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RENTAL CONTRACT

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INTRODUCTION

In this master thesis I conducted a study that deals exclusively with the rental contract. The subject of the contract is too broad and their diversity opens countless fields of study. However, this subject is regulated by different branches of private law. Based on the importance of these contracts, we face a great use in everyday life. Therefore, the continuation of this paper will try it clearer and more specific in order to approach the elaboration and understanding of these contracts.

In the first study I will give a general overview of the subject of contracts and the meaning of their contracts. Later, I will focus on the historical development of rental contracts and the main features that characterize their relationship, elaborating the legal main elements provided by the Civil Code and the Law on Obligations that regulate the way of their relationship, such as consent of the contracting pairs, their rights and obligations, the duration of the rent, forms and ways of its termination, depending on the content and type of contract.

A special place will learn the types of contracts for rent. More specifically elaborating the form of contract for the rent of the apartment, habitation form of contract, local business, and agricultural land and financial rent. In this way I have described the way of signing the contract, the terms and general characteristics of this contract, as well as legal effects arising under it. Further, I will treat the form of legal regulation of contracts in Kosovo, Albania and Macedonia

Also, I have chosen to elaborate the object of rental contracts, where there I will generally talk about the notion and main characteristics that follow this type of contract, and the main legal elements that follow this contract until its termination. The financial rental contract notion and its characteristics as will be analyzed types of Leasing, movable and immovable property and financial assets as an object. In this paper will be analyzed the rights and obligations of the contracting pairs which are provided with the linking contract. When are legal effects created and what are its characteristics. In this way are examined the rights of landlords the rights of tenants, landlord obligations and tenant obligations. During this study are examined the characteristics, rights and obligations of the pairs with the contract.

At the end of this paper, I will focus on issues dealing with the termination of rental contracts, which also itself contains special features, but rather I will focus on the termination of rental contracts and termination of the contract in between the pairs. I will also examine ways of termination of the contract: eg Termination of the contract by agreement between the pairs, the termination of the contract to use the timeout, the termination of the contract with the death of the contracting pairs termination of the contract unilaterally or with denunciation, compensation after completion of the rental contract and a solution of conflicts and contentious issues between the pairs. Of course in order the paper to be as scientific as possible, I brought examples of forms of the relevant contract. It should be noted, that in order to be more successful in the preparation of this master thesis, we consulted and analyzed various local and international literature, laws and by different acts which regulate the various legal contractual relationships and interpret the provisions of the Civil Code and the Law on the relationship of obligations related to specific contracts.

Chapter I

Rental Contract and its meaning

The contract is the primary and most important resource of relationships obligations. It is the agreement of two or more persons intended to create, or to extinguish a legal relationship of obligation. Law on Obligations has not defined the term of the contract, but Article 26 states that "the contract is concluded when the contracting pairs have agreed on the essential constituents of the contract". In this context, the contract enters in the group of mutual legal affairs. Through this is created the new obligation, is modified the existing relationship of obligation, respectively obligations are termination. More important are contracts that create obligations.

The contract is a legal instrument which establishes obligations with the consent of the contracting pairs. It regulates relations of participants in the movement of goods and provision of services. In this way through it, it becomes as an internal circulation, as well as the international goods. Therefore the contract is considered as a legal and more dynamic and flexible category. On the other hand, the development of major science, technology and modern technology has conditioned the signing of a large and variety numbers of contracts of obligations. In this aspect it is the means of legal circulation, which expresses the dynamics of the exchange of goods. Whereas, in some rights, by the contract the property is transferred, while in some other rights it is the basis for passing the property.

Scope of the application is extensive. It is implemented in almost all branches of law, except in criminal law. In labor law, the contract finds expression in relationships about working, in the collective labor contract that is created for the specified time about the work or the contract between the employer and employee. In the economic right contracts are mostly applied to circulation of goods and provision of services. While, in public international law, through it are regulated relations between states, and in the financial right the contracts is implemented in the regulation of various financial transactions. But it should be noted that the contract is mostly applied in the law of liabilities.

