

LIMITATION OF CLAIMS OF THE AUTONOMOUS POSSESSOR FOR REIMBURSEMENT OF EXPENDITURES MADE ON AN OBJECT

Agnieszka Kawałko, Ph.D.

Department of Basics Civil Law and Private International Law

Faculty of Law, Canon Law and Administration at the John Paul II Catholic University of Lublin

e-mail: kawalko@poczta.fm; <https://orcid.org/0000-0001-6911-0687>

Summary. The subject of considerations in this article is limitation of the possessor's claims for reimbursement of expenditures made during the period of possession. Due to the fact that the provisions of the Civil Code in Art. 229 provide for one general limitation period for supplementary claims of the owner and for claims of the possessor for reimbursement of expenditures, the issue of emergence and maturity of particular claims referred to in this provision causes discrepancies in both doctrine and jurisprudence. In particular, this refers to the possessor's claims for reimbursement of expenditures made on a thing. Against the background of considerations regarding the maturity and limitation of supplementary claims, the article discusses the issues of limiting the possessor's claim for reimbursement of expenditures by general limitation periods based on Art. 118 of the Civil Code.

Key words: owner, ownership, possession, autonomous possessor, dependent possessor, expenditures, limitation, maturity of a claim

I.

The following considerations were prompted by numerous court cases, the subject of which are mutual settlements of the owner of a thing with its autonomous possessor, and, in particular, asserting by the possessors of a real property reimbursement of expenditures made by them on the property during the period of possession. The very provision relating to the claims of the autonomous possessor for reimbursement of expenditures – expressed in Art. 226 of the Civil Code¹ – does not raise any major doubts, making reimbursement of expenditures made on an object dependent not only on the type of the expenditures made (necessary and other), on the good or bad faith of the autonomous possessor, but also on the relationship between the type and value of the expenditures and an increase in the value of an object or enrichment of the owner. In the case of claims of a dependent possessor for reimbursement of expenditures made on an object, the legislator, in Art. 230 CC, used a reference to the provisions concerning claims of an autonomous possessor for reimbursement of expenditures, which should be properly applied to the relationship between the owner of an object and its depen-

¹ The Act of 23 April 1964, the Civil Code, Journal of Laws of 2020, item 1740 [henceforth cited as: CC].

dent possessor, unless the provisions regulating this relationship provide for otherwise.² Thus, the provisions of Art. 226 CC and Art. 230 CC (the latter by reference to the provisions governing the legal relationship from which a dependent possession of an object is derived), regulate the objective scope of the possessor's claim for a reimbursement of expenditures made on an object, i.e. determine whether at all and reimbursement of which expenditures the possessor may demand from the owner after the object has been returned to the owner. On the other hand, they do not specify in any way what time span of making expenditures on an object may be covered by the content of a claim for reimbursement of expenditures, i.e. whether the possessor can effectively claim reimbursement of expenditures made on an object during the course of possession, completely regardless of the time in which the expenditures were made. In particular, this issue is important in the case of a long-term possession of an object and making expenditures on an object during this time. It is not only the possessor of an object who invested in it and who is interested in the settlement of the expenditures made, but also the owner of the object, who should not be overburdened by the fact that another entity – guided by his/her own interest – made expenditures on the object not owned by him/her. Even if the owner did not exercise his/her control over the object (in particular over a real property) for quite a long time, which could even lead to the loss of the ownership right as a result of its acquisition by prescription by an autonomous possessor, then, in the case of returning the object to the owner, the claim of the autonomous possessor in good faith for reimbursement of expenditures made on the object should not only be subject- but also time-limited, which may, *inter alia*, be carried out by means of an institution of limitations of a claim. In the doctrine, this issue is controversial, in particular, with regard to determining the maturity of claims for reimbursement of expenditures, and the jurisprudence practice does not dispel the doubts of the doctrine.

