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DETERMINATION OF FEES FOR PERPETUAL USUFRUCT OF REAL PROPERTY ACQUIRED FROM ECCLESIASTICAL JURIDIC PERSONS IN RELATION TO LANDED PROPERTY IN WARSAW. SELECTED ISSUES

INTRODUCTION

By virtue of the Decree of 26 October 1945 on the Ownership and Use of Land in the Area of the Capital City of Warsaw,[1] commonly known as the Warsaw Decree or the Bierut Decree [Łazarewicz 2018, 51], all landed property within the boundaries of Warsaw, including one held by ecclesiastical juridic persons, was taken over by the Municipality of the Capital City of Warsaw as its property, effective from the date of entry into force of the said decree, i.e. 21 November 1945 (Article 1).[2] At the same time,

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[1] Journal of Laws No. 50, item 279.

[2] After the abolition of territorial government, under the no-longer-existing Act of 20 March 1950 on Territorial Bodies of Unitary State Authority, Journal of Laws No. 14, item 130 as amended, the property of the Municipality of the Capital City of Warsaw was taken over by the State Treasury. Later on, pursuant to the Act of 10 May 1990 – provisions introducing the Law on Territorial Government and the Law on

the ownership of buildings and other structures erected on this property remained in the hands of the current owners, unless any other specific laws provided otherwise (Article 5). The previous owners of the property and their legal successors holding the land were able, within six months from the date of property takeover by the municipality, to apply for the right of perpetual lease with a negligible amount of rent or the right to build up the property for a symbolic fee[3] (Article 7(1)). The municipality was empowered to reject the application only if the use of the landed property by the existing owner was in conflict with its intended use according to a binding development plan; and in the case of legal persons, the application was declined where the use of the land in accordance with its intended purpose according to a binding development plan conflicted with the law or charter/statutes of that legal person. When the application was rejected, the municipality was obliged to offer the entitled person any other landed property of equal value use-wise (if available) for a perpetual lease or the right to build on that land (Article 7(4)).

The decree has never been repealed,[4] and its effects still exist. The property-related consequences of the decree with respect to ecclesiastical juridic persons were not removed by the laws regulating property matters of churches, including the Roman Catholic Church, enacted in the 1980s and 1990s. Relying on the regulatory procedure provided for in these laws, the previous owners of municipalised and then nationalised landed property in Warsaw cannot apply for having their ownership rights reinstated but can only seek the establishment of the perpetual usufruct of the land, which is a weaker right (see Article 61(3) of the Act of 17 May 1989 on Relations between the State and the Roman Catholic Church in the

Territorial Government Personnel, Journal of Laws No. 32, item 191 as amended, it returned into the landed stock of the same municipality [Strzelczyk 2019, 496].

[3] The right of perpetual lease and the right to develop were subsequently replaced by the right of temporary ownership and later by the right of perpetual usufruct (in 1961). See Hetko 2012, 114; Łazarewicz 2018, 53.

[4] The parliamentary bill on the settlement of reprivatization claims of 25 November 2020 (RPU IX, item 1093), which, however, never entered into force, intended to revoke the Bierut Decree and other laws of the communist Poland era. The proposed law aimed to set down a procedure to address the rights and claims of natural and legal persons resulting from the appropriation of property by the state or for the benefit of other legal persons under public law, including territorial government units, in the years 1944-1962 and the terms for granting and exercising the right to compensation thereunder.

Republic of Poland,[5] Article 48(3) of the Act of 4 July 1991 on Relations between the State and the Polish Autocephalous Orthodox Church,[6] Article 40(2) of the Act of 13 May 1994 on Relations between the State and the Lutheran Church in the Republic of Poland,[7] Article 24(3) of the Act of 13 May 1994 on Relations between the State and the Evangelical Reformed Church in the Republic of Poland).[8] The same applies to any rights granted to ecclesiastical juridic persons to replacement landed property when the physical return of nationalised land is not possible. In such cases, the laws listed above provide for the establishment of the right of perpetual usufruct only. It is worth noting, however, that the Act of 20 February 1997 on Relations between the State and Jewish Religious Communities in the Republic of Poland[9] (see Article 32 thereof) does not contain a provision excluding the reinstatement of ownership rights to Warsaw-based landed property nationalised by the Bierut Decree.

