1953

Sovietization of an Occupied Area Through the Medium of the Courts (Northern Bukovina)

Jurij Fedynskyj

Indiana University School of Law - Bloomington

Follow this and additional works at: http://www.repository.law.indiana.edu/facpub

Part of the International Law Commons, and the Soviet and Post-Soviet Studies Commons

Recommended Citation
Fedynskyj, Jurij, "Sovietization of an Occupied Area Through the Medium of the Courts (Northern Bukovina)" (1953). Articles by Maurer Faculty. 2510.
http://www.repository.law.indiana.edu/facpub/2510

This Article is brought to you for free and open access by the Faculty Scholarship at Digital Repository @ Maurer Law. It has been accepted for inclusion in Articles by Maurer Faculty by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact wattn@indiana.edu.
SOVIETIZATION OF AN OCCUPIED AREA THROUGH THE MEDIUM OF THE COURTS (NORTHERN BUKOVINA)

JURIJ FEDYNSKYJ

The role of the army and administrative officials in establishing Soviet authority in the areas occupied by the USSR during the past war is dramatic, and therefore carefully studied by those who analyze Soviet techniques. Much less notoriety attaches to the work of the courts, yet Soviet leaders appear to place considerable reliance upon these agencies in remolding a society in their own image. It was the writer's fate as a member of the Law Faculty of Lvov University to supervise the students' practice in the civil courts of the city of Czernowitz during the first Soviet occupation in 1940-1941. The city, as the capital of the former Rumanian Province of Bukovina, was the heart of the economic and political life of a territory whose northern part was brought under Soviet domination during the period of Soviet-Nazi collaboration in the early stages of the war. As such it was destined to play a key part in the Sovietization of an important segment of Eastern Europe.

Soon after the arrival of Soviet troops the Soviet judicial system was introduced. At the end of August, 1940, the Soviet People's Courts were established. The Rumanian Provincial Court of Czernowitz was required to terminate its activity on June 28, 1940, regardless of the status of litigation. Those cases in process and those docketed but not yet called for examination were left in suspense. The judges of the new courts then began to handle them without the benefit of a formal order from the Ministry of Justice from the Republic capital at Kiev or from the federal capital in Moscow. They simply applied the practice which had been developed a few months earlier when the eastern provinces of Poland had been brought within the Ukrainian Soviet Socialist Republic.

1 Northern Bukovina and Bessarabia were occupied by the Red Army, following an exchange of notes between the USSR and Rumania dated June 26-28, 1940. On August 2, 1940, the Supreme Soviet of the USSR enacted a law incorporating within the Ukrainian Soviet Socialist Republic Northern Bukovina, as well as what had been the Khotin, Akerman, and Ismail Districts of Bessarabia. The rest of Bessarabia was incorporated in a newly created Moldavian Soviet Socialist Republic, which became a constituent republic of the USSR.

2 The courts which were established in the former Polish Provinces incorporated in the Ukrainian SSR had had no instruction nor order to guide them. In the initial days of their work they followed only one basic principle, namely that the laws of the Republic of Poland were incompatible with the principles of a socialist state and could not, therefore, be applied. Article 2 of the Soviet Law of December 16, 1922, putting into effect the Civil Code of the Ukrainian
Under this procedure the new Soviet courts in Northern Bukovina accepted cases for trial even though they rested on claims which had arisen during the period of Rumanian sovereignty, but they applied Soviet law in deciding the dispute.

The material presented in this article comprises abstracts of a selection of the cases which came before the Soviet Provincial Court of Czernowitz for appellate review during this period of transition up to May, 1941. This was the period during which the writer had access to the records. All of the cases were read in making the selection. The Court, of necessity, suspended operations on June 22, 1941, with the German attack upon the USSR, so that the material here presented can be said to be a selection from an almost complete file of the work performed by one Soviet provincial court in an occupied territory.

