

The combination of two related transactions can implement concealment of assets!

The Supreme Court declared in a Decision of 2018, that the concealment of assets can be established also with the combination of more transactions.

What does concealment of assets mean?

Usually we speak about concealment of assets when the debtor bereaves the base of the creditors' satisfaction– who is the entitled person – by a contract, which was concluded with a third party. So, the essential condition is on the one hand, that the entitled person must have an outstanding claim against the obligated at the time of the conclusion of the contract and the debtor wants to bereave the assets. On the other hand, it is also a condition that the person, who contracts with the obligated and gets the right, acts in bad faith or is entitled for gratuitous advantage from the contract.

The Supreme Court examined in the referred Decision 224/2018, how the gratuitous advantage can be interpreted as a condition prescribed by law?

The Supreme Court established that onerous transactions can cause gratuitous advantage, if the compensation by the contracting party is not equivalent with the service. It has to be declared, according to the guideline of the Supreme Court, that the minimal purchase price would have to be determined during the resale for which the gratuitous advantage did not appear at the customer, if the mentioned disparity in value had stood.

The other important message of the mentioned judicial decision: The combination of two related transactions can cause concealment of assets.

Not only the acquisition of ownership of property by way of transfer can implement the removal of the satisfaction base of the entitled person but also by unilateral act, as it happened in the lawsuit. It can happen that the resale below cost of the real estate of the lawsuit and the settlement of the leasing agreement leads to the result that the lessee won't have remaining property what can serve as a satisfaction of the claim of the entitled person instead of using the value proportional sale when the lessee got money from the accounts. We speak also about concealment of assets as if the asset property would have sold directly.

The third important lesson from the Decision of Supreme Court: If concealment of assets can be established then the further person, who gets the right, has only limited liabilities to satisfy the claim of the plaintiff. So, the person, who gets the right, has to be liable only up to the owned property what he/she obtained by the concealment of assets and also has to endure the satisfaction of the claim of plaintiff, up to the determined amount.