The laws mentioned above and governing State-Church relations cause the effects of the Bierut Decree to also apply to entities that acquire the right of perpetual usufruct of land from ecclesiastical juridic persons. While ecclesiastical juridic persons are exempt from any fees for holding the said right, persons who acquire such property are required to pay them. Consequently, the transferred right has clearly a lower market value compared to the right of ownership, which was denied to ecclesiastical juridic persons by the decree.

The aim of this paper is (i) to discuss selected problems related to how the fee for perpetual usufruct of landed property in Warsaw sold by ecclesiastical juridic persons is determined and (ii) to assess some of the existing solutions addressing this matter, in particular whether it is justified to encumber purchasers with the said fees, especially in circumstances where the disposal of the right of perpetual usufruct is in the form of contribution in kind to a company or partnership established under commercial law, whose sole shareholder is an ecclesiastical juridic person who enjoyed this right earlier as part of compensation for municipalised landed property. It can be argued that the current legal status and the relevant

[5] Journal of Laws of 2023, item 1966.
[6] Journal of Laws of 2023, item 544.
[7] Journal of Laws of 2023, item 509.
[8] Journal of Laws of 2015, item 483.
[9] Journal of Laws of 2014, item 1798.

case-law do not fully respect the restitutionary nature of the established right to land. This is particularly evident in cases of disposal of this right. The article discusses the criteria that should be met in order to impose a fee for perpetual usufruct on a purchaser and looks at the requirement to complete a pre-trial procedure in the event of appealing against such imposition. The author employed a dogmatic-linguistic method to analyse any applicable provisions along with the positions and statements of representatives of the doctrine and jurisprudence.

1. POWER TO AND CONDITIONS OF ESTABLISHING AN ANNUAL PERPETUAL USUFRUCT FEE FOR THE RIGHT-HOLDER

In accordance with Article 71(4) of the Act on Real Property Management of 21 August 1997[10] in conjunction with Article 238 of the Civil Code,[11] for the duration of perpetual usufruct, the perpetual usufructuary of a landed property is obliged to pay a perpetual usufruct fee by 31 March each year. The amount of the fee depends on the purpose for which the property has been transferred to the user under perpetual usufruct. In the case of landed property transferred for the construction of structures of worship along with accompanying buildings, i.e. rectories in diocesan and monastic parishes; diocesan archives and museums; seminaries; monastic houses; and seats of the supreme authorities of churches and religious organisations, the fee currently amounts to 0.3% of the price of such a property, which is determined in accordance with Article 67 ARPM (Article 72(3)(2) ARPM).[12]

With respect to the landed property within the boundaries of Warsaw covered by the Bierut Decree, and subsequently subject to regulatory proceedings, the right of perpetual usufruct thereof was established for ecclesiastical juridic persons, often following an agreement and mostly free of

[10] Journal of Laws of 2023, item 344 as amended [hereinafter: ARPM].

[11] Act of 23 April 1964 – Civil Code, Journal of Laws of 2023, item 1610 as amended.

[12] For more on determining the prices of real property, see Prusaczyk 2023, 217-19.

charge.[13] This was justified due to the restitutionary nature of this right, serving as compensation for the lost property. This is a specific form of compensation, as the right of perpetual usufruct, being inferior to the right of ownership, holds a lower market value and cannot be considered full compensation.

A separate issue, however, is whether the absence of the free for the right of perpetual usufruct so established is transferred to its new holder, and therefore whether the exemption from fees pertains to persons or objects. The principle that the fees for perpetual usufruct must be paid for the duration of the right, as follows from Article 238 of the Civil Code, must not be ignored. Exemption from this fee is considered a privilege and must be either sanctioned by the law or result from a legal transaction carried out by the property owner. Additionally, both the legal basis for such an exemption and its scope may vary during the existence of the legal relationship. For example, it may follow a change to the legal situation.[14]

The issue of the absence of free for the right of perpetual usufruct of land obtained under regulatory proceedings in the event of a change of the perpetual user has already been examined by courts of various instances.[15]

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[13] See, e.g., justification of the Decision of the Supreme Court of 14 July 2022, file ref. II CSKP 369/22, OSNC 2023, no. 3, item 29, pp. 73-79 or the Judgement of the District Court for Warsaw-Mokotów in Warsaw of 26 April 2019, file ref. XVI C 144/17, Legalis. The fee for perpetual usufruct is also referred to as "symbolic rent;" see e.g. the Judgment of the Supreme Court of 7 February 2024, file ref. II CSKP 49/23, "Baza Orzeczeń SN" [accessed: 28.04.2024].