Regarding the conclusion of the contract, that is done with the voluntary agreement of the contracting pairs regarding its essential elements. Otherwise, the linking of contract is also called the creation, connection, stimulation. But, the subjects participating in the linking of a contract, are called a contracting pairs. And in this way, to create legal effects, the agreement of the pairs must be made if certain conditions are met.

These conditions are divided into two groups: 1). General and 2). Special.

1. In general terms are concluded; a) working ability of the pairs, b) the consent of the will, c) the subject matter of the contract and d) its base.

2. In the group of special conditions are concluded: a) forms of contract, b) linking the contract with delivery of the thing and c) granting of consent for linking the contract.

When we are in the form of contract, it is the external manifestation of the contents of the contract. In this way, for some contracts, apart from the general conditions, it needs the contract to link into certain forms. So, the form for these contracts is a special condition for its linking, and is expressly provided by law.

There are a number of contracts for linking of which forms is provided as an essential condition. Usually here, the written form is required for the linking of these contracts such as contracts on the sale of immovable assets, contracts on use of the apartment, contracts on rent of business premises, contracts on construction contracts on the construction of the intensive object, contracts on license, contracts on security, contracts for bank guarantees, contracts on the authorization, contract for the current bank account.

According to its effect, the form may have double importance, such as it will provide essential condition for linking the contract and will be required for the provision of evidence. Also, contract forms can be: solemn, realistic, probation, written, legal and contractual.

CONCLUSION

During the preparation and realization of this paper, we tried to investigate more and materialize many issues dealing with the conclusion of linking contracts on rent, where we managed to understand each contract separately, depending on the type and its importance, according to the Civil Code, the Law on obligations and other legal acts of legislation, has notions, their characteristics and special legal elements. Rental contract as we know is quite old and applied by people of ancient times, when we consider that such types of contracts were known and regulated by Roman law, where people of the society of that period usually contracted labor animals and slaves, and in the period of feudalism subject of these rental contract were real estate, especially land, but that such contractual agreements were made so simple and not on any specific legal basis. But this contract began to take legal basis only in the time of capitalism, where for its regulation began to apply the full legal procedures.

Today, this right is regulated by the Law on Obligations and other legal acts and regulations issued by states, through which are defined types of contracts, features, their duration, obligations and duties of the contracting pairs etc, which are followed by legal agreements until their extinction. The subject of the rental contracts is wide enough, but some of the most common contracts that are applied are rental contract of the apartment, relationship habitation, business premises and agricultural land. Rental contract of the apartment is a contract which is linked between the landlord and the holder of the right of residence, under the conditions provided by the law. In this case, the landlord as well as the holder of the right of residence must comply with conditions that are determined under the contract and which are valid until its termination. If not respected or broken these obligations, according to the set points with a contract by one pair or the other, then are raised other legal effects under the law that has defined the contract. Also, the contract for habitation relations is a contract that is linked between the head of the relevant right of residence and the residence, where the head of the right of residence is obliged to give a part or the entire apartment to the resident, but the resident for this use pays the particular rent. Even in this case the contracting pairs have certain duties and obligations towards each other under the conditions specified in the contract. The contract on rental of business premises, also is a contract by which one person (the landlord) is obligated to transfer to another person (lessee) the certain business premises in the use and exploitation, to pay the rent, and after the expiry of the specified time to return the business premises. This contract as well as preliminary contracts, has its own characteristics, and also through it are defined obligations and duties of the contracting pairs that must meet to each other. This type of contract is extinguished on the basis of legal requirements as defined in the contract. Whereas the contract for use of agricultural land is a contract, subject of which are immovable items such as agricultural property, agricultural land, pastures, meadows, forests, residential buildings and outbuildings that are in a function of a farming event. Also part of the rental contract for this type of contract should also be the detailed inventory in which are described the limits and characteristics of real estate and the full inventory of movable property related to them.

Regarding the form of the contract of rental of agricultural property is a formal contract that must be concluded by a notaries act and be registered in public registers, when related with nine years on the run, because otherwise the contract will be considered invalid. This type of contract also raises different legal effects, for which the contracting pairs must contain to the rules that are defined by it.