The factual basis of the analysis presented below will be a situation in which an autonomous possessor of a real property held the real property in good faith for a period of several years, at the same time making necessary and other expenditures on the real property and after returning the real property to the owner, the autonomous possessor claims reimbursement of all expenditures made on the real property during the period of possession. This issue will be considered primarily from the point of view of the time of expenditures on the real property before the date of return of the object, and, consequently, the possibility of effectively pursuing a claim for reimbursement of such expenditures, while the type of expen-

² For example, in the case of use, the user of the thing is obliged to make repairs and incur other expenditures related to the ordinary use of the thing, and should immediately notify the owner of the need for other repairs and expenditures and allow him/her to carry out the necessary works. If, on the other hand, the user has made expenditures to which he/she was not obliged, the settlements between the user and the owner of the thing are subject to the provisions on conducting someone else's affairs without commission (Art. 260 CC).

ditures made and the state of good/bad faith of the possessor are also relevant for the issue in question.

II.

The limitation of mutual claims of the owner against the possessor for a remuneration for the use of an object, for the return of benefits or payment of their value, as well as claims for compensation for a damage due to a deterioration of a thing, as well as the claims of the autonomous possessor for reimbursement of expenditures on an object are regulated by the provision of Art. 229 CC. Grammatical interpretation of Art. 229 CC – conducted in isolation from the general provisions on limitation – leaves no doubts as to the beginning of the course and the length of a limitation period for the claim of the autonomous possessor against the owner for reimbursement of expenditures made on an object. The maturity date of the claim for reimbursement was linked to the date the property was returned to the owner,³ and the limitation period was set for a fairly short period of one year. The beginning of a limitation period for reimbursement of expenditures is therefore in no way related to the moment of making expenditures by the possessor, and to the moment of returning the object, which could suggest that the moment of making expenditures on a thing is irrelevant to the legal existence of the claim for reimbursement of expenditures itself.

At this point, a question should be asked about a relation of the provision of Art. 229, para. 1 CC to the general limitation periods under Art. 118 CC, because a simple assumption that all the claims provided for in Art. 229, para. 1 CC become due and expire on the date indicated therein, regardless of how long the object was in the possession of the autonomous possessor or at what time before the return of the thing to the owner occurred, e.g., its deterioration or at what time expenditures on the thing were made, could sometimes lead to an extension of the limitation periods for property claims beyond the periods specified in Art. 118 CC. One should certainly agree with the position expressed by the Court of Appeal in Kraków in the judgement of 24 July 2019⁴ that the provision of Art. 229, para. 1 CC is a complementary provision to the limitation periods in Art. 118 CC. It does not exclude the application of this provision, but complements it in the sense that it defines the final date for pursuing the claims covered by it. However, it does not yet resolve the issue whether all claims specified in this provision become due at the same time, i.e. on the date of returning the object to the owner.

The provision of Art. 229, para. 1 CC, on the one hand, covers supplementary claims of the owner of an object against the autonomous possessor (for remuneration for the use of an object, for return of the benefits or payment of their va-

³ The term “return of a thing” should be understood as the return of the thing for repossession by the owner, irrespective of how the thing was moved; see: judgement of the Supreme Court of 26 March 1998, I CKN 590/97, OSNC 1998, No. 11, item 180.

⁴ Judgement of the Court of Appeal in Kraków of 24 July 2019, I ACa 1007/198, Lex no. 2852385.