The retroactive application of Soviet law to rights acquired under Rumanian law struck down a number of claims for a formal reason, namely the running of the statute of limitations. Under Rumanian law, and the Austrian law which had preceded it in the region, the general prescriptive period had been thirty years, with some exceptions when shorter periods were applied. Under Soviet law, the prescriptive period is one year on claims between private individuals and private organizations, or on claims in which but one of the parties is an institution, organization, or enterprise of the socialized sector of the economy. If both parties to a suit are within

SSR had prohibited Soviet courts and other institutions of the Republic from hearing disputes which originated prior to November 7, 1917, the date of the Russian Revolution. The problem faced by the new Soviet courts in 1939 in the former areas of Poland was whether the 1922 injunction was applicable to the circumstances of 1939. Soviet courts resolved the problem by refusing to hear cases based on claims arising prior to the date of occupation. See S. Feinblit, “Primenenie sovetskogo zakonodatel'stva v zapadnikh oblastjah UkSSR i BSSR” (The Application of Soviet Jurisprudence in the Western Territories of the UkSSR and the Byelorussian SSR), Sovetskaja Justitsija, No. 14, 1940, pp. 14-17 and No. 15, pp. 9-13; A. N. Makarov, “Die Einfuehrung der Sowjetgesetzbucheher in den der Sowjetunion angegliederten Gebieten,” Zeitschrift fuer Osteuropaeisches Recht, N.F. 7, 1941; and J. O. Fedynskyi, “Article 2 of the Introductory Law to the Civil Code and Its Significance for the Western Territories of the UkSSR” (thesis for the Scientific Session of the Faculty of Law of Lvov State University, Lvov, 1941). With the publication of Order No. 581, dated April 22, 1940, issued by the Council of People’s Commissars of the USSR, concerning the application of civil and criminal legislation on the territory of the Western Provinces of the UkSSR and the Byelorussian SSR, the matter was settled. It provided in Article 4 that disputes involving property, regardless of the time at which they originated, were subject to examination by courts on the basis of the civil law and civil procedure of the UkSSR and of the BSSR, and other pertinent laws of the two Republics or of the USSR. Thus, Soviet law was given retroactive effect in the new provinces. See Revolucijnje Pravo, No. 10 (1940), p. 30.

Civil Code of the UkSSR, Article 44.
the socialized sector the prescriptive period is one and a half years.\(^4\)

The short Soviet prescriptive period operated, when applied retroactively, to deny a remedy to several plaintiffs. Thus a contract concluded in 1938 was not enforced;\(^5\) a watch deposited for security in 1933 was not returned on payment of a debt,\(^6\) a plaintiff was denied payment of an obligation of a defendant contracted in the years 1932–1933.\(^7\)

Application of this rule would have excluded remedies for all rights incurred prior to the middle of 1939 had it not been for the loophole offered by the Code to courts finding exceptional circumstances.\(^8\) The courts frequently took advantage of the loophole. Thus, the price of a cow sold in 1934 was recovered.\(^9\)

The fundamental question of the time from which the prescriptive period should be computed was not decided by the Provincial Court until rather late in the period under review. On January 29, 1941, the principle was announced that “Soviet statutes went into effect at the very moment when the peoples of Northern Bukovina united with the USSR, and limitation on suit should be calculated from that time, in accordance with the principles of Article 44 of the Civil Code.”\(^10\)

The statute of limitations was not applied to all equally. Thus, it was held that the State Bank could not be barred as plaintiff when it was suing on claims as the legal successor of the Rumanian Banks.\(^11\) It was found similarly unfitting to bar the suit of a plaintiff under the provision of the short Soviet prescriptive period when the defendant was a manufacturer. In this case the claim had

