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Abstract:

Transmission easement began to exist as a legal institution with the entry into force of the provisions of the Civil Code which established it. Such easement could not have existed before the date of entry into force of the provisions of the Civil Code constructing this limited right. "Easement that corresponds to transmission easement" could not also have existed, as the terms "transmission easement" and "easement that corresponds to transmission easement" have exactly the same meaning. There could not also have been an "easement appurtenant" which as a result of a "dynamic" or "modern" interpretation acquired characteristics of the transmission easement. "Easement that corresponds to transmission easement" is only a misleading name given to the transmission easement. Since the easement could not have existed before the date of entry into force of the provisions that establish it, it could not also have been acquired either by legal action (in particular by an agreement), or by usucaption. The period of usucaption of such easement runs from the date of entry into force of the provisions constructing the easement, and is reduced — by a maximum of half the time required by the law — in the case in which prior to the entry into force of these provisions there existed a status on the property which after their entry into force would justify the establishment of transmission easement.

At the same time, the entry into force of the provisions on transmission easement does not affect any other types of easements. In particular, it does not have any effect on the interpretation of the provisions on the easements appurtenant.

All of these arguments are radically contrary to the well-established judicial decisions of the Supreme Court. The Court, concealing the real intention of its decisions (which, let us recall, is the protection of consumers against price rises of utilities, especially electricity), introduces disorder into the legal culture. It breaks the rules of interpretation and inference established in this culture, considers those standards valid which almost certainly would be recognized by the Constitutional Court as unconstitutional, and introduces contradictions to the language of jurisprudence.