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The Doctrine of Extinctive Time Limits According to Professor Jan Gwiazdomorski

Dawność umarzająca według Profesora Jana Gwiazdomorskiego

ABSTRACT

This article addresses a number of detailed questions concerning the institutions of extinctive time limits, i.e., a legal category embracing both the limitation of actions and preclusive time limits. It is a complex and multifaceted matter that prompts a series of academic questions and the search for answers. The primary goal of this paper is to illuminate the importance and enduring influence of Professor Jan Gwiazdomorski's ideas upon the evolution of interpretive approaches to the statutory provisions regulating this domain. Given the breadth and complexity of the subject, the discussion is narrowed to an inquiry into extinctive time limits in the realm of Polish inheritance law – a field

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which assumed a decisive significance in the scholarly formation of Professor Gwiazdomorski. Crucially, the decisive majority of the views presented at the time by the Professor, despite undeniable socio-economic and political changes, remain relevant to this day.

Keywords: extinctive time limits; limitation of actions; preclusive time limits; claim; law of succession

INTRODUCTION

Limitation (of actions) (Pol. *przedawnienie*), preclusive time limits (*terminy zawite*), negative prescription (*przemilczenie*), and acquisitive prescription (*zasiedzenie*) form the core institutions of what is traditionally referred to as the institutions of extinctive time limits (*dawność umarzająca*). Their essence lies in a mechanism whereby the simple passage of time produces specific legal consequences.[1] These consequences vary depending on which of the institutions of extinctive time limits is applicable in the given case. In most instances, the consequence will be the acquisition, loss, or modification of the content of a subjective right. By way of illustration, under French law (Article 2219 of the French Civil Code), it is explicitly recognised that, upon fulfilment of certain statutory requirements, the lapse of time may lead not only to the acquisition of a right (prescription acquisitive) but also to the release of the debtor from an obligation to perform (prescription extinctive).[2]

The scholarly literature reveals two principal designations applied to the mechanism of extinctive time limits. The first is that of so-called acquisitive time limits (Pol. *dawność nabywcza*), embracing the institutions of negative prescription and acquisitive prescription. The second is that of extinctive time limits (*dawność umarzająca*), a term used to capture the legal consequences arising out of the limitation of actions and preclusive time limits.[3] It is the latter form of extinctive time limits that is the point of focus of this paper. Given the breadth of the domain of limitation and preclusion, the discussion that follows concentrates on the realm of succession law – a field that occupied a pre-eminent place in Professor Jan Gwiazdomorski's scholarly oeuvre.

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[1] A. Wolter, [in:] A. Wolter, J. Ignatowicz, K. Stefaniuk, *Prawo cywilne*, Warszawa 1996, p. 319 ff.; B. Kordasiewicz, [in:] *System Prawa Prywatnego*, vol. 2: *Prawo cywilne*, ed. Z. Radwański, Warszawa 2008, p. 565 ff.

[2] M. Pyziak-Szafnicka, *Komentarz do art. 117*, [in:] *Kodeks cywilny. Komentarz. Część ogólna*, eds. P. Księżak, M. Pyziak-Szafnicka, Warszawa 2014, note 1; Z. Radwański, [in:] Z. Radwański, A. Olejniczak, *Prawo cywilne*, Warszawa 2015, p. 360 ff.

[3] M. Rzewuski, [in:] *Kodeks cywilny. Komentarz*, ed. M. Załucki, Warszawa 2024, p. 329; P. Zakrzewski, *Komentarz do art. 117*, [in:] *Kodeks cywilny. Komentarz*, vol. 1: *Część ogólna (art. 1–125)*, eds. M. Fras, M. Habdas, Warszawa 2018, note 1.

