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Transfer of Mining Company Shares in Medieval Serbia

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Abstract. The beginning of mining in medieval Serbia is related to the settlement of the Saxons that is commonly thought to have taken place in the mid-13th century. Saxons brought with them not only the technique and knowledge for silver and gold mining and extraction but also customary rules that regulated numerous issues concerning mining. The first written mining law codification appeared in Serbia around 1400. This codification is known as the Mining Code of Despot Stefan, and it was enacted for Novo Brdo (*Ново Брдо*), the most important mining site in the state at the time. Although the influence of Saxon customs is evident, Serbian law showed significant unique development, resulting from the intensity of metal production and isolation from other European Saxon mining centres. One of the most important subjects regulated in the Code was the transfer of shares in mining companies. Although this was not the first issue regulated by the Code, according to the transcription from 1638, one seventh of its articles were dedicated to the change of shareholders. These articles prescribed various rules on registration of ownership, bearing of costs, representation, unilateral rescission of sale, and expulsion from the company. The aim of this study is to answer the question as to what extent these rules were the result of transplantation of Saxon customs, and which part of the rules represents a possibly unique Serbian legal contribution.

Keywords: mining law, Saxon medieval law, Serbian medieval law, medieval shareholders

1. Introduction

Chroniclers and writers from the second half of the 14th century and the first half of the 15th century gave numerous – and probably well exaggerated – testimonies about the huge gold and silver production in late medieval Serbia. Exploitation of precious metals was the basis of wealth and political power of Serbian medieval rulers and, therefore, probably the most important economic activity at the time.

The beginning of mining in medieval Serbia is related to the Saxon[1] settlement, which is commonly dated to the mid-13th century. Saxons brought with them not only the technique and knowledge of silver and gold mining and extraction but also customary rules that regulated numerous issues concerning mining. The first written codification of mining law in Serbia, known as the Miners' Law (*Закон о рудницима*), or the Mining Code of Despot Stefan, appeared around 1400. It was constituted by a charter issued for Novo Brdo (*Ново Брдо*), the most important mining site in the state at the time. The codification continued to be accepted during Ottoman rule after the fall of the Serbian medieval state. The Code is preserved in two Serbian manuscripts, a Serbian Cyrillic transcript from the 16th century[2] and a Serbian language transcript in the Latin script from 1638.[3] Although younger, the text written in the Latin script is considered to be more complete and similar to the original. The Cyrillic version contains *in continuo* another legal source, predominantly regarding the institution of vojvoda of Novo Brdo,[4] which was not directly related to the mining law. In the same year when Novo Brdo was conquered (1455), the Code was translated into Turkish, and other versions of Serbian mining rules subsequently also appeared in the Ottoman Empire. These were a later Turkish version from the late 15th century of the aforementioned Code and the laws of Suleiman the Magnificent.[5]

As the latest studies indicate, Serbian medieval mining law had considerable similarities to the Charter of Béla IV for Schemnitz (Banská Štiavnica – formerly in the Kingdom of Hungary, currently in Slovakia), the laws of Iglau (Jihlava) and Kuttenberg (Kutná Hora – both cities in what was once Bohemia, now in the Czech Republic), and the Saxon law of Freiberg. The resemblance is evident not only in the terminology (*lemšat* | *Lehenschaft*, *gvarak* | *Gewerke*, *urbar* | *Urbar*, *hutman* | *Hutmann*, etc.) but also in some of the legal institutions and rules. For example, there was the institution of the mine supervisor (*hutman*) in Serbian law,[6] as well as the contract of *Lehenschaft*[7] and loss of mining concessions through non-use.[8] On the other hand, there was considerable unique development, which resulted in different legal norms. Serbian landlords had no right to a share of ore excavated on their land.[9] Bohemian *urbarars* were contractors of crown income and tax collectors, unlike the Serbian ones, who