lue, as well as claims for a compensation for damage due to a deterioration⁵ of an object), on the other hand, the claims of the autonomous possessor for reimbursement of expenditures whose material scope depends primarily on the good or bad faith of the possessor, as well as on the type of expenditures made by him/her (Art. 226–227 CC). The variety of claims covered by one Art. 229, para. 1 CC makes us ask ourselves a question whether these claims – regardless of when they arise – always become due at the same moment, i.e. when an object is returned to its owner (in isolation from the general rules of limitation under Art. 118 and 120 CC), or the due date of the claim arises separately for each of these claims depending on its type (sometimes separately from the moment of returning the thing to the owner), which could lead to a limitation of the claim before the day of returning the object to the owner. According to the position of the Supreme Court⁶ – which should be upheld – limitation of the supplementary claims begins upon maturity (Art. 120 sentence 1 CC) and is subject to the statute of limitations specified in Art. 118 CC, unless the object is returned to the owner during the course of the limitation period. In this case, the time limits specified in Art. 118 CC, are, in compliance with Art. 229 CC, shortened to one year, counted from the date of returning the object by the possessor to the owner. Upon delivery, if the general limitation periods under Art. 118 CC have not expired, they cease to run and the time limit specified in Art. 229 CC begins to run. This general position, however, does not answer the question when we are dealing with the state of maturity of all the claims covered by Art. 229 CC, but it only indicates that the maturity of the claims covered by it may occur at a different time than the moment of returning the object to the owner. It is therefore necessary to analyze the individual claims specified in Art. 229 CC from the point of view of the moment of their emergence and determination of a due date of the claim, separately for the supplementary claims of the owner against the possessor of an object and claims of the possessor for reimbursement of expenditures. It should not be forgotten that the claims specified in Art. 224–228 CC, which are covered by the provision stipulated in Art. 229 CC, are complementary in the sense that, on the one hand, they supplement a vindication (*rei vindicatio*) of the owner who has been deprived of control over an object, and on the other hand, they aim at compensating the possessor for the losses suffered as the result of investing in someone else's object during his/her possession thereof.

With regard to the owner's claim for a remuneration for the use of⁷ an object, there is a consistent view in the doctrine that the claim arises and becomes due

⁵ With the exception of the owner's claim for damages due to the loss or wear and tear of an object, referred to in Art. 224–225 CC.

⁶ Judgement of the Supreme Court of 25 September 2019, III CSK 232/17, Lex no. 2736260. Cf. Kozłowska 2018, 405, who is of the opinion that the provision of Art. 229 CC does not definitively exclude the application of general limitation periods, but only modifies the length of these periods to a certain extent.

⁷ It is undisputed that the owner's claim for remuneration for the use of the object is not a claim for a periodic benefit (to which the provisions on the shorter limitation period for periodic claims would

from the beginning of control of the object by the possessor [Cisek and Górska 2013, 389]. Therefore, since the maturity of a claim for remuneration for the use of the object arises already at the time of taking possession of the object by the autonomous possessor, the question arises for what period – in the case of using the object by the possessor for many years – will the owner be able to claim remuneration for the use of the object. Will this remuneration cover the entire time of use of the object by the possessor, or is it limited by the limitation periods for the claims under Art. 118 CC. It is commonly assumed that the limitation period for a claim for remuneration for the use of the object takes place within the period specified in Art. 229 CC, i.e. within one year from the date of returning the object to the owner, and the owner may claim remuneration for the entire period of using his/her object, however, not exceeding the time limits under Art. 118 CC, i.e. currently a 6-year period and a 3-year period for the claims related to conducting business activity.⁸ At the same time, the limitation periods for claims under Art. 118 CC for a claim for remuneration for the use of the object are, in fact, the basis for determining the period preceding the date of returning the object to the owner for which the owner will be able to claim remuneration, and only failure to satisfy this claim within the period specified in Art. 229 CC will result in its limitation.