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INSTITUTIONS OF EXTINCTIVE TIME LIMITS – A HISTORICAL OUTLINE

The unification of the law on limitation was accomplished in Articles 273–287 of the 1933 Code of Obligations.[4] This codification addressed primarily the limitation of claims under the law of obligations, while the limitation of other rights was left to the relevant branches of civil law, to which the legislation of the former partitioning powers still applied.[5] The drafters of the Code of Obligations drew inspiration from the prevailing solutions in Western Europe. The essential consequence of limitation was thus the creation of a peremptory defence, barring both adjudication and enforcement. At the same time, the court was expressly forbidden to take limitation into account *ex officio* (Article 273 § 2 CO). A time-barred obligation was transformed into a natural obligation, and the running of the limitation period commenced on the day when the claim became due. The running of the limitation period could be interrupted, i.e. suspended or stopped.[6] In addition to limitation, the law recognised also preclusive time limits, upon the expiry of which the enforcement of a claim before the court was no longer possible. Unlike limitation, the expiry of preclusive periods was taken into account by the courts *ex officio*. The commencement of these periods was defined by the provisions governing preclusion, and their running could neither be suspended nor stopped. Scholarly writings nevertheless underscored that in one crucial respect the effect of preclusion overlapped with that of limitation: in every case, a natural obligation arises.[7] On 1 January 1947, the Decree of 12 November 1946 on the General Provisions of Civil Law[8] came into effect. Under Article 12 of the Decree, where no special regulation was provided, the provisions of the Code of Obligations on the limitation of claims were to be applied, accordingly, to the limitation of other rights and property claims.[9]

A subsequent set of rules on extinctive time limits appeared in Articles 105–117 of the 1950 General Provisions of Civil Law.[10] The core of this regulation was

[4] Regulation of the President of the Republic of Poland of 27 October 1933 – Code of Obligations (Journal of Laws 1933, no. 82, item 598, as amended), hereinafter: CO.

[5] R. Longchamps de Bérier, *Polskie prawo cywilne. Podręcznik systematyczny*, vol. 2: *Zobowiązania*, Lwów 1939, p. 415; A. Brzozowski, *Nowa regulacja przedawnienia w prawie cywilnym*, "Państwo i Prawo" 1992, no. 3, p. 22.

[6] A. Stępień-Sporek, [in:] F. Sporek, A. Stępień-Sporek, *Przedawnienie i terminy zawite*, LEX/el. 2009; R. Longchamps de Bérier, *op. cit.*, pp. 415–429.

[7] R. Longchamps de Bérier, *op. cit.*, pp. 429–430.

[8] Journal of Laws 1946, no. 67, item 369.

[9] A. Stępień-Sporek, *op. cit*.

[10] Act of 18 July 1950 – General Provisions of the Civil Code (Journal of Laws 1950, no. 34, item 311), hereinafter: GPCL.

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akin to the solutions adopted in the Code of Obligations. Limitation was a means of defence available to the debtor, enabling them to avoid the performance of the obligation.[11] Preclusion, by contrast, pertained to the right to seek judicial protection. The essential difference between preclusive time limits and limitation was that preclusion meant the extinction of the right of action, while limitation merely opened the way for the debtor to raise a defence. The rules governing limitation were to be applied to preclusive time limits, save for the provisions on suspension of limitation periods – unless the inability to pursue claims in a court resulted from the suspension of the administration of justice or from force majeure (Articles 114–116 GPCL). An interruption of a preclusive time limit was possible only where the claim had been acknowledged in writing.[12] Beyond limitation periods, the law recognised preclusive time limits, which were different in general circulation (arbitration preclusion) and different in the pursuit of claims arising from labour relations. Arbitration preclusion was introduced on 30 April 1951 on account of the fact that civil-law transactions between entities of socialised economy differed from those between natural persons, as well as from those between natural persons and entities of socialised economy. The expiry of limitation or of a preclusive time limit in respect of an obligation which could not be pursued by the creditor in arbitration proceedings resulted in the extinction of such an obligation, rather than its transformation into a natural one.[13]

The 1964 Civil Code[14] dispensed with any regulation of preclusive time limits. In the eyes of its drafters, there was no socio-economic rationale for the coexistence of two separate institutions of extinctive time limits.[15] In addition, the relevance of the institutions of limitation and preclusion to the realities of socialist economic relations was flatly denied. The newly defined institution of limitation was therefore placed under the regime that had formerly governed preclusive time limits. Moreover, Article XIII of the Act of 23 April 1964 – Provisions introducing the Civil Code[16] further stipulated that whenever civil-law provisions prescribed time

[11] Z. Klafkowski, *Przedawnienie w prawie cywilnym*, Warszawa 1970, pp. 10–12; A. Brzozowski, *op. cit.*, p. 22.

