful before the general court, i.e. to have a decision made in accordance with its requirements (I. ÚS 50/04). For the reasons set out above, the Court of Appeal set aside the judgment of the Court of First Instance under Article 389(1)(b) CSP and referred the case back to it for further proceedings and a new decision (Article 391(1) CSP). The Court of First Instance is bound by the legal opinion of the Court of Appeal in further proceedings (Article 391(2) CSP).

This decision was adopted in the Senate by a vote of 3 to 0.

Notice:

An appeal against the decision of the Court of Appeal is admissible, if permitted by law (Art.419 CSP), within two months of the delivery of the decision of the Court of Appeal to the person entitled before the court which ruled in the first instance. Where a rectification order has been made, the time limit shall run again from the date of service of the rectification order only to the extent of the correction made (Article 427(1) CSP).

In the appeal, alongside the general requirements for the submission, it should be stated which decision the appeal is directed against, to what extent this decision is being challenged, the reasons why the decision is considered incorrect (grounds for the appeal), and what the appellant is seeking (appeal request) (§ 428 CSP). The appellant must be represented by an attorney in the appeal proceedings. The appeal and other submissions by the appellant must be drafted by an attorney (§ 429 (1) CSP).