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РЕДАКЦИОНИ ОДБОР :

ЂОРЂЕ БУБАЛО, МИРЈАНА ЖИВОЈИНОВИЋ, ЉУБОМИР МАКСИМОВИЋ,
БОЈАН МИЉКОВИЋ, СРЂАН ПИРИВАТРИЋ, ЗОРАН РАКИЋ, ВИКТОР
САВИЋ, ГОЈКО СУБОТИЋ, АНАТОЛИЈ АРКАДЈЕВИЧ ТУРИЛОВ,
АЛЕКСАНДАР ФОТИЋ, ДЕЈАН ЦЕЛЕБЦИЋ

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МИРЈАНА ЖИВОЈИНОВИЋ

SÉCRETAIRE DE LA RÉDACTION :

ВИКТОР САВИЋ

АМБЛЕМ: РЕЉЕФ НА КАМЕНОЈ ПЛОЧИ
ГЛАВНА ЦРКВА МАНАСТИРА ХИЛАНДАРА
ПРИПРАТА КНЕЗА ЛАЗАРА, XIV ВЕК



A “THING” – THE CONCEPT AND DIVISION IN SERBIAN MEDIAEVAL LAW

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Abstract. – The Serbian mediaeval law of property was concerned essentially with things (*res*), their acquisition and their transfer. The things (*res*) were considered as objects and as rights in objects, that had economic value. However, Serbian mediaeval law does not abstractly use the idea of a thing (*stvar*, *сѣвар* in Serbian language). In every case, Serbian legal sources quote and name any single thing that was the object of the transaction.

I

The oldest expression to designate property was *dobitak* (*добитак*). Literally, the word means *gain*, *asset*, but in the legal documents from 13th and 14th century, the term was primarily understood as *cattle*, *livestock*, which was considered the most primitive form of a man’s fortune.¹ Such a concept could be clearly seen in King Dušan’s charter presented to Ragusans (Dubrovčani) concerning the customs of servant² Dabiživ, from 26 October 1345, where the duty *on cattle* [*dobitak*] *which goes to Dubrovnik* (*и ѿ добитка кои гредє њ ДѢРОВНИКЪ*) was mentioned.³ In the same meaning, the word *dobitak* was used in King Dušan’s charter giving the Church of Saint Nicholas in Vranje to the monastery of Chilandar (1343–1345): *And what the cattle graze...* (*и що пасѡ добиткъ...*).⁴ The Code of Stephan Dušan in Article 75 says: *No district may graze its stock*

1 See the article *Dobitak* (*добитак*, *добити*, *добитије*) by Đ. Tošić, in *The Lexicon of Serbian Middle Ages*, Beograd 1999, 160–161.

2 Serbian word is *sluga* (*слуга*) meaning any servant, but at the Serbian court it was a very prominent courtier in charge of drinks (*πυκέρης* at the Byzantine court, *regalis pincerna*, *wine servant*). See the article *Sluga* (*Слуга*) by R. Mihaljević, in *The Lexicon of Serbian Middle*

Ages, 674–675.

3 Н. Порчић, *Повеља краља Стефана Душана Дубровчанима о царини слуге Дабѣжива*, *Стари српски архив* 5 (2006), 84. On the personality of Dabiživ, 92–94.

4 С. Марјановић-Душанић, *Повеља краља Стефана Душана о њоклањању цркве Свѣтој Николе у Врању манасѣиру Хиландару*, *Стари српски архив* 4 (2005), 73.

within another district (Жоупа жоупѣ да не попаса добиткомъ ништа).⁵ However, in 13th century documents, *dobitak* also began to designate the abstract idea of property. For example, when Ragusan doge Johannes Dandulus confirms his friendship with the Serbian King Stephan Vladislav (September 1234 – April 1235), he says that the King can freely enter and leave Dubrovnik (Ragusa) with *all his property* (ни добиткѣ твоѣмѣ всакомѣ; ни добиткомъ имѣ; и съ добиткомъ всакимъ твоимъ и внѣхъ добиткомъ всакимъ; ꙗ добиткѣ ере смо рекли дати...).⁶ In the treaty from 1282, King Stephan Uroš II Milutin says that the Ragusans (Dubrovčani) can *leave* [Serbia if they do something wrong to the King] *within three months with all their property* (... да имѣ есть рокъ за три мѣсеце да си изидоуть съ всѣмъ своимъ добиткомъ).⁷ King Stephan Uroš I says, in the treaty from 23 August 1254, that if any Ragusan won a suit with a Serbian *let my judges deliver him his property* (... да мѣ моѣ сѣдѣце издаю добиткѣ).⁸