---

\(^4\) Ibid., Article 44, part 2.
\(^5\) Decision No. 98, November 2, 1940, affirming decision of People’s Court of Lenin District, dated October 23, 1940.
\(^6\) Decision No. 232, December 12, 1940, affirming decision of People’s Court of Kel’menec District, dated November 20, 1940.
\(^7\) Decision No. 272, December 24, 1940, reversing People’s Court of Czernowitz Peasant District, dated December 7, 1940.
\(^8\) Civil Code of the UkSSR, Article 49.
\(^9\) Decision No. 12, 1941, affirming People’s Court of Kel’menec District, dated December 19, 1940.
\(^10\) Decision No. 99, January 29, 1941, reversing People’s Court No. 1, of the Stalin District, dated January 7, 1941. The same principle was enunciated in decisions No. 143, April 10, 1941, and No. 519, April 16, 1941. The courts of Western Ukraine took the position that the prescriptive period began to run at the moment that Soviet courts began to function in a given territory. See _Revolutscijne Pravo_, No. 23, 1940, p. 98. Finally the Plenum of the Supreme Court of the USSR ordered that the period should be computed from the moment at which the right to sue was established. See _Vil’na Ukraïna_ (Free Ukraine), April 20, 1941.
\(^11\) Decision No. 24, January 6, 1941, reversing People’s Court of the Kicman District, dated December 19, 1940.
nothing to do with manufacturing, but concerned a claim of the Water Supply and Sewerage Administration against a manufacturer on indebtedness incurred by him during 1939 for service supplied to his home.\textsuperscript{12}

The different ages of achieving legal capacity established by Soviet and Rumanian law necessitated a court determination as to which law governed. The issue arose in connection with a marriage arrangement under which a bridegroom had sold a horse for 3,000 lei to his bride's father on the occasion of the marriage. Seven months later the husband divorced his recent bride, and took the horse away with him on departure. The father then brought suit for the horse, and the divorced husband sought to set aside the sale on the ground that he had been a minor under Rumanian law at the time of the sale. The People's Court held for the bride's father, and the Provincial Court affirmed,\textsuperscript{13} declaring in its opinion that the Soviet law was alone operative, and under Soviet law a person over the age of eighteen is fully responsible.\textsuperscript{14}

While the above cases indicate how purely technical provisions of the law, such as the running of a prescriptive period or the age of responsibility, were applied to achieve results in keeping with Soviet policy of favoring debtors and those who were subjected to loss because of sharp practices, other cases indicate Soviet policy more directly. Many cases had to do with domestic relations. Many concerned claims for alimony brought by women who had been divorced years earlier under Rumanian law. Women who proved severe hardship and inability to work were given alimony decrees under the provisions of Article 129 of the Family Code. Maintenance claimed for children born prior to the establishment of the Soviet regime in Bukovina was granted. Fathers of children born in or out of wedlock were required to pay maintenance on the basis of Article 31 of the Family Code.\textsuperscript{15} Where there had been

\textsuperscript{12}Decision No. 279, December 21, 1940. In another case the short prescriptive period of the Ukrainian Civil Code was not applied, but the reason was because the Court found it necessary to apply the rule of conflict of laws existing in the USSR. The claim arose over a transaction entered into in Dagestan. Under the Civil Code of the RSFSR, which was applicable as the law of the place of contracting, the prescriptive period is three years rather than the shorter Ukrainian period. Decision No. 415, dated March 31, 1941, reversing the People's Court.

\textsuperscript{13}Decision No. 111, November 10, 1940, affirming People's Court of Zastavna District, dated October 21, 1940.

\textsuperscript{14}Civil Code of the UkSSR, Article 9, and Family Code of the UkSSR, Article 109.

\textsuperscript{15}One-fourth of the father's income was payable in the event that there was one child; one-third in the event of two children and one-half in the event of three or more children.
Rumanian maintenance decrees, the amounts payable were recomputed on the basis of the Soviet statute. A lump sum payment was ordered made when the father was a farmer.\(^{16}\)

Two maintenance cases decided by the Czernowitz Provincial Court in the application of these principles indicate specific problems. The first involved a departure from the fixed rule of monthly payments. A father emigrated to Germany, and the People's Court thought this sufficient reason to require a lump sum payment of 4,200 rubles to cover a period running from May 9, 1940 to May 9, 1955.\(^{17}\) A grandmother was required to pay maintenance for her grandchild in one case.\(^{18}\) The child's father had fled to Rumania while Bukovina was being occupied by Soviet troops, leaving the child behind without support. The child was in the peasant household to which his father had belonged and over which his grandmother presided. The Court decreed maintenance to be paid by the head of the peasant household in accordance with an interpretation of Article 33 of the Family Code.