1 Динић 1955. 1–27.
2 Published by Nikola Radojčić; see Радојчић 1962.
3 Published by Sima Ćirković; see ЋиркоВић 2005.
4 КатанчеВић 2016. 230–233.
5 Published by Nicoară Beldiceanu; see Beldiceanu 1964. 243–254, 257–268, 316–323, 354–363. Some of these were translated into Serbian by Fehim Spaho and others by Skender Rizaj. Spaho 1913; Rizaj 1968. 199–256.
6 КатанчеВић 2022.
7 КатанчеВић 2020a. 265–276.
8 КатанчеВић. 2020c. 1066–1067.
9 КатанчеВић 2020c. 1074–1075.

were only mining officials.[10] The Serbian contract of *Lehenschaft* was regulated by imperative rules, with no parallels in comparative law.[11] Therefore, on the one hand, the influence of Saxon customs on Serbian law is evident, and, on the other, Serbian law shows significant uniqueness, which was the result of the intensity of metal production and, probably, isolation from other European Saxon mining centres since there have been no proven Saxon settlements after the one previously mentioned.

During both Serbian and Ottoman rule, mines were organized as companies of shareholders. Some of the shareholders were financiers while others were mining experts. The shares were calculated in fractions. The smallest recorded fraction in determining the shares was one sixty-eights of a share, one sixty-fourths shares were more common in practice, but in that particular case, there were four extra shares reserved for blacksmiths and managers.[12] One of the most important subjects of the Mining Code of Despot Stefan was the transfer of shares of mining companies. Although that was not the first issue regulated by the Code, according to the transcript from 1638, one seventh of its articles were dedicated to the change of shareholders. These articles prescribed various rules on registration of ownership, bearing of costs, representation, unilateral rescission of sales contract, and expulsion from the company.

It is interesting to note that there were no clear influences of the Roman contract of partnership (*societas*) in the historic regulation of Serbian mining companies under examination. Roman law was introduced to medieval Serbia through the Byzantine compilation of Procheiron (*Πρόχειρος νόμος*), which was translated into Serbian as part of the Nomokanon (*Номоканон*) in the early 13th century and is known as *Zakon gradski*. However, mining companies were designated and regulated differently from partnerships (*ωбьщина*[13] in Procheiron; *druxina*[14], *дроужина*[15] in the Code). For example, a partnership was deemed as rescinded by the death of a partner,[16] while a mining company continued to exist in that situation.[17] There is no evidence of any influence of customs and laws of the neighbouring coastal Adriatic city-state of Dubrovnik. For instance, while a partnership could be concluded *solo consensus* in Dubrovnik,[18] it was necessary for a public official to authenticate a mining company contract in Serbia.

10 КатанчеВић 2020a; КатанчеВић 2020b. 260–261.
11 КатанчеВић 2021. 122–123.
12 ЋиркоВић 2002. 80–83.
13 Дучић 1877. 75, 78.
14 ЋиркоВић 2005. 26.
15 Радојчић 1962. 44.
16 Дучић 1877. 75.
17 See below.
18 Cvejić 1957. 339, 342.

2. Cession without Compensation

The first issue that attracted the attention of the legislator was the transfer of shares among shareholders without remuneration. Although cession might appear as gratuitous in this case, it was not. The company share was always accompanied by the mining cost. Expenses arising from mining activities were significant and could be borne for many years, perhaps even more than a decade before ore was struck, which remained a possible but by no means certain outcome.[19] Therefore, if there was no ore, the transfer of the share could in fact constitute an expromission of the debts. The provision referring to this situation is preserved as the 11th item in the manuscript written in the Latin script. In the Cyrillic version, only the end of the norm was preserved as the final part of Article 16.

11. Ako li pusti gvark gvarku dělove u zapis s' bez niedne plate, liho za paunan'e i ßto mu da Bog, za toy trebě kniga megju nimi i svědoçba da sě zapiße vrbarara i beläg car'nsky da se edin drugomu ne potvori.[20]	*16. [...] да запишє оу оур҃барарскы тєтрагь· и бєлєгь цариници, да сє єд҃нь дроугомоу нє потвори:~*[21]

It prescribes that if a shareholder gives his share to another without compensation, there must be a written document of this drafted between them, a written record made by the *urbarar*, and a stamp of the tax collector.[22] At the end of the paragraph, there is a short explanation that emphasizes legal security as the reason in this case: 'so it could not be disputed'. The non-gratuitous character of the conveyance is underlined in the formula, according to which one gives to another 'to excavate whatever God grants him', alluding that there might be no resulting consideration for the transferee, while excavation costs remained certain.