In several cases Serbian legal sources differentiate between *živi dobitak*, literally *live gain, live asset*, i.e. cattle, livestock, and *mrtvi dobitak* (и добит'ка живого и мр'твого), literally *dead or inanimate gain*, i.e. the immovable things.⁹ Tsar Dušan in his charter presented to the monastery of Chilandar (1348) says that he gave the tenth part of „live gain“ (i.e. cattle, livestock) to the monastery, that was in money terms four hundred perpers¹⁰ (И приложисмо отъ всега добитка живого, што се находи оу царства ми, десеткѣ всако годиште ... да си оузимаю за тѣ десеткѣ всако годиште на Гюргевь днь лѣтнѣи оу Новомъ Брьдѣ сребра за четири тисоушта крѣстатѣих перперѣ).¹¹ However, the Article 144 of Dušan's Code the whole property of an individual calls *his house and his cattle* (на нѣговоу коукю и на еговь добиткѣ), where the word *kuća* (lit. *house*) could designate immovable property, and *dobitak* all movable things, not only cattle.¹²

The term which most frequently designates the whole property is *imenije* or *imanije* = property, holding, estate, homestead (from verb *imeti* or *imati* = to have). In Serbian legal documents *imanije*, as the object of property rights is often opposed to the *glava* (lit. *head*), as the subject of legal acts (natural person, individual).¹³ That is clear from two treaties of Serbian monarchs with Dubrovnik (1349 and 1357) where the same formula has been repeated: *And that they* [Ragusans]

5 The English text of all the articles quoted in this work is according to the translation of Malcolm Burr *The Code of Stephan Dušan, Tsar and Autocrat of The Serbs and Greeks*, The Slavonic (and East European) Review 28, London 1949–1950, 198–217 and 516–539 (article 75, page 212). Serbian text according to the edition by С. Новаковић, *Законик Сѣефана Душана цара срѣскої 1349 и 1354*, Београд 1898 (reprint 2004), 60. See also the editions by Н. Радојчић, *Законик цара Сѣефана Душана 1349 и 1354*, Београд 1960, 57 and Ћ. Бубало, *Душанов законик*, Београд 2010, 90.

6 In Latin version of the document *dobitak* is translated as *habere* (*alio vestro habere, toto habere vestro*). В. Мошин, С. Ђирковић, Д. Синдик, *Зборник средњовековних ћириличких ѿвоља и ѿисама Србије, Босне и Дубровника*, књига I, 1186–1321, Београд 2011, 135.

7 *Ibid.* 276.

8 *Ibid.* 213.

9 King Milutin's charter to the Chilandar's pyrgos (tower) in Chroussia (1313?–1316, before 26 July). *Ibid.* 441.

10 The „perper“ was the Serbian money of account. The word is corruption of the Greek ὑπερπυρος, meaning gold „tried in the fire“.

11 С. Новаковић, *Законски сѣоменѣи срѣских држава средњега века*, Београд 1912, 419–420.

12 Ed. Novaković, 111; ed. Radojčić, 70; ed. Bubalo, 105.

13 See S. Šarkić, *Natural Persons (Individuals) and Legal Persons (Entities) in Serbian Mediaeval Law*, *Зборник радова Византолошког института* 45 (2008), 223–229.