[14] For example, the Judgement of the Court of Appeal in Warsaw of 26 January 2009, file ref. I ACa 914/08, Lex no. 509764, regarding the amended regulations concerning exemption from perpetual usufruct fees of higher education establishments. The court found that that universities are obliged to pay an annual perpetual usufruct fee when using agricultural, municipality-owned property even if, on the date of transfer of the property, owned by the State Treasury at that time, for perpetual usufruct, they were entitled to a statutory exemption. Similarly, the Judgement of the District Court in Łódź of 27 September 2017, file ref. III Ca 915/17 with the justification dated 20 October 2017, "Portal Orzeczeń Sądu Okręgowego w Łodzi" [accessed: 26.04.2024] addressing the obligation to pay a perpetual usufruct fee for land intended for family and company allotments, after changes to the provisions on the absence of fees for perpetual usufruct of such a landed property.

[15] See, e.g. the Judgement of the Supreme Court of 13 February 2009, file ref. II CSK 268/08, "Baza Orzeczeń SN" [accessed: 28.04.2023]; the Judgment of the Court of Appeal in Warsaw of 3 June 2020, file ref. I ACa 383/19, Lex no. 3363504; the Judgment of the District Court for Warsaw-Mokotów in Warsaw of 26 April 2019, file ref. XVI C 144/17, Legalis.

These decisions are generally disadvantageous to those acquiring the right of perpetual usufruct (and indirectly also to ecclesiastical juridic persons disposing of such rights, as the prospect of encumbering the purchasers with a fee for perpetual usufruct will certainly have an impact on the value of the right being so disposed) if they do not personally qualify for an exemption from the entire fee or for a reduced fee. The courts are of the opinion that non-payment (or a symbolic fee[16]) for the right of perpetual usufruct of a landed property established for the benefit of the first perpetual usufructuary is related to persons, i.e. it is only vested in that usufructuary and cannot be transferred to another person. Hence, in the event of changes to the legal status of real property, e.g. the transfer or disposal of the right of perpetual usufruct to another person, an option exists, in principle, of setting the amount of an annual fee for the new right-holder.

Such a decision does not go against the fact that no such a fee was imposed on the first perpetual usufructuary. Should this be the case, Article 221(2) ARPM applies, according to which if the percentage rate of the annual fee for perpetual usufruct is not specified when the real property is transferred for perpetual usufruct, a competent authority will determine this amount, that is with the exceptions provided for in Article 217(1) ARPM, and having regard to the procedure specified in Articles 78-81 thereof. The authority may therefore determine the annual fee for perpetual usufruct in relation to all persons but those listed in Article 217(1) ARPM. The provision only lists persons who, as a result of losing ownership of real property, have been given, as compensation or damages, other property in perpetual usufruct, as well as the heirs of such persons. Therefore, only universal succession (legal succession under a general title) and only in relation to natural persons, that is, inheritance, excludes the option of establishing a perpetual usufruct fee when an exemption therefrom was enjoyed by the testator due to the circumstances referred to in the aforesaid provision. This provision could therefore not apply directly to ecclesiastical juridic persons who cannot have heirs.

In the case of singular succession, i.e. the acquisition of the right of perpetual usufruct under a special title (e.g. pursuant to contract of sale or

[16] See the Judgment of the Supreme Court of 7 February 2024, file ref. II CSKP 49/23, "Baza Orzeczeń SN" [accessed: 28.04.2024].

as contribution in kind to a company or partnership established under commercial law), it is therefore possible to establish an annual fee for perpetual usufruct for the purchasing party, regardless of whether they are a natural person, a legal person or a quasi-legal person (an entity without legal personality but with a legal capacity and a capacity to perform acts in law). At the same time, it is important to note that, based on the literal wording of the provision of Article 221(2) ARPM, it could also be conversely assumed that a fee for perpetual usufruct can be determined in the case of universal succession in relation to entities other than heirs, i.e. in relation to legal persons or quasi-legal persons, even if the disposing party enjoyed an exemption as a person.

