REVIEW

by Prof. Simeon Vladimirov Tasev, Ph.D., lecturer at the Center for Legal Sciences at the Burgas Free University, member of the scientific jury in accordance with Order № RD 38-255/06.07.2020 of the Rector of Sofia University

About: competition for the academic position "Associate Professor" in the professional field 3.6. "Law" (Civil and Family Law) for the needs of the Faculty of Law at Sofia University "St. Kliment Ohridski", published in the State Gazette, issue 57 of 2020

1. Brief information about the candidate in the competition

One candidate participates in the competition - Chief Assistant Professor Ventsislav Lyudmilov Petrov, Ph.D.

Ventsislav Petrov graduated in from the Faculty of Law of Sofia University "St. Kliment Ohridski" in 2009. In 2011 he graduated from the same faculty with a master degree in International Relations.

From 2011 to 2015 Ventsislav Petrov held the academic position of "Assistant" at the Department of Civil Law at the Faculty of Law of Sofia University "St. Kliment Ohridski", and since 2015 - the academic position of "Chief Assistant". He teaches the disciplines "Civil Law - General Part", "Family and Inheritance Law" and "Obligation Law".

Since 2016, Ventsislav Petrov has held the academic position of "Assistant" in the Department of Private Law at the Law Faculty of the University of Veliko Tarnovo "St. Cyril and St. Methodius", and since 2017 - the academic position of "chief assistant". He conducts a lecture course on the discipline "Family and Inheritance Law", as well as seminars on the discipline "Property Law".

In 2015, the candidate acquired Ph.D. degree under 3.6. Law (Civil and Family Law) with a dissertation on "Cancellation of the renouncement of inheritance by the creditors of the heir."

Since 2011 he has been registered as a lawyer at the Sofia Bar Association. He is a lecturer at the Krastyu Tsonchev Lawyer Training Center. He is a member of the Union of Scientists in Bulgaria.

Ventsislav Petrov is a member of the Faculty Council of the Faculty of Law and of the General Assembly of the Sofia University "St. Kliment Ohridski". He is a secretary for Scientific Events of the Law Faculty.

After acquiring the academic position of "Chief Assistant" Ventsislav Petrov has participated with reports in 21 scientific conferences. He is an author of 2 monographs and 32 scientific articles.

2. Fulfillment of the requirements for holding the academic position

It is evident from the above that the candidate has held the academic positions of "assistant" and "chief assistant" for a period of over 9 (nine) years - significantly higher than the required legal minimum. A report on his academic engagement during the last three school years is presented, which shows that it is above the set norm.

The candidate has a scientific degree "Ph.D." in 3.6. Law (Civil and Family Law).

To participate in the competition, the candidate has submitted 1 (one) monograph and 14 (fourteen) articles, of which 13 (thirteen) in Bulgarian and 1 (one) in English. The attached table lists 14 citations of the candidate by other authors. The publications and citations presented cover the minimum requirements for holding the academic position. In total, papers and citations are presented, equivalent to 475 points (50 points in indicator A; 100 points in indicator B, 215 points in indicator D, 110 points in indicator E). Therefore, the candidate exceeds the minimum national requirements for the scientific field, as well as the requirements of Sofia University "St. Kliment Ohridski".

There is no legally proven plagiarism in scientific works.

Therefore, the candidate not only fulfills, but also exceeds the formal requirements for holding the academic position of "associate professor".

3. Publications submitted for participation in the competition

To participate in the competition, the candidate has submitted a monography and fourteen articles in specialized legal journals and collections of scientific papers.