*circulate within my Empire with their heads [as individuals] and their property... freely, without any disturbance*¹⁴ (Да гредѡ своими главами, иманикъмь своимь... свободно, безъ (всаке) забавѣ по земли царства ми).¹⁵ Dušan's Law Code uses the term *imanije* as well, designating the whole property (all movable and immovable things). Article 70, regulating the division of family estate, mentions *brothers or father or sons, or any other, independent by bread or property* (или братен'цин, или отьць оть сыновь, или инь кто одельнь хлѣбомь и иманиемь).¹⁶

II

Roman law had a very detailed division of things,¹⁷ but among the sources of the Serbian mediaeval law, only one fragment in the *Syntagma* of Matheas Blastares mentions the Roman division on *res mobiles* and *res immobiles* (movable and immovable things). The text is an interpretation of Justinian's *Novella* CXXXI, 13, which forbids to bishops who had acquired movable or immovable property after ordination for a bishop, to transfer them to their relatives (Отрицакъмь, рече, прѣподобен'ишимь епископомь паже по епископствѣ тѣмь которимь люво образомь пришьдша имѣнїа, движима или недвижима, въ свокъ сьродники или къ инымь, которимь люво образомь прѣносити...)¹⁸ However, in the original Greek text of Justinian's *Novella* and *Syntagma* of Matheas Blastares, beside the division on movable and immovable things (πράγματα κινητὰ ἢ ἀκίνητα) we can find the idea of selfmovable (αὐτοκίνητα) things, which was omitted in the Serbian translation.¹⁹ Although the Serbian translators of *Syntagma* omitted to mention selfmovable things, they were present in Serbian legal sources as *živi dobitak* (live gain, live asset, i.e. cattle, livestock). That is clear from the beginning of the article 117 of Dušan's Law Code: *If anything come to any man in the Tsar's realm out of some city or other district which belonged to some other lord before the Tsar took that land or county...* (Що кет комоу прѣшло оу царевоу землю или изъ града, или изъ жоупѣ кок до прїетїа господина цара догдѣ нѣст било царево нь к било инога господра).²⁰

14 Serbian word is *zabava* (забава) meaning in modern Serbian language *amusement, entertainment*. However, in mediaeval Serbian legal documents *zabava* means *disturbance, interference, nuisance*. See the article *Zabava* (Забава) by S. Vojanin in *The Lexicon of Serbian Middle Ages*, 201.

15 Tsar Dušan's treaty from 20 September 1349: Д. Лечменица, *Хрисовуља цара Сїефана Душана Дубровчанима са два ѡрайшења акїа*, Стари српски архив 11 (2012), 38; Tsar Uroš's treaty from 25 april 1357: М. А. Чернова, *Хрисовул царя Стефана Уроша Дубровчанам*, Стари српски архив 12 (2013), 81.

16 Burr, 211; ed. Novaković, 57; ed. Radojčić, 56; ed. Bubalo, 89. Cf. Т. Тарановски, *Истїорија срїскої ѡрава у немањїћкої држави* III део *Истїорија ѡраванскої ѡрава*, Београд 1931–1935, 28–29 (= *Класици јуѡсловенскої ѡрава*, књига 12, Београд 1996, 555–556).

17 Gaius, *Institutiones* II, 1–22; Iust. Inst. II, 1, 1–48 (*De rerum divisione*); D. I, 8, 1–11 (*De divisione rerum et qualitate*). А. Маленица, *Поделе сїивари и ѡјам „сїивар“ у римској ѡравној докїирини* („Classification of Things and the Concept of a 'Thing' in the Roman Legal Doctrine“), *Zbornik radova, Pravni fakultet u Novom Sadu* (Collected Papers, Novi Sad Faculty of Law), XL 1/2006, 19–51.

18 С. Новаковић, *Маїије Власїара Синїаїмаї*, Београд 1907, 216.

19 Г. А. Ράλλης – М. Потлїс, *Ματθαїου τοῦ Βλαστάρεωσ Σύνταγμα κατὰ στοιχεїον*, Έν Αθїναїс 1859 (reprint Athens 1966), 207. Cf. Cod. Iust. VI, 61,6; VII, 37,2; VII, 37,3 and IX, 13,1, which mentions *res mobiles vel immobiles seu se moventes*.