Moreover, the option of establishing the percentage value of an annual fee in relation to the purchasing party (excluding entities referred to in Article 217(1) ARPM) cannot be ruled out due to the fact that only the first fee for perpetual usufruct was established in relation to the seller. The provision of Article 221(2) ARPM mentions the absence of the percentage value of an annual fee, that is, the fee referred to in Article 72(3) ARPM, and not the first annual fee stipulated in Article 72(2) thereof.[17] In such circumstances, when the perpetual usufructuary changes, following singular succession, no annual fee is imposed on the purchaser as a result, nor does the purchaser assume the right not to pay the fees, and the owner of the real property sets the annual fee for the new perpetual usufructuary.[18]

According to the case-law of the Supreme Court,[19]the determination of the percentage rate of an annual fee for perpetual usufruct for the purchaser also takes place when the disposing party was obliged to pay the annual fee for the same, but it was a symbolic fee on grounds of Article 7(1) of the Bierut Decree (the so-called symbolic rent). The court identified a legal loophole as the legislator had failed to regulate the method of determining a perpetual usufruct fee to be paid by the purchaser, which, by analogy, requires having resort to Article 77 ARPM (fee adjustment).

[17] See the Judgement of the Court of Appeal in Warsaw of 3 June 2020, file ref. I ACa 383/19, Lex no. 3363504.

[18] Cf. the Judgement of the Supreme Court of 16 December 2009, file ref. II CK 639/98, OSNC 2000, no. 6, item 21, see also the Judgement of the Supreme Court of 13 February 2009, file ref. II CSK 268/08, Lex no. 488959.

[19] See the Judgment of the Supreme Court of 7 February 2024, file ref. II CSKP 49/23, "Baza Orzeczeń SN" [accessed: 28.04.2024].

However, given the previous symbolic amount of this rent, and due to its compensatory function, the court considered that, although fee adjustment applied, as one consideration is replaced by another, in point of fact, the fee was determined for the first time. In such a situation, not all the rules governing the adjustment of the annual fee can be applied, in particular those that introduce a specific economic protection for perpetual usufructuaries who already pay annual fees established under the ARPM and not on the basis of the Bierut Decree. Hence, in the case of a singular acquisition of the right of perpetual usufruct from a disposing party who paid a symbolic fee for perpetual usufruct, a new annual fee for perpetual usufruct can be set for the acquiring party, while ignoring the advantageous provisions of Article 77(2a) ARPM, which provides that if an adjusted annual fee exceeds the amount of the previous one at least twice, the perpetual usufructuary pays an annual fee in an amount corresponding to double the amount of the previous annual fee. The outstanding amount exceeding double the current fee (surplus) is divided into two equal parts that are added to the annual fee for the next two years. Only in the third year after the adjustment is the annual fee equal to the actual adjusted amount. This regulation is intended to prevent excessive burden on the perpetual usufructuary resulting from a single high increase in the annual fee for perpetual usufruct (e.g. when no adjustments have been made for a long period). In the case of acquiring the right of perpetual usufruct from a disposing party who paid a symbolic fee due to their special legal situation (establishment of perpetual usufruct as compensation for municipalised property), the acquiring party should not be surprised to see the current annual fee being set based on the provisions of the ARPM.

However, in each case when the one who disposes of the right of perpetual usufruct was exempted from the fee or when the annual fee was symbolic, it is necessary to establish the legal basis for non-payment or, alternatively, for the reduced amount of the fee. This requires the original content of the agreement (settlement) to be examined as it underlay the establishment of the right of perpetual usufruct.[20] It should not be ignored that the lack of fee or a low annual fee was most likely not due to the compensatory nature of this right but to the specific use of the property by the

[20] See the Judgement of the Supreme Court of 11 May 2011, file ref. I CSK 397/10, Legalis.

existing perpetual usufructuary or, in other words, the purpose for which the property had been transferred to them, which changed when the purchasing party permanently changed the way of using the property, which, in turn, forms the basis for determining the percentage rate of the annual fee or, if it had already been determined, for adjusting it under Article 73(2) ARPM. In such a case, the determination or adjustment of the annual fee for perpetual usufruct for a new perpetual usufructuary is fully justified. It is a logical consequence of a permanent change to how the real property is used by the new perpetual user and, therefore, a consequence of departing from the purpose for which the right of perpetual usufruct was originally established.

What follows, in the current legal setting, when disposing of the right of perpetual usufruct, when it has been established that the disposing party qualified for enjoying this right free of charge or for a symbolic fee because it was compensation for the property nationalised by the Bierut Decree, the new right-holders, with the exception of heirs, must be ready to accept a new amount of the annual fee, in accordance with the provisions of the ARPM.

2. PROCEDURAL ISSUES

A person acquiring the right of perpetual usufruct, for which an annual fee has been established or adjusted, while the disposing party was exempted from it or paid a symbolic fee under the Bierut Decree, can challenge the fee so established or adjusted. How they can carry out the procedure is also relevant.