Suits concerning maintenance were sometimes brought by parents seeking to obtain relief from the obligation to continue support required by prior court decrees. A father argued that he had already paid the mother for the support of the child, born in 1929, 28,000 lei, with which the mother had purchased for the child's benefit a plot of land. The Court denied the validity of the claim, and decreed continuing maintenance of 100 rubles a month.\(^{19}\)

Soviet courts did not hesitate to review Rumanian records and court decisions when they related to parenthood. In one case it was found that a child had been registered as the son of an absent husband, even though the husband had sailed for permanent residence in America in 1929, and the child was born in 1933. The Soviet court held the actual father responsible for maintenance, and set aside the old record.\(^{20}\)

The division of marital property in the event of separation was the concern of a series of cases. One decision gave judgment for the plaintiff in the amount of 1,960 rubles, as well as half of the crops

---

\(^{16}\) This system of maintenance payments was later changed in the USSR by the Decree of July 8, 1944.

\(^{17}\) Decision No. 26 of People's Court No. 1 of Storožinec District. The decision was set aside by the Provincial Court on September 24, 1940, for procedural reasons.

\(^{18}\) Decision No. 18, October 18, 1940, affirming People's Court of Lenin District, No. 2.

\(^{19}\) Decision No. 454, April 9, 1941, affirming People's Court of Kicman District, dated March 15, 1941.

\(^{20}\) Decision No. 238, March 5, 1941, affirming People's Court of Zastavna District, dated December 30, 1940.
growing on two hectares of wheat fields, and two hectares of sunflower fields, and dowry which had not been returned to the wife at the time of separation.21 Another similar decision recognized a separated spouse's right of ownership of a house built jointly by the couple in 1936.22

Inheritance problems arose in connection with some family settlements. Soviet civil codes establish restrictions on the classes of persons who may inherit, and these restrictions exceeded those of the Rumanian law. Thus, the Soviet Court evicted two sisters-in-law of the plaintiff from a house which they had acquired under Rumanian law, on the ground that under Soviet law the house passed to a surviving widow and child rather than to sisters of the prior owner.23 The sisters had been successful in a Rumanian court in evicting the widow in 1937. An heir (son) of a debtor who had died in 1935, was sued successfully by a creditor of the decedent under the principle that the heir succeeds to the obligations as well as the assets of the decedent.24

Two cases involved legacies under a will. In the first, a woman made a last will and testament on March 29, 1940, while Bukovina was still under Rumanian sovereignty. In this will, which was executed in the presence of two witnesses, the testatrix bequeathed her estate to third parties. On January 15, 1941, after the advent of the Soviet regime, the witnesses acknowledged their signatures before the State Notary. The People's Court held the will to be valid, but the Provincial Court reversed, on the ground that the will did not conform to the form required by Article 422 of the Soviet Civil Code, and it also provided for a disposition of property which was not in accord with the distribution permitted by Article 418 of the Soviet Civil Code.25

A female farm laborer brought suit to set aside a will leaving property to a wife of the decedent, on the ground that while she was working for the decedent from 1933 to 1940 and prior to the decedent's marriage in November, 1940, he had promised to leave