Some similarities can be found in comparative law. In the charter of King Béla IV of Hungary to Schemnitz (*Banská Štiavnica, Selmecbánya*), issued between 1235 and 1270, there was a general provision (I, 11) on the necessity for property to be sold before a councillor and a judge and for the sale to be confirmed with the town seal. This rule was also accompanied by an explanation 'so that consequently no obstacle may arise'.[23]

The charter of Wenceslaus I of Bohemia to Iglau (*Jihlava*) from the mid-13th century contains an even more general rule (A/B, I, 1), which prescribed that: 'Everything urbarars and councillors of Iglau allow or give under their seals has

19 In Novo Brdo, it was necessary to dig for 10 to 15 years before discovering ore. ЋиркоВић 2002. 79.
20 ЋиркоВић 2005. 22.
21 Радојчић 1962. 41.
22 КатанчеВић 2020b. 266–267.
23 Kachelmann 1853. 181.

legal power and is not disputable.'[24] It was formulated so that it does not refer only to the transfer of property.

The charter of Wenceslaus II (the grandson of Wenceslaus I) to Kuttenberg (*Kutná Hora*) from 1301, also known as *Ius regale montanorum*, prohibited a buyer or donee (III, 6, II, 9) from requesting the right over shares if the contract of sale or gift was not sealed by the seller or the donor before a *magister montis*.[25] The same source required an 'investiture' in the case of share alienation (I, 7, VII, 21).[26]

There is significant resemblance between these laws in at least two aspects. Firstly, the transfer of shares required an active role of officials, which ensured legal security. Secondly, it had to be done in writing and confirmed by a stamp, i.e. authenticated.

Serbian uniqueness is probably constituted by the stylization of the rule. It seems that there was a commonly accepted obligation to transfer shares by a written contract recorded by the *urbarar* and confirmed by the tax collector's stamp. Therefore, the main rule did not have to be prescribed by the Code since it has not been disputed. Only transactions without consideration between shareholders were controversial. The Code excludes exceptions in this case.

Still, there are different opinions. Marković believes, without providing any ground for this, that transfer of title in the shares during sale took place *solo consensu* by the simple agreement on the object and price.[27] As it is shown, this contradicts not only the systemic interpretation of the Code but comparative legal tradition as well.

3. Expulsion from the Company

There is an interesting provision in the manuscripts on the expulsion of a shareholder from the mining company.[28] The text says:

21. Gvarci koi bi ednu rupu prihvatili da ju paunaju i megju sobom dělove razdelě, tko ßto prihvati dobrovolno i plati na svoe i. perperu, da ga nesu volna druxina poslě nekoe radi pizme izgnati, kromě ako ne bi hteo plakjati.[29]	*26. […] Ако би гварци єдноу роупоу прихватили да ю паоунаю мєгю собомь и дѣловє раздѣлили • кои що прихвати доброволно и плати на своє, а̃ • пєрпєр да га нєсоу волна дроужина допослѣ ради нєкоє пиз^{s}мє из^{s}гнати • кромє ако нє би хтєа жамкоща плакяти:~*[30]

24 Zycha 1900. 2, 3, 8.
25 Zycha 1900. 198–199.
26 Zycha 1900. 84, 85, 87.
27 МаркоВић 1985. 47.
28 On the further development of the provision under Ottoman rule, see ЋиркоВић 2005. 61.
29 ЋиркоВић 2005. 23.
30 Радојчић 1962. 44.

This regulated the situation when shareholders started to excavate and determined shares and paid preliminary expenses. A shareholder that accepted the arrangement and began paying his part of the expenses could not be expelled because of any kind of animosity towards him. The only reason for expulsion was a breach of the duty to bear the expenses of the mine. It is also interesting that this implicitly signifies that other shareholders could take over the share of one of them for not paying the required amount. Although it was not explicitly indicated, according to systemic interpretation in the context of the previously analysed article, there is no doubt that there had to be some kind of a written instrument authenticated by the public authorities in this case as well. Moreover, the next rule, in Article 22, which is quoted below, mentions 'loss of shares before the court or before the urbarar […] by his free will'. Since it relates to the previous article, this may refer to the case of a shareholder failing to bear the requested expenses. He could exit the company voluntarily 'before an urbarar' or he could be forced to do it 'before the court'.