The consequence of the above position is that the limitation periods specified in the provision of Art. 118 CC do not so much modify the limitation period under Art. 229 CC, but, in fact, limit the scope of the claim for remuneration for the use of an object in the sense that the owner may only demand remuneration for a period not exceeding six years (before the amendment to Art. 118 CC – for a 10-year period) or a three-year period (if the claim is related to conducting business activity), preceding the date of returning the object to the owner. Therefore, in a situation where the time of using the object by the possessor before its return to the owner exceeds the time limits specified in Art. 118 CC, the owner may not claim remuneration for the entire time of the use of the object by the possessor,

apply), but a claim for a one-off payment for the use of the object; see: resolution of the Supreme Court of 24 October 1972, III CZP 70/72, OSNCP 1973, No. 6, item 102; resolution of the Supreme Court of 18 April 1974, III CZP 20/74, OSNCP 1974, No. 12, item 208; resolution of the Supreme Court of 23 May 1975, II CR 208/75, IP z. 100–101, item 3; judgement of the Supreme Court of 4 December 1980, II CR 501/80, OSNCP 1981, No. 9, item 171; judgement of the Supreme Court of 3 December 2004, IV CSK 613/03, Lex no. 359461; judgement of the Supreme Court of 22 September 2005, IV Ck 105/05, Lex no. 346083; judgement of the Supreme Court of 6 June 2014, III CSK235/13, Lex no. 1498631; cf. otherwise, Lechman 2014, 9ff.

⁸ A claim for remuneration for non-contractual use of a real property may be a claim related to conducting business activity. According to the position commonly accepted in the jurisprudence of the Supreme Court, to qualify a claim as related to conducting business activity within the meaning of Art. 118 CC, the legal nature of the underlying event does not matter – it may be a legal act, a tort or any other event, including unjust enrichment or the use of someone else's thing – what matters, is its relation to business activity. This means that the owner's supplementary claim for remuneration for the use of the object may also be a claim related to the conducted business activity, to which a 3-year limitation period specified in Art. 118 CC is applied; see, in particular, judgement of the Supreme Court of 6 June 2014, III CSK 235/13, Lex no. 1498631.

but only for the period preceding the return of the object, defined by the time limits specified in Art. 118 CC.

As part of the supplementary claims, the owner of the object is also entitled to a claim for return of benefits obtained from the object by the possessor during the possession (Art. 224–225 CC). It is assumed that the owner's claim for the return of benefits arises upon obtaining them by an unauthorized possessor [Gniewek 2001, 545ff]. It should be assumed that these claims become due in isolation from the premise of returning the object to the owner, as referred to in Art. 229 CC and become time-barred after the expiration of the general time limits specified in Art. 118 CC, the beginning of which is determined by the moment of obtaining the benefits by the possessor. For there is no justification for adopting a different solution which would link the beginning of the maturity of the claim for the return of all the benefits harvested for the entire duration of the possession with the day the object is returned to the owner. This means that in the case of long-term possession of the object and the harvesting of the benefits from it by the possessor, in the case of returning the object to the owner, the owner will be able to pursue only those claims for a return of the benefits which have not been time-barred by the date of return of the object, provided that he/she does it within one year from the date of returning the object. Therefore, also in this case – if the possessor harvested benefits from the item for a considerable period preceding the date of returning the object to the owner – general limitation periods under Art. 118 CC, limit the scope of the owner's rights resulting from his/her supplementary claims against the possessor of the object.

In addition, as part of the supplementary claims referred to in Art. 224–225 CC – the owner is entitled to compensation claims for the wear and tear, deterioration or loss of the object by the possessor. Undoubtedly, the owner's claims for damage arise at the time of wear and tear, deterioration or loss of the object (the moment the damage occurs) and at that moment become due and, in consequence, become time-barred according to the general terms of Art. 118 CC. The running of the general period under Art. 118 CC of the limitation of claims for damages of the owner in relation to the period under Art. 229 CC⁹ must boil down to the statement that after the return of the object, the owner may only pursue the claims that are not yet time-barred according to the general terms. For if, on the day of returning the object to the owner, his/her claims for damages have already been time-barred, Art. 229 CC will not apply to these claims at all. However, in