21 Decision No. 24, October 18, 1941, affirming People's Court of the Bricanskij District, dated October 4, 1940. The decision was an application of Article 125 of the Family Code.
22 Decision No. 30, January 7, 1941, affirming People's Court of Kel'mene District, December 24, 1940.
23 Decision No. 241, December 17, 1940, affirming People's Court No. 1 of Bricanskij District, dated October 29, 1940. The Soviet court said it was applying Article 418 of the Ukrainian Civil Code.
24 Decision No. 25, January 7, 1941, affirming People's Court of Vaškivci District, dated December 4, 1940.
25 Decision No. 284, March 3, 1941, reversing People's Court No. 3 of Ševčenko District, dated February 17, 1941.
his property to her on his death. Shortly thereafter he had married. The People's Court held for the plaintiff, but the Provincial Court reversed, on the ground that under Article 418 of the Civil Code, the wife as the legatee named in the will had the right of inheritance.26

Soviet economic and political policy was demonstrated clearly in the decisions having to do with the protection of property rights. Ownership by individuals of real property was invalidated in Northern Bukovina simultaneously with the advent of Soviet authority, but the right of personal ownership of consumers' goods was not molested. Thus the Court found it possible to recognize a plaintiff's right of ownership in a dwelling which had been purchased from a grandfather in 1932 subject to the provision that the plaintiff would take possession only after the death of the grandfather. The grandfather had died in 1938, but the plaintiff had been unable to establish his right against the grandfather's estate.27 Another plaintiff was able to obtain legal recognition of his right to furniture purchased but not delivered during the period of Rumanian sovereignty.28

A purchaser of a building who had paid a Rumanian officer, its owner, 150,000 lei in July, 1940, sought to establish his right after the coming of Soviet authority. The sale had not been attested in accordance with the form prescribed by Article 182 of the Soviet Civil Code because at the time the proper agencies of the city administration were not yet functioning. The People's Court held for the plaintiff. The Prosecutor protested the decision in accordance with the authority granted him by Article 3 of the Soviet Code of Civil Procedure. The Provincial Court set aside the decision of the lower court and ordered examination of the possibility that the agreement was fictitious and ordered a decision as to whether in such an event the property should pass to the State as ownerless, under the provisions of Article 68 of the Civil Code.29

An unusual case tested the authority of the Red Army to dispose of property. A plaintiff claimed a horse on the grounds that it had belonged to him prior to the occupation of Bukovina by Soviet troops, and he had taken it with him when he had been mobilized into the Rumanian Army. Later, after Soviet occupation he had abandoned the horse in the army camp and returned home. Two months later he recognized the horse in the possession of the de-

26 Decision No. 198, February 14, 1941, reversing People's Court No. 1 of the Kicman District, dated January 29, 1941.
27 Decision No. 73, November 4, 1940.
28 Decision No. 66, October 25, 1940.
29 Decision of October 23, 1940, reversing People's Court No. 1 of the Lenin District.
fendant. On demand the defendant refused to return the horse on
the ground that he had been given it by the Soviet troops. The
Provincial Court held that the horse was the property of the
defendant since he had acquired it in good faith from the Red
Army, which had the right under Article 60 of the Civil Code to
dispose of assets abandoned by the Rumanian Army.30

In two other cases decisions which protected private ownership
were reached. A plaintiff sought to recover from the village council
a radio which he claimed he had purchased from a Rumanian
soldier for 2,500 lei as the soldier fled to Rumania before Soviet
troops on June 27, 1940; later the radio had been taken by the
village council. The Court did not order the return of the radio,
but it ordered that the plaintiff be paid sixty-two rubles as its
value.31 A second plaintiff sought to obtain a mower which he
claimed to have purchased from the defendant by exchanging four
sheep in 1939. In 1940, during the early days of the occupation
of Bukovina by the Red Army, the plaintiff was absent, and the
former owner retook possession of the mower and refused to return
it to the plaintiff on his return. The Court ordered the defendant
to return the mower to its owner.32