No resemblance to this norm can be found in comparative law.

4. Renouncement in Anger

The following part of the Code regulated the opposite case – the situation when one of the shareholders was furious because of some irregularities related to expenses of the company[31] and angrily renounced his part in the company. The Code regulated the situation in following manner:

22. … Ako li bi u srdcu uçinia, viděvßi nekoi bezakony xamkoßt, te mu e rekal: eto ti dělovi nekju ti hi, ako bi mu onaj i nekoi poklon uçinia, toj da ne nißto vrědno, ere za srdce gvark baßtinu ne moxe izgubiti, nego ako bi poß prěd sudom ili prěd urbararom, ter da se otliçi dobrovolno ili komu da pokloni, a da plati xamkoßt do onde, da zapiße urbarar, to e tv'rdo da veke ne voln iskati.[32]	*27. [...] аколи би оу срдцоу оучинїа видєвшии нєкои бєзаконни жамкощь• тєрс би рєкь єто ти дѣлови нє трѣбоютс ми• и ако би моу ѡнаи нєкои поклонь оучинїа• и тои нє нищта врѣдно• єрє оу срдцоу гваркь бащиноу нє мѡже изгоубити• нєхо ако би пошь прѣд соудѡм и прѣд оурбарарамь• тєрѣ да сє ѡдличи доброволно, или комь да поклони, а да плати въсь жамкощь дондє• и да запишє оу врбарара• то є врѣдно да нє волнь вєкиє искати:~* [33]

In particular cases, one of the shareholders, angry and dissatisfied by some issue concerning costs, might have exclaimed: 'I do not want the shares! Take

31 On the subsequent slight modification of the provision under Ottoman rule, see ЋиркоВић 2005. 61.

32 ЋиркоВић 2005. 24.

33 Радојчић 1962. 44.

them!' However, since done in anger, the gift was considered invalid. The Code prescribed that 'a shareholder cannot lose his share in anger'. The renouncement and donation of the share could only be done publicly before the court or before the *urbarar*, and the donor or the one who renounced was obligated to pay his part of expenses of the mine until the time of the transfer of title in the share.

Once again, there are no similarities to this provision in comparative law. Both of the provisions seem to be too particular to be explicitly provided for by other legislators and could be subsumed to the general rule on the transfer of goods or shares. However, around the year 1400 in Novo Brdo, these norms, for whatever reason, seemed necessary.

5. Unilateral Rescission of Sale

There are some rules in Despot Stefan's Code on rescission of the contract on sale of the share. Rescission could be unilateral, depending on the portion of the price paid and whether the ore was struck after the sale. The Code prescribed the following:

31. Ako proda gvark gvarku dělově, ili drugomu komu çl(ově)ku, i uzmě knigu ot sudie koi e u mestu, i u tetrag urbararov zapiße i svědoxba se postavi, i dinare plati svě na cělo, toj se vekje ne moxe raskinut. Ako bi naß zlato i srěbro na na n'iey ili paky nißta. Ako li bi izginula kniga vlastniçskaa, da se na nie svědoçba koa zna, da e věrovana. Ako li bi onay kup'c platia věkju polovinu aspri, a za drugo uçinio rok, i ne platio do roka, a ruda se naßla, da mu doplati, da mu e baßtina slobodna.	*37. Аколи продадє дроугому гваркоу дѣловѣ и оузꙑмє книгоу ѡт свдїє мѣста• и оу тєтрагь оурбарарꙑскы запишє• и динарє си плати то є тврьдо• аколи би книга соудїина изгынѹла• а свєдожба коа зна да є вєрована• аколи би ѡонаи коупꙑць векю половиноу платїиа• а за дроуго оучинїа рок• и нє плати на рѡкь• а рѧда сє є нашла• волꙑнь сє є потворить ѡньи коупꙑць на ѡвьи начинь• далꙑ ти сьмь братє мьню половиноу аспри• да ти соу аспри и бащина начьст томоу є такои закон:•*
Ako li bi m'nju polovinu platia, a ruda se nagie, voln se e potvoriti tko e proda, er pak ako se bi nißta ne naßlo, voln se e i ovi kup'c potvorit, a na ovi naçin: da ti sam m'nju polovinu aspri, da ti su na ç'st i baßtina da ti ě na ç'st, tomu ne takoj zakon.[34]	*36. Ако прода гварꙑкь гварькоу дѣловє• или дроугомоу чловѣкоу• ако моу плати дѣлови соутꙑ нєговы• аколи нехо половиноу плати, а рѧда сє нагє. Волꙑнь сє є потворити тко є прода аколи сє рѧда нє нагє• волꙑнь сє є коуньць потворити, тои мѧ є ѧ законѧ:•*[35]

