

Seweryn Szer, *Użytkowanie gruntów państwowych* [The Usufruct of State Land], Warszawa 1962, Wydawnictwo Prawnicze, 128 pages.¹

The main part of this monograph is Chapter III, whose title is the same as the title of the book. The author first classifies the usufruct of State land according to the usufructuary (State organizations, social organizations, co-operative organizations, other legal personages and physical personages) and according to whether the land is being used for building purposes or for farm production by individual peasants. He then concentrates on two questions—the character of the usufruct of State land as an institution, and the basic characteristics of the usufruct.

The author is definitely in favour regarding the institution of usufruct as coming under civil law. Where the usufructuary is a State organization, however, a peculiar legal situation arises because of the principle of the unity of State socialist property, and because of the principle that State legal persons, with regard to parts of the national property managed by them, must treat that property as State property. Consequently, the author, contrary to the views of some other Polish writers on this subject, takes it that the State organizations have rights in civil law that in the economic sense are nearest to usufruct (to this the author also attributes the choice of terms used in the legislation on usufruct), although he does not think these rights amount to usufruct in civil law. In the light of the interpretation so far put upon the rights of the State organizations, the author's standpoint is correct, and it must be agreed with the author that it is not correct to qualify the legal position we are describing as usufruct in the eyes of the law.

The book contains a valuable discussion of the basic features of usufruct of State land. The author's comments are particularly interesting on the subject of the duration of the usufruct, the preservation of substance and the maintenance of the purpose for which the land was previously used, prohibition of transfer of the

¹ This was undertaken as part of the research plan of the Law Institute of the Polish Academy of Sciences.

usufruct, capital invested in the land (the author postulates an extension of the duties of the usufructuary in the case of usufruct of State land, as well as particular measures with regard to the usufructuary's claims concerning non-obligatory outlays), buildings already standing on the land or erected by the usufructuary, expiration of the usufruct (the author thinks the usufruct should be extinguished in cases where the usufructuary has blatantly neglected his duty), and protection of the usufruct. On the one hand, the book puts forward cogent reasons for the introduction of separate regulations regarding the usufruct of State land within the civil code on usufruct. On the other hand, it enumerates reasons for applying to the usufruct of State lands those general regulations that are appropriate to every usufruct. It is not surprising, then, that the Polish civil code has adopted many of the author's postulates in its regulations concerning usufruct (arts. 252-284).

The final part of this chapter contains remarks on the legal forms governing the use of State land for individual building purposes. In Poland after the Second World War there were various legal solutions to this problem before the principle of usufruct in perpetuity was finally adopted, leading to much discussion. Comparing usufruct in perpetuity with the right to build, with temporary possession and with leasehold in perpetuity, the author comes down definitely on the side of usufruct in perpetuity. This as a matter of fact is the form that was finally accepted by the new Polish civil code. The author has concentrated on expounding his reasons for supporting this as the one and only form. Hence he pays particular attention to the law of 14th July, 1961 on the use of land in towns and built-up areas. It was this law that for the first time since the war introduced the institution of usufruct in perpetuity. Owing to its brevity and fragmentary treatment of the subject, it gave rise to much criticism and diversity of interpretation. The author's analysis and his postulates *de lege ferenda* have no doubt influenced the present treatment of this institution in the Polish civil code (arts. 232—243).

The final chapter of the book discusses the legal position regarding the usufruct of State land in Czechoslovakia, Bulgaria, Hungary, and Yugoslavia.

In addition to the valuable contribution it has made to legal literature in Poland, professor Szer's book has also been of particular value in influencing the present civil code of Poland.

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