



## THE STATE OF THE REAL ESTATE SECTOR RELATED TO REAL ESTATE ACTIVITY IN THE LEGISLATION OF FOREIGN COUNTRIES AND ITS COMPARISON WITH UZBEKISTAN LEGISLATION

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<https://doi.org/10.5281/zenodo.7060097>

### ARTICLE INFO

Received: 02<sup>nd</sup> September 2022

Accepted: 04<sup>th</sup> September 2022

Online: 08<sup>th</sup> September 2022

### KEY WORDS

Russian Federation, Belarus, Civil Code, real estate, mortgage, bail, privatization, real estate activities.

### ABSTRACT

*The article talks about the positive experience of foreign countries in the field of real estate, which is directly related to the real estate sector today. It is known that in Article 83 of the Civil Code of the Republic of Uzbekistan, property is divided into immovable property and movable property as an object of civil rights, including land plots, underground resources, buildings, structures, perennial trees and other property integrally connected with the land. , i.e. objects that cannot be moved without causing disproportionate damage to their intended purpose, the legislation stipulates that other property can also be included in the list of immovable property, and the features of acquisition of rights to immovable property and their cancellation shall be determined by legislation. The article describes the norms of the status and description of real estate in other countries, in particular the Russian Federation and a number of countries. The purpose of the article was to research the problems of legal regulation of real estate activity. Also, the disclosure of problems arising in the field of real estate and its solution were also discussed. In the conclusion, it was concluded that in the development of real estate activity, first of all, it is necessary to study foreign experience in the field of real estate regulation.*

Enter.

The first part of the Civil Code of the Republic of Uzbekistan was adopted on

December 21, 1995, and the second part on August 29, 1996. The norms of the first part have a general character, and the



norms of the second part directly reflect the types of civil legal relations. The first part of the code contains the classification of objects of civil law, and comparisons in the norms related to real estate and their characteristics in the legal system of some foreign countries with the civil legal norms of the Republic of Uzbekistan.

Material and methods.

Article 83 of the Civil Code of the Republic of Uzbekistan (types of property): Property is divided into immovable property and movable property as an object of civil rights.

Real estate includes land plots, underground resources, buildings, constructions, perennial trees and other property integrally connected with the land, i.e. objects that cannot be moved without causing disproportionate damage to their intended purpose.

In the law, other property can also be included as immovable property. The features of acquisition of rights to immovable property and their cancellation are determined by laws. Property that is not included in the sentence of immovable property is considered movable property. It is said that registration of rights to movable property is not required, with the exception of the points provided by law of the Civil Code

In Article 83, we can see that the classification, general description of real estate and the rule of its state registration are defined. Since the classification of immovable property does not reveal its definition, in our opinion, it is necessary to add to this article by providing a single definition applicable to immovable properties. That is, immovable properties are immovable and irreplaceable objects of special value, taking into account the area

of land, underground resources and objects located above it and firmly connected.

According to the Civil Code of the Russian Federation adopted on November 30, 1994, the Code of Immovable and Movable Properties

It is reflected in Article 130:

1. Immovable objects (immovable properties) include land plots, underground and any other property firmly connected to the land, i.e. objects that cannot be moved without causing disproportionate damage to their intended purpose, including buildings, structures, unfinished objects.

Immovable objects also include air and sea vessels, submarines, space objects, which must be state registered. By law, other property can also be included as real estate.

2. Assets that are not included in real estate, including money and securities, are recognized as movable assets. State registration of rights to movable property is not required, except for cases provided by law.

Article 130 of the Civil Code of the Republic of Belarus

(movable and immovable assets):

1. Immovable objects (immovable properties) include land plots, underground, separate water bodies and any other property firmly connected to the land, i.e. objects that cannot be relocated without causing disproportionate damage to their intended purpose, including forests, perennial crops - includes trees, buildings and structures.

Immovable objects also include enterprises as a property complex, air and sea vessels subject to state registration, submarines, "river-sea" sea vessels, space objects. By



law, other property can also be included as immovable property.

2. Assets that are not included in real estate, including money and securities, are recognized as movable assets. State registration of rights to movable property is not required, except for cases provided by law.

As it can be seen from the various rules established in relation to real estate, the definition of real estate is partially given in the Civil Code of the Russian Federation, and in general there are some differences in their classification compared to the Civil Code of the Republic of Uzbekistan.

In particular, the Civil Code of the Russian Federation recognizes unfinished construction objects as real estate. According to world experience, unfinished construction objects can be an object of property rights and have a place in civil transactions. Due to the fact that unfinished real estate objects are not given a legal status in the Republic of Uzbekistan, they are not recognized as real estate objects, and if it becomes known that there are objects whose construction has begun on a plot of land that does not belong to them based on the norms of urban planning, as well as ownership rights, they will be demolished in accordance with the court decision.

There are insufficient grounds to consider the completed real estate as a completed real estate object until the state registration, technical inventory, and cadastral number and address are given to it. By itself, until registration, this object cannot be considered real estate, regardless of the stage of the construction process, that is, whether the foundation is installed or the roof of the building is closed.

Therefore, we believe that the construction object, even if it is not completed, will have a certain value, and the rights to them should be registered with the state. The introduction of additions to the civil legislation in this context would have greatly helped the business activities of economic entities.