[12] A. Stępień-Sporek, *op. cit.*; A. Wolter, Z. Policzkiewicz-Zawadzka, *Przedawnienie roszczeń według kodeksu cywilnego*, "Państwo i Prawo" 1965, no. 3, p. 373.

[13] W. Bagiński, *Prawo gospodarcze jako samodzielna gałąź prawa socjalistycznego*, "Przegląd Ustawodawstwa Gospodarczego" 1959, no. 3, p. 95; A. Brzozowski, *op. cit.*, p. 23; Z. Klafkowski, op. cit., p. 20.

[14] Act of 23 April 1964 – Civil Code (consolidated text, Journal of Laws 2025, item 1071, as amended).

[15] S. Szer, *Z problematyki przedawnienia*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 1968, no. 3, pp. 211–212. Cf. J. Topiński, *Socjalistyczne prawo cywilne w praktyce arbitrażu*, "Państwo i Prawo" 1951, no. 5–6, p. 877.

[16] Journal of Laws 1964, no. 16, item 94, as amended.

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limits upon the expiry of which claims were no longer enforceable (preclusive time limits), such limits were to be regarded as limitation periods from the moment of the Civil Code's entry into force.[17]

LIMITATION OF CLAIMS ARISING FROM SUCCESSION

It is beyond dispute that the primary function of limitation of actions, as an institution of extinctive time limits, is to dispel the uncertainty that arises when a right-holder neglects to enforce their subjective rights for a protracted period. As Professor Jan Gwiazdomorski observed, "it is undesirable that a factual state of affairs long established should be unsettled by a belated recourse to legal protection. A situation that has endured for a long time is more likely to accord with the law than to stand in opposition to it. Without the institution of limitation, the commencement of proceedings after a considerable lapse of time might – given the evidentiary obstacles faced by the defendant (…) – lead to a judgment at odds with the legal order, i.e. substituting a lawful state of affairs with one that defies the law. Yet, even an unlawful state of affairs, once it has persisted over time, deserves a measure of protection in the eyes of the law. With the passage of time, the right-holder no longer expects their claim to be satisfied, just as the person against whom it is directed no longer anticipates the burden of satisfaction of the claim. To permit the belated pursuit of such a claim would unleash chaos, and for the individual against whom it is brought, it would frequently entail grave difficulties, coupled with the duty to satisfy a claim whose existence they had long since ceased to contemplate".[18]

The case law of the Constitutional Tribunal underscores that the institutions of extinctive time limits must balance the diverse – and at times conflicting – interests of actors in civil-law transactions. There can be no legal provisions allowing the enforcement or exercise of rights while simultaneously burdening other parties with the corresponding obligations for an indefinite period, thereby creating a state of legal uncertainty.[19] The essential purpose of limitation of claims is thus the removal of the dissonance that may emerge between the actual state of affairs and the content of a specific legal relationship.[20] The case law has aptly observed that "the institution of limitation serves to remove a state of uncertainty and to discourage creditors from remaining idle in pursuing their claims, and to shield debtors from the pursuit

[17] A. Stępień-Sporek, *op. cit.*; Z. Klafkowski, op. cit., p. 23.

[18] J. Gwiazdomorski, *Podstawowe problemy przedawnienia*, "Nowe Prawo" 1955, no. 1, pp. 5–6.

[19] Judgment of the Constitutional Tribunal of 1 September 2006, SK 14/05, OTK-A 2006, no. 8, item 97.

[20] M. Rzewuski, *op. cit.*, p. 329. Cf. T. Pałdyna, *Przedawnienie w polskim prawie cywilnym*, Warszawa 2012, p. 68.