⁹ It should be noted that among the claims listed in Art. 229 CC, the legislator disregarded the owner's claim for compensation for a damage caused by the loss or wear and tear of an object which, for obvious reasons, cannot be related to the date of returning the object to the owner. As indicated by the Supreme Court in the grounds of the decision of 14 April 2011 (III CZP 7/11, Lex no. 987712), a claim for compensation for the loss of an object is in fact – at least in some cases – not a claim supplementing the vindication, but a claim replacing the vindication and the consequence of the indicated substitutive nature of the claim for compensation for the loss of an object is also omission of this claim in Art. 229, para. 1 sentence one of CC and thus failure to comply with the claim contained in this provision of the statute of limitations.

a situation where the end of the limitation period for the claim would fall on a day within one year from the date of returning the object, then it should be assumed that the limitation period for the claim which began its run before the date of returning the object to the owner, will expire on that day, and not on the last day of the annual period from the date of returning the object. The provision of Art. 229 CC may not lead to the extension of the general limitation periods, and its function is to appropriately shorten the general limitation periods to one year from the date of returning the thing, with the shortening applying to the limitation periods, the end of which would take place after one year from the date of returning the object to the owner [Kościńska 2018, 405].

The provision of Art. 226 CC is the legal basis for the autonomous possessor's claim for a reimbursement of expenditures made during the period of possession. The situation of the autonomous possessor as regards the claim for reimbursement of expenditures depends mainly on the good or bad faith of the possessor; the autonomous possessor may demand reimbursement of the necessary expenditures, as long as they are not covered by the benefits that he/she obtained from the object, while the return of other expenditures may be demanded as long as they increase the value of the object at the time of its release to the owner. If the possessor in good faith learns that an action for a delivery of the object has been filed against him/her and after that moment he/she has made expenditures on the object, he/she may only claim reimbursement of the necessary expenditures. On the other hand, the autonomous possessor in bad faith may only demand reimbursement of the necessary expenditures, and only to the extent that the owner would be unjustly enriched at his/her expense. At the same time, the legislator did not link the possessor's claim for reimbursement of the expenditures with a deadline for their completion, which implies the need to analyze this issue on the basis of the provision of Art. 229 CC in conjunction with Art. 118 and Art. 120 CC.

The fundamental discrepancies in the doctrine and jurisprudence is derived from the issue of determining the maturity date of the possessor's claims against the owner for reimbursement of expenditures made on the object, which, in compliance with Art. 229 sentence 2 CC are to be time-barred after one year from the date of returning the object to the owner. As in the case of the owner's supplementary claims, the provision of Art. 229 CC does not directly resolve the relationship between the period specified therein and the general limitation periods, nor does it dispel doubts as to whether the possessor is entitled to a claim for reimbursement of all the expenditures made (with the existence of the premises specified in Art. 226 CC), regardless of the time in which he/she made them before returning the object to the owner. A simple assumption that the possessor's claim for reimbursement of the expenditures made always becomes due upon returning the object to the owner, regardless of the time of making the expenditures, would lead to an unjustified favoring of the legal position of the possessor in relation to the legal position of the owner, whose supplementary claims may become time-barred even before the date of returning the object or are time-limited by the

general limitation periods counted back from the date of returning the object (as in the case of remuneration for using the object).

As regards the maturity of claims of the autonomous possessor for reimbursement of expenditures, there are several opinions presented in the doctrine. The first of them assumes that the claim for reimbursement of the expenditures, regardless of their type and the good or bad faith of the possessor, arises and becomes due upon handing over the object to the owner.¹⁰ The argument in favor of such a position was formulated in such a way that granting the possessor – as long as he/she acts in good faith – the claims for reimbursement of expenditures is irrelevant primarily because the possessor in good faith does not intend to pursue these claims from the owner of the object. The situation of the autonomous possessor changes when he/she loses the attribute of acting in good faith, because in such case he/she must take into account a possible obligation of returning the object to the owner. In the opinion of the representatives of this view, however, also then granting the owner a claim for reimbursement of expenditures would be premature, because the realization of a claim for reimbursement of expenditures before returning the object would be an incorrect situation, if only because the possessor who would fulfill the claim for reimbursement of expenditures before returning the object to the owner, may thereafter destroy the object or transfer the possession thereof to another buyer in good faith.