The monograph "Inheritance of Obligations and liability for legacies", Sofia: Ciela, 2020, 460 pages, is presented as a habilitation thesis. It is structured in an introduction, four chapters and a conclusion. The first chapter analyzes the historical development of debt inheritance, clarifies its legal facts, makes a comparative analysis and compares it with other means for acquiring a debt. The second chapter examines the question which obligations are inheritable and which are not. The signs that an obligation should have in order to pass to other persons after the death of the debtor are shown. Some more specific hypotheses of inheritance of obligations are considered. The third chapter - "Persons to which the obligation passes after the death of its holder" - is devoted to the persons who are liable for the debts of the testator and the grounds for their liability. The status of all categories of heirs (by law, by will, by contract of inheritance) and the state in the hypothesis of Art. 11 of the Inheritance Act is analyzed. The question is considered whether the private successors *mortis causa* - the legatees and the municipality in the hypothesis of art. 11 of the Inheritance Act - acquire the obligations of the deceased. The forth chapter is entitled "Consequences of Inheritance of Debts. Emergence of liability for legatees. Volume and realization of the liability for the inheritance debts and for the legatees". It analyzes the consequences of the inheritance of obligations - the direct transfer of debt to the heirs; the change in some elements of the legal relationship and the preservation of others, etc. The different types of liability of the heirs to the creditors and legatees are studied - separate and joint and several; unlimited and limited. The different grounds for the occurrence of limited liability are considered, as well as the nature of the limitation in each of them. The grounds for loss of the limited liability are also analyzed. In a separate section, attention is paid to the specifics of the emergence and the realization of the liability of the heirs to the legatees. The system of satisfaction of creditors and legatees settled in Bulgaria, as well as the other comparatively known systems are considered. De lege ferenda, the settlement of a centralized system is proposed. The conclusion summarizes the main theoretical statements shown in the work, as well as the conclusions reached. The more important de lege ferenda proposals made in the study are systematized. The bibliography of the study includes 313 titles - 264 in Bulgarian and 49 in foreign languages (English, German, French, Russian, Serbian, Macedonian).

The article "The modern concept of inheritance of obligations and its relationship with the Roman familia" - Ius Romanum, 2017, No 1, p. 1-10, examines the emergence of the concept of inheritance of obligations of a deceased individual person. The Roman legal roots of this responsibility are shown, their connection with the Roman familia is argued and its consequences for modern law are described.

In the article "Objections against the existence of the creditor's right in the proceedings under Art. 135 of the Law for obligations and contracts in the case law "- Commercial and Obligation Law, 2017, No. 6, p. 32-39, the author analyzes the contradictory case law on the issue of whether in the proceedings on a claim under Art. 135 of the Law for obligations and contracts, the debtor's objections against the existence of the right of the creditor-plaintiff may be considered. The opinion that the debtor can make this objection is supported.

The article "Active testamentary capacity under the draft Law on Individual Persons and Support Measures" - Contemporary Law, 2017, No. 3, p. 25-33, examines the changes in the regulation of active testamentary capacity provided for in the draft Law on Individual Persons and Support Measures. The necessity of preserving the requirements of Art. 13 of the Inheritance Act for active testamentary capacity is based.

The article "Changes in the regulation of the conditions for marriage according to the draft Law on Individual Persons and Support Measures" - In: Application of the constitutional principles in public and private law. Proceedings of the jubilee international scientific conference "25 years of the Faculty of Law of University of Veliko Tarnovo "St. Cyril and St. Methodius" and 25 years since the adoption of the Constitution of the Republic of Bulgaria". Veliko Tarnovo: University Publishing House "St. Cyril and St. Methodius", 2017, p. 412-421, is focused on the regulation of marital obstacles in the project for Law for Individual Persons and Support Measures, and in particular on the proposal to remove some obstacles for marriage. The problems that the revocation of the mentioned obstacles would lead to have been revealed. The reasons for their settlement are analyzed. A substantiated proposal has been made to preserve the mentioned obstacles for marriage.

The article "Once again about *actio rei vindicatio* from a co-owner against against a non-owner" - De iure, 2018, No. 2, p. 169-173, examines the hypothesis in which a co-owner is a plaintiff against a third party (non-owner). The two views on the scope of the plaintiff's claim, presented in theory and practice, are presented. New arguments support the opinion that the co-owner can demand the possession of the whole property, but not only the ideal part of the thing he owns.

The article "About the legal nature of the claim under Art. 30 of the Family Code "- in: Scientific Papers of the University of Ruse "Angel Kanchev" for 2017, Volume 56, Series 7, Legal Sciences, 2017, p. 36-39, examines the essence of the claim under Art. 30 for part of the value of the personal property of the other spouse. The thesis is argued that the claim is always condenmation - both when its subject is the real right of the other spouse, and when it is filed in relation to claims.

The article "About the inheritance community" - Property and Law, 2018, No 4, p. 43-50, considers mainly the shares as part of the estate. The opinion is argued that a inheritance community arises on them, and not separation, e.g. that the heirs can't acquire the rights to specific shares without the presence of a translational act by the other co-heirs. A proposal has been made de lege ferenda to settle a special procedure to terminate the co-ownership over the

shares; the view of allowing a voluntary division of the co-ownership over shares is supported.

In the article “The need to calculate a mass from which a preserved part of the heritage is restored. Trends in the case law "- Property and Law, 2018, No 12, p. 46-51, the question is researched in which cases of restoring a preserved part of the estate it is necessary to form a property under Art. 31 of the Inheritance Act. It is argued that such a mass should be formed as a value in all cases of restoration of a reserved part, except when the object of the claim is only a universal testament or only by gift or legacy, which express the whole estate.

