

Sebastian Stankiewicz LL.M.

## ***Res iudicata in Roman civil procedure***

### *Abstract of the doctoral dissertation*

The subject area dealt with in this doctoral dissertation has not been so far the subject of a comprehensive study in a separate monograph devoted exclusively to this issue. However, a great number of various publications (in particular scientific articles) on this topic, fragmentarily presenting different research problems, has appeared. Therefore, the aim of the dissertation is an attempt to extensively present and solve research problems pertaining to *res iudicata* in Roman civil procedure.

The main thesis of the dissertation is: the notion of *res iudicata* in Roman law is not homogeneous as its meaning and effects were changing by way of the historical evolution of that institution, resulting from the political transformations of Roman civil procedure.

The doctoral dissertation is written in Polish and consists of the introduction, four chapters and conclusion.

The first chapter discusses the issue of the legal validity of the judgment in Roman civil procedure from a historical perspective.

The second chapter deals with *res iudicata* and its essence in Roman civil procedure. Apart from discussing the notion of *iudicatum*, also legal actions of the parties have been mentioned, which would cause legal effects analogous to those which would occur if a judgment was passed (*confessio in iure, iusiurandum in iure*). The further part of this chapter discusses the meaning of *res iudicata* under the civil procedure, as well as factors that must be met for *res iudicata* to be binding (identity of the parties to the action; identity of the plaintiff's claim at suit, arising from the substantive law; identity of the legal basis of a dispute at suit).

The aim of the third chapter is to emphasize the significance of the legal effects of *res iudicata* in Roman civil procedure with reference – in principle – to the parties

to the action. The subject of the formal legal validity of the judgment has been dealt with by way of presenting its essence taking into consideration the developmental chronology of Roman civil procedure. As far as substantive validity is concerned, its meaning has been highlighted for two categories of entities, that is, parties to the action and *tertii*. The meaning of the principle *res iudicata pro veritate accipitur* has also been presented. Part of the chapter has been devoted to discussing the function of the substantive validity of the court judgment, in particular the positive function of the substantive validity. The problem related to the dismissal of a new trial in the same matter (that is, the so-called negative function of the substantive validity of the judgment) has also been analysed. The chapter ends with deliberations on the relation between *res iudicata* and the principle *ne bis in idem* in the context of the analysis of the essence of *rei iudicatae* and its relation to the legal nature of *litis contestatio*.

In the last, fourth chapter of this dissertation, *res iudicata* is touched upon as a source of Roman law.

The dissertation is crowned with the conclusion, list of the sources of Roman law, Polish law and international law as well as literature.