The second view is based on the assumption that the issue of arising of a claim for reimbursement of expenditures should be distinguished from the moment of its maturity and assumes that the possessor's claim for reimbursement of expenditures arises upon making the expenditures but becomes due only upon handing over the object to the owner or after the owner files a vindication [Skowrońska-Kuśnierz 1974, 22–23; Kuźmicka-Sulikowska 2014, 18–19].

At the basis of the subsequent positions there is a distinction between the type of expenditures made by the possessor and, the issue of arising of a claim for reimbursement of expenditures and maturity of a claim for reimbursement of expenditures differs, depending on whether these are the necessary or other (useful or luxurious) expenditures. The first position, based on the distinction of the type of expenditure, assumes that the claims for reimbursement of the necessary expenditures arise and become due as soon as they are made, while the claims for reimbursement of other expenditures arise when they are made but become due only when the object is handed over to the owner [Rudnicka, Rudnicki, and Rudnicki 2013]. The most widely argued view is based on the assumption that since the legislator provides in Art. 226 CC different grounds for a claim of an autonomous possessor in good and bad faith, the time of arising of these claims is also different [Gniewek 2013, 749]. According to the representatives of the doctrine representing this view, the claim of the autonomous possessor in good faith for

¹⁰ Likewise: Gocłowski 1998, 103, thesis 2; Trzaskowski 2008, 263–64; Rudnicki, Rudnicki, and Rudnicka 2016, 471; Skowrońska-Bocian and Warciński 2020; Królikowska 2020.

reimbursement of the necessary expenditures arises at the time when the expenditures are made and is gradually limited until its complete expiration in the case of successively obtaining benefits from the object by its possessor. Thus, it cannot be assumed that according to the legislator the prerequisite of handing over the object to the owner must be met in order for these claims to arise. Due to the fact that the claim of the possessor in good faith for reimbursement of other expenditures has been linked to the premise of an increase in the value of the object at the time of its release to the owner, this moment should be decisive for the arising of a claim for reimbursement of other expenditures of the autonomous possessor in good faith. If the autonomous possessor in good faith becomes informed that an action for a delivery of the object has been brought against him/her, the change in his/her legal situation consists in the fact that he/she may only demand reimbursement of the necessary expenditures, even if, after bringing the action, he/she made also other expenditures on the object; the claim for reimbursement of the necessary expenditures made during that time shall arise at the moment they are made. The claim of the autonomous possessor in bad faith who is entitled only to demand reimbursement of the necessary expenditures, has been linked to the premise of unjust enrichment of the owner at the expense of the possessor, hence the representatives of this position assume that, in fact, his/her claim arises when the object is handed over to the owner, because only at this point it can be determined whether the owner has been unjustly enriched. Despite different determination of the moment when the claims of the autonomous possessor for reimbursement of expenditures on the thing arise, depending on whether it is an autonomous possessor in good or in bad faith, this position assumes that these claims become effective and due as they arise. Referring the above to the provision of Art. 229 CC, which also specifies the limitation period for the claims for reimbursement of expenditures, the representatives of this view assume that this provision applies to the claims for reimbursement of expenditures not yet time-barred upon returning the object and the claims whose due date depends on the delivery of the thing.

The discrepancies in the positions presented in the doctrine as to the emergence and due date of the possessor's claims for reimbursement of expenditures are also not resolved by the jurisprudence. In the jurisprudence of the Supreme Court it was assumed that the claim of the autonomous possessor in good faith for reimbursement of the necessary expenditures arises and becomes due as soon as¹¹ they are made, while the maturity of the claim for reimbursement of the expenditures other than necessary depends on the return of the object to the owner.¹² In other judgments, however, the Supreme Court assumed that the claim for reim-

¹¹ See e.g. judgement of the Supreme Court of 30 December 1971, III CRN 375/71, Lex no. 7044; judgement of the Supreme Court of 10 August 1988, III CRN 229/88, OSNCP 1990, No. 12, item 153.

