

Zbigniew Resich, *Dopuszczalność drogi sądowej w sprawach cywilnych* [The Admissibility of Litigation in Civil Cases], Warszawa 1962, Wydawnictwo Prawnicze, 147 pages.

This book is about the admissibility of litigation in the strict sense of the term, that is, the admissibility of litigation with reference to the subject of dispute, and leaves aside the question of the admissibility of litigation with reference to the litigants as a separate branch of jurisdiction. The question of the admissibility of litigation in the strict sense is a very important problem in Polish law at present, particularly in view of the relationship between civil law and administrative law, as can be seen from the large number of court judgements concerning questions involving the concept of civil law and the boundaries of the admissibility of litigation in civil cases.

The author covers more or less the whole of this field, although it is such a wide one that certain problems are given more space than others. He first of all discusses the relationship of the common courts to other courts and bodies set up to adjudicate in civil cases. He then goes on to a penetrating analysis of the civil cases as a concept. Z. Resich weighs up the different meanings given to this term in the literature, examines the criteria used in deciding the character of a civil suit, and discusses the distinction between civil law and administrative law. He then proceeds to give a fairly succinct account of the inadmissibility of litigation based on particular laws. On the other hand, he analyzes at length the civil suit through the prism (as he says) of the criteria applying to the procedure for civil cases, especially from the point of view of various kinds of appeals for legal protection (different types of claim), the type of litigant and the type of subject being disputed, the cumulation of claims and the multiplicity of grounds for litigation, change of claim and changes in the defence

during the action. The author then discusses the character of the admissibility of litigation as an absolute condition of the action, as well as questions connected with the respecting of this principle during the court proceedings. A separate chapter is devoted to the question of the admissibility of litigation in various types of action, such as non-contended suits, criminal cases, executive proceedings, whereas the previous parts of the book dealt only with contended actions as the main type of procedure in civil cases. This part of the book closes with a chapter on disputes about competence, which the author discusses only in general terms. The author quotes court decisions to illustrate his points. The book is right up to date and deals with current problems.

In the general part of the book the author usually places his conclusions in the final paragraphs, which is very convenient for the reader. In the detailed part, however, the author has unfortunately confined himself to showing certain problems in the light of judgements issued by the Supreme Court, without adding any commentary of his own on these judgements.

Both the general conclusions reached by the author, as well as his views on more detailed problems, are on the whole correct. In particular, one must agree with the author's definition of the civil case as a case concerned with the protection of civil rights or civil claims *sensu largo* (that is, in the field of civil law, family law, and the labour laws), or, in other words, claims that may be pursued on the basis of the civil code. A few of the detailed conclusions may give rise to criticism—for instance, the author's views on the limits of admissibility of litigation in a case. The same is true of some of the author's views *de lege ferenda*, which were not adopted in the latest drafts of the new civil code.

On the other hand, it should be pointed out that some of the author's views (which in the light of the present code are disputable) have been adopted in the new code—for example, the acceptance of inadmissibility of litigation that has arisen during the course of the case, as a reason for stopping the case.

The arguments in the book are always clearly expressed and always supported by weighty reasons. Z. Resich's book is undoubtedly a useful book which will not lose its value when the new civil code comes into force.

*Władysław Siedlecki*