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of potentially groundless claims once, with the passage of a considerable period of time, they can no longer prove that the pecuniary obligation has been settled". The doctrinal literature further stresses that the institution of limitation serves more to ensure the stabilisation of social relations than to realise justice. Because limitation serves the public interest, the norms regulating this institution are of an absolutely imperative nature. The parties to a civil-law relationship lack the authority either to set aside or to alter the rules governing limitation.[21]

It is beyond dispute that civil-law claims of a proprietary nature fall within the scope of limitation,[22] embracing both principal and accessory claims, and most notably claims for interest on pecuniary debts.[23] The term "claim" signifies the right to demand from a particular individual, or from a group of individuals, a specified form of conduct – whether an action or an omission. As Professor Jan Gwiazdomorski remarked, "conferring upon the entitled person the power to demand from a designated individual (or individuals) a specified course of conduct (action or inaction)".[24] The proprietary character of a claim, by contrast, is connected with the economic interest of the right-holder and may assume either a direct or an indirect form.[25] "From the principle that limitation does not extinguish subjective rights but only the claims derived therefrom, it also follows that if, once a claim has become time-barred, the state of affairs consonant with the content of the subjective right is restored (…), the person against whom the claim was directed will not only be unable to demand anything from the right-holder (…), but they will further be under an obligation to refrain from infringing the right-holder's right".[26]

Having regard to these definitions, it was already recognised in the 1950s that proprietary claims arising from succession were also subject to limitation. Professor Jan Gwiazdomorski made this point explicitly, noting that "as a rule, all proprietary claims arising in relationships where at least one of the parties is not an entity of socialised economy subject to state economic arbitration, therefore, claims for release of an inheritance under Article 1029 of the Civil Code become time-barred

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[21] Judgment of the Supreme Court of 3 August 2021, I NSNc 169/20, LEX no. 3207941.

[22] The following claims are not time-barred: for the dissolution of co-ownership (Article 220 of the Civil Code), negatory and for recovery of property (Article 223 § 1 of the Civil Code), negatory and for recovery of items inscribed in the national register of lost object of cultural heritage (Article 223 § 4 of the Civil Code), as well as claims for reparation of nuclear injury to the person (Article 105 (1) of the Atom Law).

[23] Resolution of the Supreme Court of 9 November 1994, III CZP 141/94, "Monitor Prawniczy" 1995, no. 3, p. 8.

[24] J. Gwiazdomorski, *Podstawowe problemy…*, p. 8.

[25] S. Grzybowski, [in:] *System Prawa Cywilnego*, vol. 1: *Część ogólna*, ed. S. Grzybowski, Wrocław 1985, p. 234; M. Pyziak-Szafnicka, [in:] *System Prawa Prywatnego*, vol. 1: *Prawo cywilne – część ogólna*, ed. M. Safjan, Warszawa 2012, p. 821; M. Romanowski, *Podział praw podmiotowych na majątkowe i niemajątkowe*, "Państwo i Prawo" 2006, no. 3, p. 36.

[26] J. Gwiazdomorski, *Podstawowe problemy…*, p. 10.

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upon the lapse of ten years (Article 117 § 1 and Article 118 second sentence of the Civil Code)".[27] It should be stressed that in that period, where the parties to a legal relationship were entities of socialised economy, the general provisions of civil law on limitation of claims and preclusive time limits did not apply. The aim of this arrangement was to compel such entities to press their claims within a narrowly defined timeframe.[28]

Inseparably linked with the institution of limitation is the issue of the maturity of a claim, which is to be understood as the situation in which the right-holder may effectively demand of the obligor the performance of the claim vested in them. Accordingly, where the performance consists in a specific action, the claim becomes due upon the expiry of the last day afforded to the debtor for voluntary performance.[29] Where, however, the maturity of the claim is contingent upon the creditor's undertaking a specific action, the limitation period begins to run from the day on which the claim would have fallen due had the creditor performed that action at the earliest conceivable moment. Whether the right-holder was in fact conscious of their claim and of the obligation to act incumbent upon them, or entirely unaware of them, is immaterial.[30]