20 Burr, 519; ed. Novaković, 90; ed. Radojčić 65; ed. Bubalo, 98.

Among other, Roman law knew for the division of things vested in private ownership (*res in nostro patrimonio*) and things not owned privately (*res extra nostrum patrimonium*).²¹ Aelius Marcianus, a Roman lawyer of the early 3rd century AD, used for *res in nostro patrimonio* and *res extra nostrum patrimonium* the expressions *res in commercio* (things in trade) and *res extra commercium* (things out of trade)²² and his terminology prevailed in modern law. In Serbian mediaeval law we can not find such a division, but the legal documents mention some objects that could be *res in commercio*. Those objects were mostly churches, built by the natural persons (individuals) – noblemen and clergy, who were landlords and had hereditary estate (*baština*)²³ over their manors. Churches on private estates were the property of their owners and could be things in trade (*res in commercio*). We shall quote several examples.

In the chrysoboule presented to the monastery of Saint Archangels Michael and Gabriel near the city of Prizren (1348), Tsar Stephan Dušan confirms that the church built on the manor of nobleman family Vladojević was their hereditary estate (да си дрѣже въ мѣсто сегазѣ оу вацѣтиноу). As the church was hereditary estate (*baština*) it could be the object of trade (*res in commercio*). So the Tsar, with the consent of Mladen Vladojević and his mother, not by force, changed the church for another church (И симъ въразомъ замѣнихъ црѣквъ Спаса оу Младѣна Влодожевиќа и оу матере кѣо ... ни хъ воломъ и ни хъ хотѣни хъ, а не нѣкою ноу ждею, замѣни хъ и да хъ замѣноу оу Охридѣ Индричю црѣквъ за црѣквъ).²⁴ Tsar Stephan Dušan bought a place called Livade and the church of Saint Nicholas on peninsula Athos and gave them as a present to the monastery of Chilandar (1 December 1347).²⁵ In the Tsar Stephan Dušan's charter to the lesser lord²⁶ Ivanko Probišitović (28 May 1350), Serbian monarch says that Ivanko can freely dispose with the church of Saint John that he built on his estate. Ivanko and his children can sell the church, give it as a present or give it for the soul,²⁷ as they wish (внѣзи црѣквъ кою си кѣтъ сѣзда хъ Светаго Івана ... да си има и дрѣжи Иванко и негова дѣца до вѣка въ всако ѡтверждение и достојание царско и свободѣ чистѣ. Како всакѣ кѣпеницѣ любви за дѣшѣ подѣ црѣквъ записати, любви комѣ харизати кѣде мѣ кѣтъ хотѣние).²⁸

21 *Modo videamus de rebus; quae vel in nostro patrimonio sunt vel extra nostrum patrimonium habentur* (Gaius, *Inst.* II, 1; *Iust. Inst.* II, 1, 1 praef.).

22 D. XX, 3, 2.

23 The expression *baština* (вацѣтина, вацѣина) comes from the old Slavonic word *bašta* (вацѣа) = father, and indicates the hereditary estate (*očevina*), with reference to the real estate which passes from father to the heirs of his body (analogous to the Latin term *patrimonium* = father, as well). Lord who was hereditary estate holder, could freely consume his property. See the article *Baština* (Бацѣтина) by R. Mihaljić and S. Ćirković, in *The Lexicon of Serbian Middle Ages*, 31–33.

24 С. Мишић – Т. Суботин-Голубовић, *Свети оарханђеловска хрисовуља*, Београд 2003, 89.

25 Новаковић, *Законски сѣоменици*, 417.

26 Serbian word *vlasteličić* is a *patronymic*, a name derived from the name of a father or ancestor („a son of a small lord“ – *vlastelin*).

In Dubrovnik the word has been translated as *zentilotto*. In the Greek charters, issued by Serbian rulers, *vlastela* (noblemen) are called ἄρχοντες and *vlasteličići* (lesser lords) ἄρχοντόπουλοι. Lesser lords (*vlasteličići*) were relatively numerous class of military nobles and they might have come from „soldiers“, mentioned in the sources from the beginning of the thirteenth century. See the article *Vlasteličići* (Влацѣеличићу) by R. Mihaljić, in *The Lexicon of Serbian Middle Ages*, 91–92.