The State took property in two cases in which the Court found
it to have been abandoned. In one of them a plaintiff had sued to
establish his ownership of half of a building formerly owned by
a sister who had fled to Rumania during the occupation of North-
ern Bukovina by Soviet troops. The Court held that the sister’s
share in the house had reverted to the State as unclaimed property
under Article 68 of the Civil Code when she fled.33 Likewise, the
Court ordered in a suit brought by R. against D. that the apparatus
which was the subject of dispute had belonged to persons who had
fled to Rumania, and that the city’s Financial Department should be
notified of the presence of abandoned assets.34

Owners of chattels pledged during the period prior to the occu-
pation were able to obtain a return of the pledge after the occupa-
tion on payment of the claim which had been secured by the
pledge.35

A deal involving support of a person during his old age in return

30 Decision No. 235, February 24, 1941.
31 Decision No. 396, March 26, 1941, affirming People’s Court No. 1 of the
Kel’menec District, dated March 8, 1941.
32 Decision No. 195, December 7, 1940.
33 Decision No. 274, February 28, 1941, affirming People’s Court No. 1 of the
Lenin District, dated February 19, 1941.
34 Decision No. 36, October 24, 1940.
35 Decisions No. 14, October 17, 1940; No. 260, December 19, 1940 (two com-
forters pledged in the spring of 1940); and No. 99, January 29, 1941 (a fur coat
pledged for a loan of 2,000 lei contracted in March, 1939).
for a promise to transfer property was reviewed without final determination in November, 1940. A plaintiff claimed a house on the ground that he had been evicted illegally by his son-in-law after the death of his wife and daughter. He argued that in 1932 the son-in-law and daughter entered upon the premises under an agreement that the house would become the son-in-law's after the death of the plaintiff and his wife, if the son-in-law would support the aged couple until their death. The aged wife died in 1934, and the daughter of the plaintiff in 1938. The People's Court gave judgment for the aged father and restored him to possession, but the Provincial Court ordered re-examination of the case to verify all of the facts.36

Most of the cases straddling the date of occupation and coming before the Court for determination after the coming of Soviet authority concerned the law of contracts. The Court indicated a policy of enforcing contracts even though they had been made under Rumanian law prior to the coming of Soviet troops. Thus, debtors who had borrowed money prior to the occupation were ordered to repay it in Soviet currency.37 Persons who had not paid a balance due on a purchase price were ordered to pay up.38 A fee of 300 rubles was ordered paid for completion in 1938 of a commission to execute a passport to Palestine.39

In every instance involving suit by a person who had performed services under a contract prior to the arrival of the Red Army, the Court ordered payment by the recipient of the services. Thus 250 rubles were collected for dry cleaning of clothing;40 seventy-five rubles were collected for carpentry work on doors and windows in 1939;41 and 122 rubles were collected for gardening done in 1939.42

Two contracts were set aside on the basis of fraud going to the heart of the contract. One involved the sale of a building with a

---

36 Decision No. 125, November 16, 1940, reversing People's Court of the Kienan District, dated October 26, 1940.
37 Decisions No. 15, October 17, 1940 and No. 43, October 18, 1940.
38 Decision No. 4, October 26, 1940 (265 rubles due on the purchase of furniture); Decision No. 19, October 14, 1940, affirming People's Court No. 1 of Brăeșanskij District, dated September 25, 1940 (2,500 rubles as the equivalent of the balance due on the purchase price of 100,000 lei for a tractor purchased on January 27, 1940. From the minutes it was not entirely clear whether the tractor had been nationalized subsequently).
39 Decision No. 95, November 2, 1940.
40 Decision No. 48, October 18, 1940.
41 Decision No. 175, November 21, 1940.
42 Decision No. 142, November 21, 1940.
farmyard in 1937,\textsuperscript{43} and the other a contract dating from the year 1932.\textsuperscript{44}

Labor law claims have always been treated by Soviet lawyers with sympathy when suits for wages were involved. Yet, after the occupation, the courts moved cautiously with the suits coming before them. Not infrequently workmen utilized the occasion to sue for wages for several years past. Thus, the Provincial Court ordered re-examination of a claim for wages for the years 1925–1935 for work in building construction, because there was some indication that the work had not actually been performed.\textsuperscript{45}