In practice, pinpointing the exact moment when succession claims mature has never been straightforward. A telling example is furnished by Article 1029 of the Civil Code, one of the basic provisions on succession claims. It provides that an heir may require a person who holds the inheritance as though they were an heir, yet are not one, to release the inheritance to the former. The same rule governs individual items that form part of the estate (§ 1). Claims of an heir for remuneration for the use of items belonging to the estate, for the return of fruits or for payment of their value, as well as for compensation for damage resulting from the wear-and-tear, deterioration, or loss of such items, along with claims against the heir for reimbursement of expenditures, are governed mutatis mutandis by the provisions on claims between the owner and the autonomous possessor of a thing (§ 2). The same rules apply where a person, whose judicial declaration of death has been set aside, seeks the return of their property (§ 3).

In the wording of the cited provision, the legislator did not expressly determine the moment at which the claim for release of the inheritance or of items belonging to the estate becomes due. As is customary in such cases, recourse must be had to the doctrine. According to Professor Jan Gwiazdomorski, "the limitation period

[27] Idem, *Prawo spadkowe w zarysie*, Warszawa 1967, pp. 196–197.

[28] Z. Klafkowski, *op. cit*., p. 20; A. Brzozowski, *op. cit.*, p. 23.

[29] B. Kordasiewicz, *op. cit.*, p. 574; P. Księżak, *Początek biegu terminu przedawnienia roszczenia o wykonanie zapisu*, "Przegląd Sądowy" 2005, no. 1, p. 71 ff.; M. Rzewuski, *op. cit.*, pp. 345–346.

[30] P. Machnikowski, *Komentarz do art. 120*, [in:] *Kodeks cywilny. Komentarz*, ed. E. Gniewek, P. Machnikowski, Warszawa 2017, margin number 2–3.

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begins, if the heir has never assumed possession of the inheritance, on the day of the opening of the succession; and if the heir has done so but has later been deprived of it, on the day of such deprivation. The same rule governs claims for the release of individual items of the estate when a person who is not an heir holds them in the guise of an heir, that is, while claiming to have been called to succession. As for the claim under Article 1029 § 3 of the Civil Code, its limitation period begins to run on the day when the alleged 'heir' acquired possession of the property of a living person mistakenly declared dead, or of one whose death was declared erroneously (Article 120 § 1 of the Civil Code)".[31] The view expressed by Professor Jan Gwiazdomorski, from the very moment of its presentation, gained acceptance both in scholarly circles and in judicial practice. Moreover, this view has retained its validity to the present day. As contemporary commentators emphasise, "the statute does not expressly state the time at which the pursuit of the claim under Article 1029 § 1 [of the Civil Code] is admissible. By its very nature, such a claim can be advanced only after the opening of succession. It may be pursued prior to the acceptance of the inheritance and before the declaration of acquisition of the inheritance (…). The claim for the protection of succession therefore arises at the moment when the supposed heir takes possession of the inheritance or of particular estate assets, or when the rightful heir learns of his appointment to the succession. Such a claim is not subject to a fixed term (Article 455 of the Civil Code), and therefore becomes due immediately upon the demand addressed to the alleged heir to release the inheritance".[32]

EXTINCTION OF CLAIMS ARISING FROM SUCCESSION

From the very beginning, the Civil Code did not provide a separate regime for preclusive time limits. A justification to the 1962 draft made clear that preserving the dual institutions of limitation and preclusion had no social and economic rationale.[33] Professor Jan Gwiazdomorski nevertheless maintained that three distinct categories of preclusive time limits must be recognised: (1) those concerning the judicial pursuit of claims (where the claim itself endures, yet its enforcement before courts is barred once the period expires); (2) those concerning the exercise of formative rights (which expire outright if not exercised within the time limit allowed); and

[31] J. Gwiazdomorski, *Prawo spadkowe…*, p. 197.

[32] So in G. Karaszewski, *Komentarz do art. 1029*, [in:] *Kodeks cywilny. Komentarz aktualizowany*, ed. M. Balwicka-Szczyrba, A. Sylwestrzak, LEX/el. 2025, margin number 6.