27 The formula „given for the soul“ (за доушоу ѡдати) in Serbian mediaeval law, corresponds to the capacity to make a will. See S. Šarkić, *The Concept of the Will in Roman, Byzantine and Serbian Medieval Law*, *Forschungen zur byzantinischen Rechtsgeschichte*, *Fontes minores XI*, herausgegeben von L. Burgmann, Frankfurt am Main 2005, 430.

28 В. Алексић, *Повеља цара Стефана Душана влацѣеличићу Иванку Пробишѣићу*, *Стари српски архив* 8 (2009), 73.

It seems that Serbian mediaeval law recognized the division between the *res corporales* (physical, corporeal things), i.e. tangible objects and *res incorporales* (non-physical, incorporeal things), i.e. right to which an economic value attaches.²⁹ Testimony could be found in several documents. In the charter presented to the Saint George's monastery near the city of Skoplje (1300), King Stephan Uroš II Milutin says that he gave to the monastery village Kozarevo and the monastery of Saint John Chrysostom and Barovo and Vinsko with all hamlets, vineyards, fields, watermills and beast and fish-hunting grounds, with enclosures³⁰ and mountains and all the rights of those villages (И приложи кралквство ми село Козарево ... а въ нкъмъ монастырь Светы Іванъ Златоустычни съ Баровомъ и съ Винскомъ и съ всѣми засеки тѣми и съ Златоустычани, съ виногради, съ нивикомъ, съ водѣнничикомъ, и съ ловищемъ ривнимъ и звѣрнимъ, съ забѣли и съ планиномъ и съ всѣми правинами сель тѣхъ). Few words further King adds that he gave to the Saint George's monastery village of Čereševljani as well, with all its property and all its rights (...и съ всѣми правинами).³¹ King Dušan's charter presented to the monastery of Treskavac (1335), testifies that object of trade was the church of Saint Nicholas in [village of] Hlerine, sold by Vlach's bishop, with all men, vineyards, fields, watermills and with all regions and rights (Цръква оу Хлеринѣ светии Никола, што продаде влашки пискоупъ, съ людьми, и съ виногради, и съ нивикомъ и съ водѣнничикомъ, и съ всею областию и правинами).³² Almost the same words were used in the Tsar Stephan Dušan's charter issued in favour of Karyes (Καρυές) Kellion in Holy Mountain (1348): beside the physical things Tsar said that he gave all rights that village of Kosoriće disposed (...и сь всеми правинами села того).³³

The expression и съ всѣми правинами (and with all rights) was the translation of Greek terms μετά τῶν δικαίων καὶ προνομίων (with all rights and privileges) usual in Byzantine charters³⁴ and adopted by composers of Serbian legal

29 Gaius, *Institutiones II*, 12–14: „Quaedam praetera res corporales sunt, quaedam incorporales. Corporales hae sunt quae tangi possunt, velut fundus homo vestis aurum argentum et denique aliae res innumerabilis. Incorporales sunt quae tangi non possunt, qualia sunt ea quae iure consistunt, sicut hereditas, ususfructus, obligationes quoquo modo contractae“ (Again, things are either corporeal or incorporeal. Things corporeal are tangible, as land, a slave, clothing, gold, silver, and innumerable others. Things incorporeal are intangible; such as those which have an existence simply in law as inheritance, usufruct, obligation, however contracted). English translation by I. E. Poste, Oxford 1904. Cf. Iust. Inst. II, 2,1–2 (*De rebus incorporalibus*).

30 Serbian word is *zabel* (*забел*), which is no more used in modern language. See the article *Zabel* (*Забел*) by M. Blagojević, in *The Lexicon of Serbian Middle Ages*, 202.

31 Мошин и др., *Зборник*, 321.

32 Новаковић, *Законски сѣоменцици*, 667.

33 *Ibid.* 470. Cf. Taranovski, *op. cit.*, 566–567.