The provisions of Article 33 of the Soviet Civil Code permitting a court to set aside a contract if it found that it was executed by one of the parties under conditions of extreme want of which the other party took advantage were applied to the wage earner’s benefit in the following case. The wage earner claimed wages in excess of those in the contract of employment. The defendant argued that the terms of the contract must be applied. The Provincial Court affirmed judgment for the plaintiff in the amount claimed, namely 609 rubles, stating, “The agreement, by which the plaintiff was obligated to work for the defendant twelve to fourteen hours a day for 400 lei and 3 ½ kilograms (seven pounds) of meat per week, is recognized as having been executed under conditions of extreme want (Article 33 of the Civil Code), and not in accord with Soviet regulations.”\textsuperscript{46}

Another plaintiff did not fare so well when he sought wages for several years’ work in the defendant’s store. The defendant claimed that when the plaintiff deposited with him 40,000 lei as security when he commenced work in 1936, he became a partner and was not a servant. The People’s Court held for the plaintiff, but the Provincial Court reversed.\textsuperscript{47}

The long-unused Articles of the Civil Code which had been incorporated in the Ukraine during the period of limited capitalist enterprise in the mid-1920’s were applied in one case, in which a partner sought dissolution of the partnership and return of his contribution. The Court held for the plaintiff.\textsuperscript{48}

\textsuperscript{43} Decision No. 147, February 12, 1941.
\textsuperscript{44} Decision No. 117, November 11, 1940.
\textsuperscript{45} Decision No. 25, January 7, 1941, affirming decision of People’s Court of Vaškivci District, dated December 9, 1940. Similarly, a claim for wages for the years 1932–1933 was ordered re-examined. Decision No. 272, December 24, 1940.
\textsuperscript{46} Decision of November 23, 1940, affirming People’s Court No. 2 of the Stalin District, dated November 2, 1940.
\textsuperscript{47} Decision No. 234, February 21, 1941.
\textsuperscript{48} Decision No. 333, March 4, 1941, applying Article 289 (b) of the Civil Code.
A tendency to favor a thief over the owner of stolen goods was indicated in a case involving a theft prior to the coming of Soviet troops. The Rumanian court had found the defendant guilty, had sentenced him to three months’ imprisonment, and had given the plaintiff a judgment in the amount of 1,600 lei as the value of the stolen goods. The Rumanian court’s decision was dated June 26, 1940, the last day that it functioned. After the change in sovereignty, the owner sued again to recover the value of the goods, apparently because he had been unable to collect the judgment. The People’s Court gave judgment again for the plaintiff. The Provincial Court made no reference to the testimony in dispute in the Rumanian court which had given the judgment, but reversed on the ground that the testimony in the People’s Court had not established the nature of the stolen goods or their value.

Tort cases involving suits for damages suffered prior to the occupation also appear in the record. A judgment of 1,208 rubles was given a plaintiff against a defendant who had caused a fire on the plaintiff’s property. A person injured in a fight was given damages for the injuries suffered. A judgment of twenty rubles monthly to meet a rent bill of the plaintiff was given against a defendant who, several years previously, had killed the sixty-five-year-old plaintiff’s son in a fight. The father had been dependent upon his son for support. The defendant had been convicted previously by a Rumanian court, and had been required to pay at the time 15,000 lei to the mother of the deceased. Another defendant was ordered to pay forty rubles monthly to a woman whose husband had been killed by the defendant in 1936 in self-defense. The Rumanian court at the time had acquitted the defendant, but in a civil action had given judgment to the plaintiff in the amount of 20,000 lei. The decedent had been the plaintiff’s sole support.

In many of the cases discussed, the problem of translating claims expressed in lei into Soviet rubles has been indicated. The Court used the official exchange rate of one ruble equals forty lei in the decisions reported above. In one case the Court refused to give judgment in the amount of 145 rubles in payment of a loan incurred in Czech crowns, because there was not at the time an official basis for valuing Czech crowns in terms of Rumanian lei.

