

Actio Pauliana in Polish civil and bankruptcy law

In my dissertation I take up the subject of the Actio Pauliana– a civil law institution that allows for challenging legal acts performed by the debtor to the detriment of creditors. The person entitled to file a Actio Pauliana is the individual creditor (if no bankruptcy petition has been filed against the debtor) and the insolvency administrator under Articles 131 and 132 of the Bankruptcy Law, if bankruptcy has been declared against the debtor. The basic purpose of the Actio Pauliana is to enable the creditor or creditors (in case of bankruptcy proceedings) to obtain satisfaction from the asset that was the subject of the debtor's legal act performed to the detriment of creditors. In the dissertation I analyze the methods of enabling the creditor to obtain satisfaction from the subject of the fraudulent act, in particular the issue of the need to reach for the assets of a third party who, as a result of the fraudulent act, became the owner of this asset. The work also contains a comprehensive evaluation of the conditions necessary to file an Actio Pauliana as well as the method of pursuing the indicated claim in court and how the obtain judgment might be enforced. The work also contains comparative considerations referring to the legal systems of the United States, England and Germany. The main element of the work is a new concept concerning the effects of a Pauliana judgment, the method of formulating a claim and satisfying the creditor. The dissertation also addresses the issue of the relationship between the provisions of bankruptcy law (Article 131 et seq.) and the provisions of civil law concerning the Actio Pauliana.