In the article "Place of opening of the estate according to the Bulgarian law in the context of the EU law" - in: Actual problems of the positive law in the context of the membership of the Republic of Bulgaria in the European Union. Veliko Tarnovo: Faber, 2018, p. 119-124, the place of opening of the estate according to the Bulgarian inheritance law and according to Regulation 650/2012 is analyzed. The term "place of living" used by the Inheritance Act has been examined and compared with the term "habitual residence" used by the regulation. On this basis, it has been suggested that "place of living" in theory and practice should be understood as "habitual residence".

The article “Joint and several liability and separate liability of the heirs for hereditable obligations - short comparative and historical overview” - in: Fundamental and applied researches in practice of leading scientific schools. Volume 28, Number 4, 2018, p. 114-116, considers the different concepts adopted in comparative and historical plan regarding the liability of the heirs for the inheritance debts - for joint and several liability and for separate liability. It is argued that separate liability (excluding liability for indivisible obligations) is a more appropriate solution because it protects not only the interest of the creditors of the inheritance, but also that of the heirs.

The article "Comparison between inheritance and other ways for substitution of the debtor" - in: Scientific papers of the University of Ruse "Angel Kanchev" for 2018, Volume 57, Book 7, 2018, p. 116-120, systematizes the similarities and differences between the inheritance of a debt and the other ways to change the identity of the debtor - substitution in debt, subjective passive novation, contract for transfer of estate.

The article "The right of inheritance - Roman legal foundations" - Ius Romanum, 2019, special issue Theo noster, Studia in memoriam Theodori Piperkovi, ISSN 2367-7007, p. 81-89, examines the roots of the right to inherit (considered in theory and practice as the possibility of accepting or rejecting inheritance) in the period of Ancient Rome. An overview of the acquisition of inheritance in different periods of the development of Roman law is made. The differences in acquisition by different types of heirs - necessary (heredes necessarii) and external (heredes extranei) are also considered. Based on this, a conclusion was made as to which of the heirs arose the right to inherit. In this way, a hypothesis is constructed about the initial moment of emergence of the right of inheritance and the reasons for its emergence.

In the article "About the nature of *actio negatoria* as a ownership claim and the need for its registration" - in: Yearbook of Sofia University "St. Kliment Ohridski". Faculty of Law. Volume 86. Sofia: University Publishing House "St. Kliment Ohridski", 2019, p. 257-267, is researched the legal nature of the claim under Art. 109 of the Property Act. It is considered as part of the system of ownership claims, which aims to protect the owner against the various breach of real rights. The opinion for the need for equal treatment of *actio rei vindicatio* and *actio negatoria* due to their many close features and due to their similar legal

nature is presented. In this connection, a conclusion has been formulated that the proving of the right of ownership or of a limited real right is included in the subject of the case under Art. 109 from the Law for property. As a logical consequence of this, a proposal was made for the registration of *actio negatoria* in the Land register. A criticism was made of the opposite opinion, presented in Interpretative Decision 4/2015 of the Supreme Court of Cassation.

In the article "The obligation of the heir, who accepted the inheritance under benefit of inventory, for giving an account" - in: Scientific works of the University of Ruse "Angel Kanchev" for 2019, volume 58, book 7.1, 2019, p. 114-117, is studied the obligation of the heir, who accepted the inheritance under the benefit of inventory, to give an account to the creditors of the testator and to the legatees.

The conditions for the occurrence of this obligation, its content, as well as the consequences of its breach are researched. Proposals have been made de lege ferenda to settle the right of creditors and legatees to demand the account from the heir, as well as to establish a sanction for breach of the obligation - loss of the limited liability of the heir, accepted by benefit of inventory.

It can be concluded that the scientific works of the candidate in its volume and content fully meets the requirements for the academic position of "associate professor".

4. Scientific contributions

The main scientific contributions in the presented habilitation work - the monography "Inheritance of obligations and liability for legacies". Sofia: Siela, 2020, 460 pages - are the following:

1. The book is the first in the Bulgarian legal literature monographic study of the liability of the successors of a deceased individual person to his creditors and legatees. There are general rules for regulation of this liability.

2. The legal nature of the inheritance of obligations is clarified as one of the ways to change the debtor in an obligation relationship and its differences with the other ways to change the passive party in the relationship are systematized.

3. The legal facts which arise the inheritance of debt is described, as its variety in each of the two systems of acquisition of inheritance - the system of acceptance and the system of renouncement. The opinion is argued that in both systems for acquisition of inheritance the heir acquires the debts of the deceased at the moment of opening the inheritance.