34 I shall quote several examples from the

archives of the Chilandar monastery: 1) June 1199, Byzantine emperor Alexios III Angel confirms to the Serbian monk Sabba the property over the monastery of Chilandar καὶ τῶν ὄλων τούτου δικαίων καὶ προνομίων; 2) September 1265, John, Constantine and Michael Spartenos confirm the gifts to the monastery of Chilandar, done by their father καὶ τοῖς αὐτῶν δικαίοις καὶ προνομίοις; 3) December 1304, Demetrios Philanthropenos cedes his goods Korakomone and tou Blachou in Holmyros, to the painter Michael Proeleusis, who has to build one *monydrion* dedicated to the Mother of God, καὶ πάντων τῶν δικαίων καὶ προνομίων αὐτῆς; 4) August 5, 1314, Demetrios Pyrrhos, his son-in-law and his son sell two plots of the vineyard in Ropalaia to the monastery of Chilandar with πάντων δικαίων καὶ προνομίων; 5) Theodore Mallokopos and his son sell two plots of the vineyard in Ropalaia to the monastery of Chilandar ὄν ἔχουσι πάντων δικαίων καὶ προνομίων. See *Archives de l' Athos XX, Actes de Chilandar I, dès origines à 1319*, éd. diplomatique par M. Živojinović, V. Kravari, Ch. Giros, Paris 1998, № 5, 24; № 7, 22; № 22, 5, 14, 32, 47; № 31, 26; № 32, 21. 1) In the charter of Byzantine emperor Andronikos III Palaiologos

acts.³⁵ This fact was already noticed by Russian scholar F. Zigelj, although he thought that the expression *i s vsemi pravinaми* does not mean *with all rights*, rather *with all accessory things (accessorium, res accessoria)*, that which belong to the principal thing (*res principale*).³⁶

Serbian legal sources make clear difference between the principal thing (*res principale*) and the accessory thing (*accessorium*), that which belongs to a principal thing, or is in connection with it.³⁷ As the principal thing the sources usually indicate a village and beside it different accessory things were quoted (see above mentioned examples). In some documents as the principal thing appears the mountain. For example, in the chrysoboule presented to the monastery of Žiča (1219–1220), King Stephan the First Crowned says that he gave to the church mountains (long list with the name of mountains) with all pastures for use in summertime and wintertime (И се планине ... съ всѣми пашами зимьними и лѣтними).³⁸ In the King Stephan Dušan's chrysoboule, confirming the gifts of his noblemen Hrelja to the monastery of Hilandar (6 May 1332), mountains Ograždено and Draguljevo with all fields at the foot [of mountains] and with all districts, were mentioned (И планина Ограждено и Драгуљкво и подьпланиньк съ всею властию).³⁹ However, in the charter of Tsar Stephan Uroš issued in favour of Ragusans (25 April 1357) we read a general formula: Tsar gave them a land and everything that could be found on it (даде имь царство ми и записа и дарова земљу ... и все цю се вѣрѣта на тоизи земљи, да си има и дрѣжи градъ Дѣбровьникъ).⁴⁰

(June 1321), recognizing immunity rights of the monastery of Saint Nicholas in Kamenikaia near Serres, founded by hieromonach Theodossios Mellissenos, we can find formula: ... ἄλλὰ δὲ καὶ ἐτέρων πάντων δικαίων καὶ προνομίων. 2) August 1321, the nun Marina sells his property, situated in the city of Kaisaropolis, valuable 210 perpers, to the monks of the monastery of Hilandar, using the words: μετὰ πάντων αὐτοῦ φημί τῶν δικαίων καὶ προνομίων παλαιῶν τὲ καὶ νέων; 3) September 1365, Byzantine emperor John V Palaiologos, on demand of Serbian emperor Stephan Uroš, offers the village of Potolino with the neighboring lands to the monks of Hilandar μεθ' ὧν ἔχει δικαίων καὶ προνομίων. See Actes de l' Athos V, *Actes de Hilandar, première partie, Actes grecs*, publiés par L. Petit, *Византийский Временникъ, Приложение къ XVII тому, № 1, Санкт-Петербургъ 1911, № 64, 16–17; № 69, 47–48; № 150, 18. Cf. М. Живоиновић, Сѣрумички мѣтох Хиландара, Зборник радова Византолошког института 45 (2008), 205–221.*

35 С. Станојевић, *Сѣудије о српској диломаѣици XX. Састављање џовѣља*, Глас Српске Краљевске Академије CLVII, Београд 1933, 156.