[33] W. Bryl, [in:] *Kodeks cywilny. Komentarz*, ed. Z. Resich, Warszawa 1972, p. 261. Cf. a reservation made in J. Gwiazdomorski, *Terminy zawite do dochodzenia roszczeń*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 1968, no. 3, p. 88 ff.

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(3) those concerning an out-of-court act necessary to preserve a right (where failure to perform the act before the time limit leads to the extinction of the right itself).[34]

The essential distinctions between limitation and preclusion lie in their respective subject matter, in the consequences of expired time, and in the manner in which they operate. Whereas limitation applies only to proprietary claims, a preclusive period may encompass any form of subjective right. A decisive effect of preclusion is the extinction of the right itself – a consequence that the court is bound to recognise *ex officio*, irrespective of whether it has been defended by either party.[35] Furthermore, as the Polish Supreme Court has observed, "unlike limitation, preclusion is characterised by greater rigour, since it imposes more stringent temporal restrictions on the pursuit of claims. Claims falling under preclusive periods expire outright once the given period has elapsed, while time-barred claims are only barred from judicial enforcement if the defendant renounces the enjoyment of a right to raise the defence (Article 117 § 2 of the Civil Code). In addition, the expiry of a preclusive period, unlike that of limitation, is noted by the court ex officio".[36]

In analysing the institution of preclusion within the framework of the law of succession, Professor Jan Gwiazdomorski perceptively observed that there are instances in which, although the claim for release of the inheritance is not time-barred, its enforcement is nonetheless excluded on account of the expiry of preclusive time limits. Among such time limits, he counted those laid down in the following provisions:

1. Article 929 second sentence of the Civil Code – a judgment of an heir to be unworthy may be demanded by any person who has an interest in doing so. Such a demand may be made within one year from the day on which the person concerned learned about the cause of unworthiness, but not later than before the lapse of three years from the opening of succession. Professor Jan Gwiazdomorski observed that "where the inheritance is held by a person called to succession in the first line, against whom there exists a ground for declaring unworthiness, yet who has not been so declared, and once even a single time limit for seeking a judgment of unworthiness has elapsed, that person cannot be barred from succession (Article 929 § 2 of the Civil Code). As a result, that person must be deemed an heir, and no claim for release of the inheritance may be pursued against them".[37]
2. Article 940 § 2 second sentence of the Civil Code – the exclusion of the spouse from succession may be demanded by any other statutory heir appointed to succession concurrently with the spouse if the testator has filed

[34] J. Gwiazdomorski, *Podstawowe problemy…*, p. 19.
[35] M. Rzewuski, *op. cit.*, p. 336.
[36] Judgment of the Supreme Court of 11 May 2016, I CSK 304/15.
[37] J. Gwiazdomorski, *Prawo spadkowe…*, p. 197.

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for divorce through that spouse's fault (today: for a declaration of divorce or separation through their fault), and the demand was grounded; at the same time, the bringing of action is barred by limitation of six months from the day on which an heir learned of the opening of succession, but no more than one year from that opening. Professor Jan Gwiazdomorski held that "where the testator's spouse, against whom there exists a ground for exclusion from succession, is in joint possession of the inheritance, and once even a single time limit for bringing an action to exclude them from succession has elapsed, that spouse must be regarded conclusively as a co-heir; as a result, no claim may be made against them for the release of items belonging to the estate and in their possession".[38]