¹² See e.g. judgement of the Supreme Court of 12 December 1967, III CRN 356/67, OSN 1968, No. 9, item 148; judgement of the Supreme Court of 11 June 2008, V CSK 28/08, Legalis no. 174504.

bursenment of expenditures – regardless of the type of these expenditures – arises and becomes due upon handing over the object to the owner.¹³

III.

The above views of the doctrine and the position of the jurisprudence do not consider the possible issue of the impact of the time of expenditure on the object by the autonomous possessor, from the point of view of the scope of claim for reimbursement of expenditures in the situation where these expenditures were made for a long period, before the object was handed over to the owner, e.g. for a period of a dozen years. This, in particular, refers to a situation where the expenditures are made by the possessor in good faith, who – according to Art. 226, para 1 CC – may demand reimbursement of the necessary expenditures, as long as they are not covered by the benefits obtained by the possessor, while reimbursement of other expenditures may be claimed in so far as they increase the value of the object at the time of its delivery to the owner. These claims of the autonomous possessor should be contrasted with the supplementary claims of the owner toward the autonomous possessor. As it follows from the content of Art. 224, para. 1 CC, the autonomous possessor in good faith is not obliged to pay for the use of the object and is not responsible for its wear and tear, deterioration or loss. In addition, he/she acquires the ownership of the natural benefits disconnected from the object during the time of its possession and retains the obtained civil benefits, if they have become due at that time. Therefore, in a situation where the object is returned to the owner after several years of its possession by the autonomous possessor in good faith, the protection of the owner basically comes down to restoring control of the object and obtaining remuneration for its use, but only for the time when the autonomous possessor in good faith became informed that an action had been brought against him for a delivery of the object. In addition, such a possessor (from the moment he/she became informed about bringing an action for a delivery of the object) will be liable for the wear and tear, deterioration or loss of the thing (unless its deterioration or loss occurred through no fault of his/her) and will be obliged to return the benefits not used by him/her, as well as pay the value of those he/she used.

Looking at the situation of the owner of the returned object from the point of view of possible claims of the autonomous possessor in good faith, the return of the object to the owner – apart from the obvious benefits in the form of gaining control of the object – will involve the obligation to satisfy the possessor's claims for reimbursement of expenditures, which, especially with significant expenditures made on the object during the entire duration of the possession, may be

¹³ See e.g. judgement of the Supreme Court of 10 October 1997, II CKN 371/97, *Legalis* no. 343237; judgement of the Supreme Court of 3 October 2003, III CKN 402/01; grounds of the Supreme Court Judgment of 30 May 2007, IV CSK 71/07, *Lex* no. 461619; judgement of the Supreme Court of 22 February 2010, IV CSK 436/09.

a considerable burden for him/her. Although the claim of the autonomous possessor in good faith, in the case of a demand for reimbursement of the necessary expenditures, is corrected by the benefits that the possessor obtained from the object, and the claim for reimbursement of other expenditures, by increasing the value of the object at the time of its delivery to the owner, one can consider whether in relation to the claims for reimbursement of expenditures (apart from corrections in the form of obtaining benefits from the object, increasing the value of the object upon its delivery to the owner, or unjustified enrichment of the owner in the case of claims of the autonomous possessor in bad faith), they should not be subject to a similar rule as in the case of claims of the owner for a remuneration for the use of the object or for return of the benefits, which is limited by the limitation period under Art. 118 CC, counted back from the date of returning the object. This would additionally lead to a time limitation of the possessor's claims for reimbursement of expenditures if they were made at an earlier date. In fact, the lack of such limitation leads to a differentiation between the situation of the owner of the object and the autonomous possessor – in particular, the autonomous possessor in good faith – who may claim reimbursement of expenditures made for the entire period of possession, even if the possession has been lasting for a period of several years.