36 Ф. Зигель, *Законникъ Сѣефана Душана*, Санкт Петербургъ 1872, 198. His opinion was rejected by Т. Тарановски, op. cit., 567–568 who proved that the expression *i s vsemi pravinaми* means *with all rights*. As the argument for his

point of view Taranovski quoted King Stephan Uroš's chrysoboule to the monastery of Saint Apostles Peter and Paul on the river Lim (1254–1263), where the word *pravine* was replaced with *pravila* (rules): *Ице ли кто никакда въ никакое време наважденьемъ и завистию диволею коимъ ввразомъ вьсхошетъ поработыти светоу цркви и прятворити праданна мьномъ, или вь селахъ или вь планинахъ, или вь Власлахъ, или вь добитыцахъ, или вь ковилахъ, или вь землы и вь виноградахъ, правилахъ црквиныхъ...* Taranovski used the edition of S. Novaković, *Zakonski spomenici*, 596. The new edition, used in this paper, by Mošin et al., *Zbornik*, 230.

37 According to Gaius, D. XXXIII 8,2: „Nam quae accessionum locum optinent, extinguuntur, cum principales res peremptae fuerint (For those things which occupy the place of accessions are extinguished when the principal property is destroyed)“: English translation by A. Watson, University of Pensilvania Press, Philadelphia 1985. Modern law has adopted a rule *accessorium sequitur principale* (*accessory follows its principal*).

38 Мошин и др., *Зборник* 91.

39 В. Петровић, *Две хрисовоуље краља Сѣефана Душана којима џоѣврѣује Хрѣљине џрилоѣ манасѣиру Хиландару у Шѣишѣу и Сѣирумичи*, Стари српски архив 13 (2014), 7.

40 М. А. Чернова, *Грамота Царя Стефана Уроша Дубровчанам о дарении земли от Люты до Курила*, Стари српски архив 11 (2012), 94.

Стварно право у средњовековној Србији заснивало се на појму ствари, начинима њиховог стицања и отуђења. Али, како у то време није постојала научна обрада права, у изворима не налазимо апстрактни појам ствари, већ се у сваком посебном случају именује ствар која је била предмет правног промета.

Најстарији израз који се користи да би означио скуп ствари који сачињавају имовину је *добийаак*. У текстовима из XIII и XIV века, *добийаак* означава пре свега стоку, као најпримитивнији облик људског богатства, мада у неким изворима и имовину уопште. Неки документи праве разлику између *живої добийака*, што представља стоку и *мривої добийака*, који означава непокретне ствари. Најчешћи израз који се користи за појам имовине је *иманије* или *именије*. *Иманије*, као објекат стварних права се у текстовима противставља *лави*, као субјекту својинских права.

Од врло детаљне поделе ствари које познаје римско право у средњовековном српском праву налазимо само један фрагмент у Синтагми Матије Властара који помиње поделу на покретне и непокретне ствари (*res mobiles, res immobiles*). Ради се о тумачењу једне Јустинијанове Новеле која поред покретних и непокретних ствари (*πράγματα κινητὰ ἢ ἀκίνητα*), познаје и такозване *самойокрејне* ствари (*αὐτοκίνητα*). Међутим, у српском преводу *самойокрејне* ствари су изостављене.

Остале поделе ствари, које познаје римско право, се изричито не помињу, али анализа извора нам дозвољава да закључимо да је средњовековно српско право познавало *сџвари у џромејџу* (*res in commercio*), *џелесне* и *бесџелесне сџвари* (*res corporales, res incorporales*) и правило разлику између *џавне сџвари* и *џриџадка* (*res principale, accessorium*). Највише примера налазимо за појам *бесџелесних сџвари*, односно одређених права. Приликом стицања непокретности у документима се често истиче да ће нови власник моћи да ужива ствар са „свим правима“ (*и с џсьеми правинами*). Израз *и с џсьеми правинами* представља превод византијске формуле *μετὰ τῶν δικαίων καὶ πρόνομων*, који се најчешће среће у хиландарским актима.

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ИЗДАЈЕ:
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