4. The circle of persons who acquire the debts of the deceased after his death is shown. The thesis this circle includes only the heirs (by law, by will or if the legislation allows it - by a contract of inheritance), as well as the state in the hypothesis of Art. 11 of the Inheritance Act. The view is explained that the only hypothesis in which the legatees acquire inheritance debts is in a legacy of a commercial enterprise, or of inheritance estate. It is substantiated that if the object of the legacy is encumbered with a mortgage or pledge, the legatee does not acquire an obligation from the estate. The contribution is also the analysis of the hypothesis of art. 66, par. 2 of the Inheritance Act and the conclusion that in this case the legatees do not acquire a debt of the deceased.

5. The conclusion that the inheritance legal relationship is extinguished upon acceptance of the inheritance is also a scientific contribution and therefore the obligations included in the estate are not an element of its content.

6. The hypotheses are systematized, in which it is possible after the heir acquires an ideal part of each debt as a result of the inheritance, this ideal part to be subsequently changed due to an additional legal fact.

7. It is concluded that as a result of the inheritance of debt for the creditors of the testator arise additional secures. These are the right of separation of the estate according to art. 67 of the Inheritance Act, as well as the rights against the legatees under art. 66, par. 2 and art. 68.

8. The opinion is explained that the State is limited liable only in the hypothesis of art. 11 of the Law, but not as a testamentary heir.

9. It is concluded that the provision of art. 61, par. 2 of the Inheritance Act in its part for the public organizations has lost its significance and that the text should be revoked.

10. The view is argued that the municipality should not be limited liable for the inheritance debts in the capacity of heir by will and proposal the provision of Art. 34, par. 3 of the Municipality Property Act to be revoked.

11. It has been concluded that the incapacitated and the partially incapacitated persons can accept the inheritance directly through implicit actions, but that they will nevertheless be unlimited liable.

12. New arguments are presented in support of the thesis (less blunted in theory and practice) that in occasion of accepting by benefit of inventory the limitation of the liability of the heir is by objects and not by value, e.g. that he is liable only with the inheritance estate (and not with his personal property up to the amount of the received assets as value, according to the dominant opinion). Despite the debatable nature of this thesis, the author has presented deep arguments in its defense.

13. The thesis is maintained that in case of separation of estate under art. 67 of the Inheritance Act there is no limitation of the heir's liability. The relationship between acceptance by benefit of inventory and separation of estate has been clarified.

14. The proposal de lege ferenda for a model for a centralized system of satisfaction of creditors of the deceased and of the legatees in the Bulgarian legislation also has a contributing character. The need to introduce such a system is thoroughly argued.

There are many original scientific contributions in the presented monography and in the presented articles too.

5. Critical remarks and recommendations.

Some remarks and recommendations can be made to the scientific work of the candidate.

The fourth chapter of the monography (240 pages) is disproportionately large compared to the first three chapters (180 pages). A new fifth chapter could be set up - "Liability for legacies", which would include the material from the current section 4.2.4. This amendment may be recommended to the candidate in the occasion of a second edition of the monography.

In my opinion, the author's proposal de lege ferenda for revocation of the possibility for accepting the inheritance by implied actions (p. 424 and p. 433) is unacceptable. This method of acceptance is traditional for Bulgarian inheritance law and there is an established case law (Ordinance of the Supreme Court No 4/1964).

It could be discussed whether the municipality in the hypothesis of Art. 11 of the Inheritance Act is also not liable for inheritance debts (p. 182), given that the municipality acquires significant property rights, in many cases more than the State.

6. Conclusion.

The monography and the fourteen articles presented by the candidate are of high scientific and scientific-applied value. These merits, as well as the teaching and administrative activity of the candidate give me grounds to assume that he meets all the requirements for holding the academic position of "associate professor", established in art. 24 Act for development of academic staff in the Republic of Bulgaria, art. 53 Regulation for applying of the Act for development of academic staff in the Republic of Bulgaria and Art. 105 of the Regulations on the terms and conditions for acquiring scientific degrees and holding academic positions at Sofia University "St. Kliment Ohridski".

In conclusion, I vote convincingly in favor of this, Chief Assistant Professor Ventsislav Lyudmilov Petrov, Ph.D. to be elected to the academic position of "Associate Professor" in the professional field 3.6. "Law" (Civil and Family Law) at the Faculty of Law of Sofia University "St. Kliment Ohridski".

7th October 2020 Prepared by: ……

(Prof. Simeon Tasev, Ph.D.)