The provisions are presented in a logical order in the Latin manuscript. Nevertheless, they are aligned in a different manner in the Cyrillic one. These provisions regulate several possible situations.

In the first case, the shares were bought, the price was paid, and the contract was solemnized. This sale could not be rescinded regardless of the subsequent

34 ЋиркоВић 2005. 25.

35 Радојчић 1962. 46.

discovery of ore. If the written instrument was destroyed, the contract could be proven through witness testimony.

In the second case, if more than half of the price was paid and there was a delay in payment of the rest and ore was struck, the buyer could pay the rest of the sum and gain an undisputed right to the share. Begović believes that this was applicable even if ore had been discovered before, but some new deposits were found. However, he offered no arguments for such a creative interpretation.[36] Marković wrote about the possibility of unilateral rescission by the buyer in this case.[37] It seems that she expanded the rule from the following article to a different case (or the previous one in the Cyrillic manuscript), where more than half of the price was paid. Ćirković reads the text in the manner that the buyer is not late with the rest of the price.[38] It is worth mentioning that both manuscripts, although not identical, contain the same negative condition: 'has not paid in the due time' *ne platio do roka* | *нє плати на рокь*.

Third, if less than half of the price was paid and ore was discovered subsequently, the seller could change his mind. He could give back part of the price he received and keep the shares. Marković reads this and the following provision to conclude that the rule was applicable to the payment of exactly half of the price.[39] However, the case when 50% of the price was paid was not mentioned in the Code.

The last provision is stylized as the *in continuo* explanation of the previous one. It proclaims the right of the buyer to rescind the sale if he paid only part of the price and ore had not been struck. He could give the share back to the seller but he did not have the right to demand reimbursement of the part of the price he had already paid. Implicitly, it seems that he had this right regardless of the percentage of the price he paid.

There are some similar provisions, but not the same, in the law of Kuttenberg (*Kutná Hora*). The general rule (III 6, I, 4) was that the sales contract was perfected after the price was paid. All the gains or damages to the subject that appeared afterwards affected the buyer alone.[40] Secondly (III 6, I, 5), if the sale had not been perfected, and the price had not been paid, both the seller and the buyer could forfeit. The forfeit could be penalized through the down payment rule.[41]

However, there was a specific rule for shares in new findings. If the shares were sold but were not fully paid, the buyer could forfeit and leave the paid sum with

36 БегоВић 1971. 56.
37 МаркоВић 1985. 47.
38 ЋиркоВић 2005. 65.
39 МаркоВић 1985. 47.
40 Zycha 1900. 194, 197.
41 Zycha 1900. 194, 197.

the seller (III, 6, I, 6).[42] On the other hand, if he did not pay the full price at the due time, he would lose everything (III, 6, I, 7).[43] In both cases, the parties were free to stipulate otherwise.[44]

There are some resemblances between the two laws. Both of them have the rule on the pendent sale before, and the perfected sale after the price is paid. In Novo Brdo, as well as in Kuttenberg, the buyer could withdraw from the sale of shares by leaving the paid sum to the seller. It is possible that the two rules have common origins in Saxon mining customs.