40 Decision No. 54, October 29, 1940.
41 Decision No. 305, January 4, 1941.
42 Decision No. 12, October 16, 1940.
43 Decision No. 145, November 21, 1940.
44 Decision No. 181, December 3, 1940, affirming People’s Court of the Sekurackij District, dated November 13, 1940.
45 Decision No. 43, October 18, 1940, affirming People’s Court No. 1 of Ševčenko District, dated September 28, 1940.
Nationalization produced only a few cases of sufficient interest to be discussed in this paper. Banks were nationalized in Bukovina on the basis of a decree of the Presidium of the Supreme Soviet of the USSR, dated August 15, 1940. But the State Bank took only the assets and not the liabilities of former Rumanian private banks. The distinction was drawn clearly by the Provincial Court in a case, following receipt from Moscow of an instruction of the President of the State Bank of the USSR.55

Landlords whose property was nationalized received short shrift. A hardship case indicated the extent to which the courts were prejudiced against them. A houseowner sold his home and the adjacent real property to another party in March, 1940, for 150,000 lei. He used the proceeds of the sale to purchase land from a large landowner. Due to the arrival of Soviet troops he was unable to enter upon the land before all estates owned by the large landowner were declared nationalized. The former houseowner now found himself without the newly purchased land, without the house which he had sold, and without the proceeds of the sale which he had used to purchase new land. He brought suit to have the sale of his home set aside so that he might be restored to the position in which he had been when the series of transactions were commenced. The People’s Court gave judgment in his favor and ordered the first contract of sale set aside, but the Provincial Court, after further examination of the documents, reversed the decision.56

An owner of some factory machinery was similarly treated. In 1939 under a contract with a factory he installed three bundling machines which he was to operate in bundling berets. The machines were to remain his property. When the factory was nationalized, the three machines were included in the inventory. The owner then sued for their value. The People’s Court denied his claim on the ground that under the decree of the Presidium of the Supreme Soviet of the USSR, dated August 15, 1940, private individuals had no right to separate from socialized industries any of the means of production. The Provincial Court affirmed the decision.57

Cases in the civil courts in Czernowitz during the period of Soviet occupation were conducted exclusively in the Ukrainian language. Those parties or witnesses who did not command the language were permitted to use interpreters, who translated from Rumanian and German, the most common languages of those who did not use Ukrainian.

55 Decision No. 55, January 4, 1941.
56 Decision No. 320, December 29, 1940, reversing People’s Court of Kel’menec District, dated October 24, 1940.
57 Decision No. 191, February 14, 1941, affirming People’s Court No. 3 of the Stalin District, dated January 29, 1941.
In reviewing the record, it is obvious that the Soviet authorities found it suitable to their purpose to continue a system of civil law under which the rank and file of the common people, including small property owners, could enforce rights acquired prior to the occupation. Yet, at the same time, the authorities made it impossible for any one to obtain protection of a right which had matured under Rumanian law, if it was contrary to the public policy of the Soviet State, as evidenced by the Soviet Civil Code. There was no wholesale abrogation of civil rights which had matured prior to the occupation. Only the large property owners found no protection in the new Soviet courts. Speedy review seems to have been thought to be desirable. It is to be noted that the decision of the Provincial Court followed rapidly the decision of the People's Court. Under the Soviet Code of Civil Procedure, Article 269, an appellant was required to file his appeal within ten days of the filing of the judgment by the court of original jurisdiction. The Provincial Court handed down its decision within the ten days following, and sometimes sooner, so that civil parties did not have long to wait for a final decision in their case.

The experience in Northern Bukovina seems to indicate that Soviet policy makers consider it important to preserve the morale of the people in newly acquired territories, at least during the transitional period until Soviet authority is thoroughly established, and civil law is given a place in the process. Although lacking the drama of the criminal law, it has a function of importance in the Sovietization of the life of a newly acquired community.