The claims of the possessor for reimbursement of expenditures made on an object should be analyzed from the point of view of their essential feature, i.e. the supplementary nature to the principal vindication of the owner of the object. As indicated by the above considerations, limitation of claims covered by Art. 229, para. 1 CC, may take place at a different time, therefore a question arises whether, from the point of view of *ratio legis* of the provisions on the supplementary claims, the claims of the possessor for reimbursement of expenditures made on an object should cover the entire period of possession of the object in the situation when the claims of the owner toward the possessor are limited by limitation periods. The ownership right is subject to the strongest protection in the Polish legal system, therefore the rights of the possessor who interferes with the ownership right of the owner should be related to the rights of the owner in such a way that the exercise of possession (even in good faith) and the effects of exercising possession will not excessively interfere with the content of the ownership right¹⁴.

Depriving the autonomous possessor in good faith of the obligation to pay remuneration for the use of an object and return of the obtained benefits, as well as the lack of responsibility for the use or destruction of an object in his/her possession, is justified by his/her conviction that he/she is entitled to the object. Also the good faith of the possessor determines the material scope of the claim for reimbursement of expenditures, including expenditures other than necessary. The possessor's good faith alone does not, however, eliminate the fact that making expenditures on someone else's object is an unauthorized interference with the

¹⁴ Cf. judgement of the Supreme Court of 3 October 2003, III CKN 402/01, Lex no. 1130168.

ownership right of another person. The possessor's good faith does not rule out the consideration whether, in relation to the possessor in good faith, the application of time limits on the maturity of a claim for reimbursement of expenditures from the date of making them is ruled out. In particular, this issue should be considered from the point of view of the competitive protection of the owner of the object.¹⁵ Granting the possessor in good faith the right to claim reimbursement of expenditures without any time limits gives his/her position a privilege over that of the owner of the object.

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PRZEDAWNIEŃ ROSZCZEŃ POSIADACZA O ZWROT NAKŁADÓW POCZYNIONYCH NA RZECZ

Streszczenie. Przedmiotem rozważań zawartych w artykule jest kwestia przedawnienia roszczeń posiadacza o zwrot nakładów poczynionych na rzecz w czasie trwania posiadania. Z uwagi na to, że przepisy *Kodeksu cywilnego* w art. 229 przewidują jeden ogólny termin przedawnienia dla ro-

¹⁵ Cf. judgement of the Court of Appeal in Katowice of 16 December 2014, I ACa 687/14.

szczeń uzupełniających właściciela oraz dla roszczeń posiadacza o zwrot nakładów, rozbieżności zarówno w doktrynie, jak i orzecznictwie wywołuje kwestia powstania i wymagalności poszczególnych roszczeń, o których mowa w tym przepisie. W szczególności dotyczy to roszczeń posiadacza o zwrot nakładów poczynionych na rzecz. Na tle rozważań dotyczących wymagalności i przedawnienia roszczeń uzupełniających podjęto zagadnienia możliwości limitowania roszczenia posiadacza o zwrot nakładów ogólnymi terminami przedawnienia z art. 118 k.c.

Słowa kluczowe: właściciel, własność, posiadanie, posiadacz samoistny, posiadacz zależny, nakłady, przedawnienie, wymagalność roszczenia

Informacje o Autorze: Dr Agnieszka Kawałko – Katedra Podstaw Prawa Cywilnego i Prawa Prywatnego Międzynarodowego, Wydział Prawa, Prawa Kanonicznego i Administracji Katolickiego Uniwersytetu Lubelskiego Jana Pawła II; e-mail: kawalko@poczta.fm; <https://orcid.org/0000-0001-6911-0687>