Although the fee is imposed under civil law,[21] the ARPM provides for a specific procedure for appealing against how it is determined, as provided in Article 78-80 ARPM. The procedure has two stages. First, an appeal procedure must be followed before the relevant territorial government appeals board. The perpetual usufructuary should submit an application in which they request that the establishment (or adjustment) of the annual fee be deemed unjustified or justified but in a different amount (Article

[21] See the Resolution of the Supreme Court of 25 June 1997, file ref. III CZP 23/97, OSNC 1997, no. 12, item 188.

78(2) ARPM). The procedure is governed by the Code of Administrative Procedure.[22] After the appeals board issues a decision, the relevant administrative body or the perpetual usufructuary themselves may object to it within the specified time limit, which is tantamount to a request to refer the case to a court of law having jurisdiction over the landed property. Next, the appeals board forwards the case files, along with the objection to the competent court, and the perpetual usufructuary's application, previously submitted to the appeals board, replaces the claim. The claim examined by the court in such proceedings has the nature of "an action for the formation of law" because the court determines the amount of an annual fee for perpetual usufruct in a manner binding on the parties and is not limited only to assessing the effectiveness of the challenged amount or the establishment of the amount the relevant body [Pęchorzewski 2014].[23] The administrative procedure therefore precedes the court procedure, and the latter cannot be initiated until the former has been completed.

As noted earlier, the basis for determining an annual perpetual usufruct fee for the person acquiring the right, although no such fee was paid by the disposing party, is Article 221(2) ARPM. This provision expressly requires that the procedure provided for in Articles 78-80 ARPM be followed. Therefore, filing a claim to a common court of law to determine the absence of the right of an administrative body to establish the percentage rate of an annual fee for perpetual usufruct, while bypassing the administrative proceedings before the territorial government appeals board, results in the case being dismissed under Article 199(1) of the Code of Civil Procedure,[24] i.e. inadmissibility of an action.[25]

In the event that the annual fee for the disposing party was symbolic, in accordance with Article 7(1) of the Bierut Decree, the procedure referred to in Articles 78-80 ARPM will also apply when determining a new

[22] Act of 14 June 1960, Journal of Laws of 2024, item 572.

[23] See the Judgement of the Supreme Court of 21 February 2013, file ref. IV CSK 430/12, Legalis.

[24] The Code of Civil Procedure of 17 November 1964, Journal of Laws of 2023, item 1550 as amended.

[25] So in the Decision of the Supreme Court of 14 July 2022, file ref. II CSKP 369/22, OSNC 2023, no. 3, item 29, pp. 73-79; similarly, the Court of Appeal in Warsaw in its judgement of 27 October 2005, file ref. I ACa 234/05, Lex no. 1110600. A different opinion, however, can be found in the Judgement of the Supreme Court of 13 February 2009, file ref. II CSK 268/8, Lex no. 488959.

rate of the fee for the acquiring person. In agreeing with the arguments of the Supreme Court formulated in the 7 February 2024 judgement referred to earlier and made in Case II CSKP 49/23, that in such a case, due to the symbolic nature of the fee, the annual fee is actually determined for the first time, the provision of Article 221(2) ARPM should also apply accordingly. Hence, in the situation outlined above, failure to complete the administrative procedure before the territorial government appeals board should lead to the dismissal of the claim.

CONCLUSION

As follows from the discussion above, the existing legal solutions governing the determination of a perpetual usufruct fee for parties acquiring the right of perpetual usufruct from ecclesiastical juridic persons within the boundaries of the capital city of Warsaw significantly weaken the restitutionary nature of the provisions of the Act of 17 May 1989 on Relations between the State and the Roman Catholic Church in the Republic of Poland and other similar laws governing the relations with other churches.

