

and «shame-free,» the subject of gossip rather than a social disgrace [4]. In the present if the person wants to divorce, he or she must apply to the court with the official request to break the marriage.

To draw the conclusion, one can say that Roman matrimony law was not ideal but was a good base on which legal family systems of various countries were formed. On the one hand, it was very strict and hard system, but on the other hand, it played a very vital role in the formation of the right relationships between men and women. Today we have a great opportunity to make our family law more improvable and correct.

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Grigorenko Victor,

*Student of the 1st course of the Faculty of Interational Legal Relations
of the National University «Odessa Law Academy»*

Research advisor: PhD, associate professor Nekit K.G.

ROMAN INHERITANCE LAW AS THE BASIS FOR THE FORMATION OF THE SUCCESSION LAW IN UKRAINE

In the writings of Roman lawyers, inheritance law was considered as a way to get the property «*mortis causa*», that is, in the event of the death of the previous owner. Roman private law has developed the most important concepts of inheritance law, perceived by modern legal systems. These concepts and provisions include: inheritance– property, which is transferred to other person in connection with the death of the owner; testator; heirs; universal succession in accordance with which all property rights and obligations, including debts of the testator, are transferred to the heir; singular succession – succession in a separate law; the grounds for inheritance and the procedure for acquiring inheritance; relations of heirs between themselves and with the creditors of the testator.

In Roman law, inheritance was both universal and singular succession. Inheritance was possible for two reasons: by law and by will. A characteristic feature of the Roman inheritance law was the inadmissibility of a combination of the two mentioned grounds (testament and law) when inheriting after the same person, that is, it was unacceptable that one part of the inheritance passed to the heir by will, and the other to the law. Thus, if at least one heir was appointed in the will, even if in a negligible proportion, the inheritance was opened according to the will, and the heirs were not called upon by law. This order expresses a rule formed on the basis of classical texts: «*Nemo pro parte testatus pro patre intestatus decedere potest*» – «No one can die partially with a will, partially without it». [1, pp. 94]

A will (testamentum) in Roman law was not considered any order of a person in the event of death, but only that contains the appointment of the heir (hereditas institutio). By classical law, it was required that such an appointment be made at the beginning of the will. If, at the disposal of the death, there are even exhaustive instructions to whom and in which shares the property should be transferred after the death of the person, but no one is indicated in this possession by the successor, the will was considered invalid. Originally required the appointment of successors in a solemn atmosphere, and from 339 years – in any form. [2, pp. 203-204]

The testament was given legal force by its form, which was an expression of the will of the testator. Private wills were drawn up in the presence of seven witnesses. Public testaments had several forms: before the court, the magistrate or the emperor. In the absence of a will, the property of the deceased passed to the heirs by law. Inheritance by law is basic rules that establish the circle of legal heirs and the size of the hereditary share of each of them.

Novels of Justinian set up 5 turns of legitimate heirs: the 1st turn – is all descending relatives of the deceased, so that each generation after the first, that is, grandchildren, great-grandchildren, inherit by the right of representation; the 2nd turn – is all ascending relatives, as well as brothers and sisters, so that close relatives eliminate the more distant from inheritance; the 3rd turn – is half brothers and sisters of the deceased, as well as their offspring, inheriting by the right of representation; the 4th turn – is all other blood relatives without limitation; the 5th turn – is surviving spouse. [3, pp. 436-437]

The current legislation of Ukraine also provides for 5 turns of heirs by law, but there are still differences from Roman law. The 1st turn of the heirs by law is the children of the testator, including those conceived during the life of the testator and born after his death, that of the spouses who survived him and the parents; the 2nd turn – is the brothers and sisters of the testator, his grandmother and grandfather from both the father and the mother; the 3rd turn – is uncle and aunt of the testator; the 4th

turn – is the persons who lived with the testator in the same family for at least five years before the time of opening the inheritance; the 5th turn – is the other relatives of the testator to the sixth degree of kinship inclusive.[4]

Roman law distinguished two stages of inheritance: the opening of the inheritance and the entry into the inheritance. The inheritance is opened at the time of the death of the testator. Opening of the inheritance is a condition for succession in property rights and obligations of the testator, both legal heirs and those specified in the will. But these persons could not become owners of things at the time of opening the inheritance. The transfer of rights occurs only at the time of entry into the inheritance, when the heir expresses the will to accept the inheritance. The moment of the opening of the inheritance and the moment of entry into it coincided for *sui heredes* («their heirs»), as well as for the heirs of the first stage who live together with the testator until his death. All of them were obliged by law to accept the inheritance, since the transfer of property to these persons meant leaving it in the family of the testator. Therefore, they were called mandatory heirs.

The inheritance was accepted by the voluntary heirs in one of two ways: by a solemn declaration in the presence of witnesses or by cautious actions, definitely indicating a corresponding decision. Under the praetor law, the acceptance of the inheritance was formalized by the introduction into possession, and according to Justinian's Codification, it was sufficient to submit the corresponding written application to the magistrate.

There was no time limit for accepting the inheritance, but it could have been established by the court at the request of the testator's creditors. Praetorian law determined this period of 100 days for the descending and ascending, and in one year for other heirs. With the acceptance of the inheritance, not only all the property rights of the testator were transferred to the heir, but also property obligations, except for those inseparably connected with the person.

According to Ukrainian law «A testament – is a personal order of a person (testator) regarding property that belongs to her, property rights and obligations in case of her death.» Thus, the essence of a testamentary disposition, as in Roman law, is property. At the same time, Ukrainian legislation allows, in contrast to Roman law, the presence in the will of a non-property order, for example, the disposal of personal papers, paintings, fiction, as well as determining the place and form of the funeral ritual.

Ukrainian legislation, like Roman law, recognizes two grounds for inheritance: the will and the law. Ukrainian law established the same procedure for the emergence of the right to inheritance as the Roman law followed, namely: it distinguished between the notion of opening an inheritance and entering into an inheritance, giving

them the same content in both systems of law. In Roman and Ukrainian law, inheritance under the law was built on the basis of consanguinity, with no limitation on the degrees of kinship. Relatives with the right of inheritance were called for inheritance consistently, by blood order, and not together.

As in Roman law, in Ukrainian legislation, the immediate relatives of the testator, belonging to the first stage, have the right to an obligatory share. But in the Ukrainian legislation there is one more condition – minors, adult disabled children of the testator, incapable widow (widower) and his disabled parents.

In conclusion, despite some differences, all the main provisions of the succession law of Ukraine are based on Roman law. This applies to the opening of the will, acceptance of inheritance, inheritance by law and testament, mandatory share.

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Kovalchuk Katerina,

*Student of the 1st course of the Faculty of Interational Legal Relations
of the National University «Odessa Law Academy»
Research advisor: PhD, associate professor Nekit K.G.*

INHERITANCE IN ROMAN PRIVATE LAW AND MODERN CIVIL LAW OF UKRAINE

Learning foreign and own legislation is impossible without knowledge of Roman civil law, its reception and adoption. Inheritance law has evolved over many centuries, shaping certain laws and principles, which influenced the formation of the modern legal system. It is an integral attribute of class society where there is private ownership.

Relevance of the research of the study of the category of «inheritance» is due, first of all, to the exact definition of the circle of subjects of the inheritance relationship. In addition, the legal status of heirs within this relationship is