However, there is some specificity in the Code. Unilateral rescission of the contract is related to the discovery of ore. If the price was not paid but ore was struck, the right to renounce depended on the percentage of the price paid. If it was more than half, the buyer had the right; otherwise, it belonged to the seller.

Ćirković noticed the similarity of this rule to a provision from the short Serbian-Byzantine medieval legal compilation, known as Justinian's Law (*Zakon cara Justinijana*).[45] It contained a norm that the seller could rescind the sale if only half of the price was paid.[46] It is a possible origin of this rule from the Code. However, one should note there are a few differences. Justinian's Law spoke about 'half' and the Code about 'less than a half'. Secondly, the Code expressly prescribed discovery of ore as a condition for the seller's right to rescind the sale, although he tacitly may have had that right, regardless. Thirdly, according to the Code, the buyer could withdraw from the sale if no ore was struck, but he could not request reimbursement of what he had paid. On the other hand, Justinian's Law did not consider the right of the buyer to forfeit.

Although there is a certain influence of Saxon customs and Byzantine law in this matter, one has to say that the rule was at least partly unique. Its appearance is easily explained by high expenses and the uncertainty of the undertaking. As it was stated above, the transfer of shares could remain only an expromission of the debts if no ore was truck.

42 Zycha 1900. 194, 196, 197.
43 Zycha 1900. 194, 196, 197.
44 Zycha 1900. 196, 197, 199.
45 ЋиркоВић 2005. 65.
46 МаркоВић 2007. 55, 67, 78, 116.

6. Acquisition from a Non-Owner

There is an interesting rule on acquisition of shares from a *mala fide* (bad faith) seller:

32. Ako bi tko çie dělově proda nekoiom krivinom, ili odumr'tni ostali, ili çineki se epitropu, ili po nekoe nevole, pusti ostali, ili po někoem utvoru, tere ih bude proda po nepravdě, drugy si bude kupio po pravdě s knigom vlasniçskom i zapisom urbararskem, a poslě izlězu ili děca ili s'rodnici onogay çii su byli dělovy, da im ogovori onaj koi hi je krivinom proda, a tko ih ě po pravde kupio da ih ima kako svoju baßtinu. Ere ako ne bi nißto naßa na nih, ne bi nitko javio za nih i on bi izgubia i cěnu i ßto e da za nih i paunan'e ere ni car zemlje ne da stoati rupe da se ne rabota, kromě ßto e zakon.[47]	*38. Аколи тко дѣловъ прода нєкѡм кривином^{s} или ѡтоумрьтни ѡстаноу• или чинє [нє]кии притопь, сирѣч вєкил или по нєкоє нєволє поусти ѡстали• или по нєкоєм^{s} оутвороу• тєр^{s} хи боудє прода по нєправдє• у дроугы ихь боудѣ коупїа по правдѣ с книгомь соудїиномь• а потолѣ излєзв дѣтца• или сородници чїино соуть дѣловы• да моу ѡтговоти ѡньи кои є продал кривином^{s}• а тко є по правдѣ коупїа да хи има како свѣ свою бащиноу єрє ако ѡт них^{s} нє би было• нє би сє ѡт них никто явїа• и ѡнаи би изгоубїа цѣнв що є да за них• єрє и царъ нє оузымлє да сє нє работа• кромє що є законом.*[48]

This provision regulated a specific case of the sale of shares. All the formalities were respected, and there was an authenticated written contract recorded in the public register. However, the seller was not the true owner of the shares. Moreover, he was not *bona fide* but aware of the fact that the object of the sale belonged to another. On the other hand, the buyer acted in good faith, believing that he became the owner of the shares. However, heirs of the previous owner turned up and claimed their inheritance. The legal solution was clear: the *bona fide* buyer was the new owner. The Code explained that the heirs would not have claimed their parts of the company if there had been no ore but only mining expenses. However, the claimants had the right to request compensation from the *mala fide venditor* (the seller in bad faith), but not from the *bona fide emptor* (the buyer in good faith).