For the option of establishing an annual fee for the perpetual usufruct of landed property for persons acquiring the right from ecclesiastical juridic persons under general terms affects the value of such a right. It therefore harms not only the interest of the acquiring party but also that of the disposing party. This approach to the legal position of acquirers raises justified doubts, especially in cases where, despite the transfer of the right of perpetual usufruct to a new usufructuary, the disposing party still retains the right to influence the actions of the former. This can happen, for example, when an ecclesiastical juridic person sets up a special purpose vehicle (SPV) of which it is the sole partner (stock/shareholder). It therefore has a substantial influence on the SPV's governing bodies, including on the management board, and can therefore effectively set the course of its operation. Depriving such an SPV of the right of non-payment (or reduced payment) for perpetual usufruct vested in the ecclesiastical juridic person before, while it still remains the sole partner in that SPV and, consequently, the only entity that benefits from it, seems more than unjustified considering the compensatory nature of the established perpetual usufruct right as reward for the prior deprivation of that person of owner-

ship of the property following the Bierut Decree. For the actual purpose of the decree must not be ignored. It was intended to expedite the process of reasonable reconstruction and expansion of the city after the massive WW2 destruction and not to deprive owners of their ownership rights to real property. The decree was therefore aimed more at planning rather than expropriation [Hetko 2012, 109].[26] Hence, given the compensatory nature of establishing the right of perpetual usufruct in place of ownership right and the fact that although the original perpetual usufructuary transferred this right to another person, they still remain the real beneficiary of this right, it would be more than desired to propose an amendment to the ARPM with a view to exempting such acquiring parties from having to pay a new (if not set yet) or adjusted (if it was only symbolic) annual fee for perpetual usufruct. However, such a fee should be set from the time when the disposing party has ceased to be the sole actual beneficiary of that right (e.g. when they are no longer a sole partner/shareholder/stockholder). The same should apply to the situation of transformation of ecclesiastical juridic persons where general succession takes place. This, however, requires a separate discussion and review.

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[26] See the Judgement of the Supreme Administrative Court of 4 January 1999, file ref. IV SA 135/98, Lex no. 47376.

Determination of Fees for Perpetual Usufruct of Real Property Acquired from Ecclesiastical Juridic Persons in Relation to Landed Property in Warsaw. Selected Issues

Abstract

This paper discusses the problem of establishing a fee for perpetual usufruct with respect to persons acquiring this right, vested in land located within the territory of the city of Warsaw, from ecclesiastical juridic persons, for whom this right was established as compensation for the lost ownership of this land under the Bierut Decree of 1945. It has been pointed out that the possibility of setting the fee for perpetual usufruct with respect to such purchasers on general terms weakens the restitutionary character of the provisions of the Act of 17 May 1989 on Relations between the State and the Roman Catholic Church in the Republic of Poland and other related laws concerning other churches. This solution affects not only the interests of the purchaser but also those of the transferor, which is an ecclesiastical juridic person, as it reduces the value of the transferred right. The author proposes that the relevant regulations be amended to ensure that the privileged nature of such a fee is maintained also with regard to purchasers of perpetual usufruct, such as one-person companies established by ecclesiastical juridic persons, and in cases where the right of perpetual usufruct of such a real property is transferred to the purchaser by general succession.

Keywords: landed property in Warsaw; ecclesiastical juridic persons; perpetual usufruct fee.

Ustalanie opłat za użytkowanie wieczyste nieruchomości nabytych od kościelnych osób prawnych w odniesieniu do gruntów warszawskich. Zagadnienia wybrane

Abstrakt

W artykule omówiono problem ustalenia opłaty za użytkowanie wieczyste w odniesieniu do nabywców tego prawa, przysługującego do gruntów położonych na terenie m.st. Warszawy, od kościelnych osób prawnych, dla których prawo to ustanowiono jako rekompensatę za utraconą własność tych gruntów na podstawie dekretu Bieruta z 1945 r. Wskazano, że możliwość ustalenia wobec takich nabywców opłaty za użytkowanie wieczyste na ogólnych zasadach osłabia restytucyjny charakter przepisów ustawy z dnia 17 maja 1989 r. o stosunku Państwa do Kościoła Katolickiego w Rzeczypospolitej Polskiej oraz innych analogicznych ustaw, odnoszących się do innych kościołów. Rozwiązanie to wpływa nie tylko na interes nabywcy, ale także zbywcy, jakim jest kościelna osoba prawna, gdyż obniża wartość zbywanego prawa. Autorka postuluje zmianę przepisów w kierunku zapewnienia utrzymania uprzywilejowanego charakteru takiej opłaty także wobec nabywców użytkowania wieczystego, jakimi są jednoosobowe spółki powoływane przez kościelne osoby prawne oraz w przypadkach, gdy prawo użyt-

kowania wieczystego takich nieruchomości przechodzi na nabywcę w ramach sukcesji generalnej.

Słowa kluczowe: grunty warszawskie; kościelne osoby prawne; opłata za użytkowanie wieczyste.

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