3. Article 945 § 2 of the Civil Code – which provides that a testament drawn up: 1) in a state precluding a conscious or free decision and declaration of intent; 2) under the influence of an error which justifies the supposition that had the testator not acted under the influence of the error he or she would not have drawn up a testament of such contents; or 3) under threat – cannot be claimed to be null and void after the lapse of three years from the day on which the person having an interest therein became aware of the ground of nullity, and in any event after the lapse of ten years from the opening of succession. As Professor Jan Gwiazdomorski aptly observed, the very wording of the provision shows that "where the inheritance is held by a person designated as heir under such a null and invalid testament, and once even a single time limit under Article 945 § 2 of the Civil Code has run its course, no claim for release of the inheritance may be pressed against the person in possession".[39]
4. Article 1019 § 1 of the Civil Code in conjunction with Article 88 § 2 of the Civil Code – where the declaration of acceptance or rejection of the inheritance has been made as a result of an error or under threat, the evasion of the legal effects thereof must be effected by a declaration presented to that person in writing while the right of evasion expires: in case of an error, after one year from its detection; in case of a threat, after one year from the cessation of the state of fear. Professor Jan Gwiazdomorski observed that "where the heir first called has renounced the inheritance under the influence of an error or threat, with the consequence that the heir called in the second line has taken possession, and once the time limit for evading the effects of the declaration of rejection has elapsed, the heir first called will be conclusively barred from succession (Article 1010 of the Civil Code) and will have no right to demand the release of the inheritance from the heir subsequently called".[40]

[38] *Ibidem*.
[39] *Ibidem*, pp. 197–198.
[40] *Ibidem*, p. 198.

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5. Article 679 § 1 second sentence of the Civil Procedure Code – an application to commence proceedings for the annulment or alteration of a declaration of acquisition of inheritance may be brought by a party to the earlier proceedings for such declaration solely where the claim rests on a ground that could not have been advanced in those proceedings, and only if the application for alteration is filed within one year from the day on which that party acquired the opportunity to invoke the ground in question. As Professor Jan Gwiazdomorski rightly held, "if the heir first called to succession participated in the proceedings for the declaration of acquisition of inheritance, but the declaration was granted to another person, and the heir first called did not file an application for alteration of the declaration within the time limit set forth in Article 679 § 1 second sentence of the Civil Procedure Code, the person who obtained the declaration must definitively be regarded as the heir, and the heir first called will not be entitled to demand the release of the inheritance from that person".[41]

CONCLUSIONS

The analysis undertaken demonstrates that both institutions of extinctive time limits – the limitation of actions and preclusive time limits – are, in a sense, peculiar constructs. As Professor Jan Gwiazdomorski aptly remarked, it might be thought that only two alternatives should exist: "either the person against whom a demand is raised is bound to perform what is sought, in which case they should comply; or else the demand is unfounded, and no legal duty arises to heed it, in which case the person addressed may naturally refuse. No other possibility should present itself".[42]

The study of the institutions of extinctive time limits, however, suggests that the operation of the above-mentioned principle in practice is subject to numerous restrictions and exceptions. Some of these, relating specifically to the domain of Polish succession law, have been indicated, while others have been explored through the insights of Professor Jan Gwiazdomorski, repeatedly cited throughout this paper.

[41] *Ibidem*.

[42] Idem, *Podstawowe problemy…*, p. 4.

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ABSTRAKT

Przedmiotem artykułu są wybrane zagadnienia szczegółowe dotyczące dawności umarzającej, tj. instytucji obejmującej swoim zakresem przedawnienie roszczeń i terminy zawite. Jest to materia złożona, a przy tym wielowątkowa, która skłania do stawiania szeregu pytań naukowych oraz poszukiwania na nie odpowiedzi. Głównym celem opracowania jest ukazanie znaczenia i wpływu poglądów Profesora Jana Gwiazdomorskiego na kształtowanie i rozwój wykładni przepisów prawnych normujących tytułowe zagadnienie. Przez wzgląd na rozległość i wielowątkowość obranej tematyki rozważania skoncentrowano na próbie analizy dawności umarzającej w płaszczyźnie polskiego prawa spadkowego – prawa, które w rozwoju kariery naukowej Profesora Gwiazdomorskiego odegrało olbrzymią rolę. Co istotne, zdecydowana większość z poglądów zaprezentowanych wówczas przez Profesora, pomimo niezaprzeczalnych zmian społeczno-gospodarczo-politycznych, pozostaje wciąż aktualna.

Słowa kluczowe: dawność umarzająca; przedawnienie; terminy zawite; roszczenie; prawo spadkowe