This rule has a certain resemblance to the Kuttenberg law. There is a provision therein (II, 3, V, 11)[49] about those who have been working in a mine conscientiously for at least three years and without any objections from anyone during this time. Being the first who found the ore, they could not be impeded or deprived from their rights. In both laws, there is a possibility to acquire from a non-owner. Nevertheless, there are two significant differences. In Novo Brdo, the buyer became the owner immediately, while a three-year period of undisturbed use was a condition in Kuttenberg (a form of usucaption). The first provision is

47 ЋиркоВић 2005. 26.
48 Радојчић 1962. 47.
49 Zycha 1900. 140–143.

of material and the second of formal nature. Lastly, the *Ius regale montanorum* contains the condition that the acquirer was the first who found ore in the relevant location, while there was no such request in the Despot's Code. Through teleological interpretation, the rule from the Code could also be applied in cases when there has been ore mining before the shares were sold.

In both laws, there are similarities to the Roman law institute of *usucapio* (usucaption). Pfeifer[50] believes that there may be such influence in the Kuttenberg rule. In Novo Brdo, both *bona fides* (good faith) and *iustus titulus* (just title) are listed as conditions, but no passage of time is required, making usucaption immediate, without the requirement for prolonged adverse possession. The acquisition was instant. Therefore, the Serbian rule was more akin to the one that appeared in Roman law, in the constitution of Emperor Zeno (C.7.37.2), where there was instant acquisition from the imperial *aerarium*, regardless of the true owner. The difference is in the condition related to the *bona fides* of the acquirer. While it was required expressly in the Code, it was not in the constitution, or perhaps it was not a condition at all.[51] Nevertheless, the two rules appeared in different occasions and historical contexts without any mutual influence.

The purpose of the Serbian norm was related to two significant circumstances. Firstly, as it was previously said, mining expenses were exorbitant, and the discovery of ore was by no way certain. Furthermore, there was the rule of losing the right to excavation on the land by not exercising it for a certain period. The result was the solution that the owner was the *bona fide* buyer who bore the costs of mining. Heirs of the previous owner only had rights towards the fraudulent seller.

At the end, there is a short explanation, given in manner of a legal sentence: 'since the tsar does not grant it [so as] not to be used'. Taking into account the time when the manuscripts were completed, it is probable that the 'tsar' referred to the Ottoman Sultan and not the Serbian ruler. The meaning is that the concession was issued to a certain company in order for it to mine ore effectively and not to cease operations while searching for the heirs of one of the shareholders. The economic importance of metal production corresponds to the efficacy demanded. Begović believes that the text referred to the ruler as the one who sold the shares *mala fide*.[52] However, this contradicts the beginning of the article, which started with the words 'If somebody' *Ako bi tko* | *Аколи тко*).

50 Pfeifer 2001. 92–93.
51 Katančević 2022. 184–186.
52 БеговиЋ 1971. 57.

7. Conclusions

There are several provisions on the transfer of mining company shares in the Code of Despot Stefan. The most general one was obviously taken from the Saxon customs. It required a written contract on the transfer of shares, solemnized by a public official and registered in some kind of public records. The Serbian specificity is the emphasis on the impossibility of exceptions in cases of the gift of the share, exclusion of a shareholder, and his renouncement in anger. Apart from this, the only possibility of loss of the share was before the court.

In Serbian law, in the matter concerning rescission of sale of shares before the price was paid, there was also a probable influence of Saxon customs and Byzantine law through the Serbo-Byzantine compilation known as *Zakon cara Justinijana*. In *Ius regale montanorum*, there was the same condition concerning discovery of ore. In Novo Brdo, as well as in Kuttenberg, the buyer could withdraw from the sale of shares by leaving the paid sum to the seller. However, in Novo Brdo, the right to rescission depended on the percentage of the price paid. If it was more than half, the buyer had that right. Otherwise, it belonged to the seller. There were also some differences between the Code and *Zakon cara Justinijana*. The latter speaks about the half and the former about less than half price. Furthermore, according to the Code, the buyer could not request reimbursement of what he paid, while *Zakon cara Justinijana* did not consider the right of the buyer to withdraw.

Finally, in the Code, there was a unique rule that a *bona fide* buyer became the owner of the shares he had bought. The effectiveness of metal exploitation was, therefore, above legal certainty.

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