In the Civil Code of the Republic of Belarus, separate water objects are included in the list of immovable properties, and these aspects have not yet been reflected in the Civil Code of the Republic of Uzbekistan. A characteristic feature of the inclusion of water bodies in the category of immovable property is their permanent presence in a fixed place. For example, if we consider river waters as immovable property, this property loses its status when the water flow stops as a result of natural phenomena (drought, decrease in precipitation). For this reason, perennial lakes (including artificial lakes), seas or their parts can be recognized as real estate objects in the cases permitted by law.

But in our opinion, it is not correct to assign the status of real estate to water bodies. The water bodies that exist within the land plot are also the property of the owner and naturally have the right to own and use it.

Also, according to Article 86 of the Civil Code of Japan, the characteristics of immovable properties are generally the same, but immovable properties include not only the land under the trees, but also the trees themselves.

Aspects related to state registration of real estate are reflected in Article 84 of the Civil Code of the Republic of Uzbekistan. According to it:

Ownership of real estate and other material rights, the creation, transfer,



limitation and cancellation of these rights must be registered in the state register.

The body performing state registration of rights to immovable property and transactions concluded on it must confirm the registration carried out at the request of the right holder by issuing a document on the registered right or transaction or by notarizing the document submitted for registration.

The body performing state registration of rights to immovable property and transactions concluded on it must provide any person with information about the performed registration and registered rights.

The information is provided by any authority that registers real estate, regardless of where the registration is made.

Refusal of the state registration of the right to real estate or the transaction concluded on it, or violation of registration terms may be appealed to the court.

The procedure for state registration and the grounds for refusal of registration shall be determined by legislation.

The state cadastre of buildings and structures is maintained to ensure effective use and protection of buildings and structures, state registration of property owners and other entities using these objects, as well as property rights and other material rights to buildings and structures.

Business entities that are owners of buildings, constructions or buildings or have material rights must have relevant documents of state registration.

The obligation of state registration of the building, structure and building is assigned to the owner of the property or the person who has material rights to the building or

structure. They can assign all or some of the obligations for the state registration of a building, structure or building to third parties. The realization of these rights and obligations is carried out in accordance with the legislation.

In case of inheritance of buildings, structures and buildings, the property rights and other material rights to the building, building and structure shall be transferred to the heir, successor or the state in accordance with the law.

Property rights to real estate and other tangible rights must be registered with the state.

In addition to the registration of material rights to real estate, the limitation of rights to it, including servitude, mortgage, trust management, lease, should also be state registered.

The state registration of rights is carried out in the Unified State Register of rights and transactions related to immovable property on the basis of the system of records of rights to each object of immovable property in the entire territory of the Republic of Uzbekistan. The date of state registration is the date of entry of the relevant record of rights into the Unified State Register of Rights. State registration of rights is carried out within the area of registration at the location of real estate. The denial of the state registration of rights or the refusal of the relevant body to register may be appealed to the court in accordance with the established procedure. State registration of real estate is reflected in Article 131 of the RF Civil Code (state registration of real estate), according to which:

1. Ownership of real estate and other material rights, the creation, transfer, limitation and annulment of these rights



must be state registered in the single state registry bodies that carry out state registration of real estate and transactions concluded on it. Property rights, business management rights, operational management rights, lifetime ownership rights, permanent use rights, mortgages, servitudes, and other rights provided for in this code must be registered.

2. Special registration of certain types of immovable property should be done along with the state registration in the cases stipulated by the law.

3. The body performing state registration of rights to immovable property and transactions concluded on it must confirm the registration carried out at the request of the right holder by issuing a document on the registered right or transaction or by notarizing the document submitted for registration.

4. The body that carries out the state registration of rights to immovable property and transactions concluded on it must provide information about the registration and registered rights to any person.

The information is provided by any authority that registers real estate, regardless of where the registration is made.

5. Refusal to state registration of the right to real estate or the agreement concluded on it, or violation of registration terms may be appealed to the court.

6. The procedure for state registration and grounds for refusal of registration are determined by the Civil Code of the Russian Federation and legal documents on the registration of rights to real estate and transactions concluded on it.

Article 131 of the Civil Code of the Republic of Belarus (state registration of real estate and the transaction concluded on it):

1. State registration of real estate and the transaction concluded on it should be carried out in the cases provided for by the legislation.

2. Special registration of certain types of immovable property should be done along with the state registration in the cases stipulated by the law.

3. The organization that carries out state registration of rights to immovable property and transactions concluded on it confirms the registration carried out at the request of the owner of the right by issuing a certificate about the registered right or transaction or by notarizing the original copy of the document submitted for registration is a must.

4. State registration of rights to immovable property and transactions concluded on it is public. The body performing state registration of rights to immovable property and transactions concluded on it must provide any person with information about the performed registration and registered rights. Registration of rights to immovable property and transactions concluded by the state registration body, as well as generalized information about registered rights can be provided only in cases provided for by law.

5. Refusal to state registration of the right to real estate or the agreement concluded on it, or violation of registration terms may be appealed to the court.

6. The procedure for state registration and the grounds for refusal of registration shall be determined by the legislation on registration of rights to real estate and transactions on it.

Research results.



The norms on state registration of immovable properties indicated above are derived from the natural conditions and characteristics of the state where the immovable property is located. It can be noted that the meaning of the rules is stated in almost the same way, but there are differences in some terms in registration and other points.

As a unique aspect of the Civil Code of the Republic of Uzbekistan, we can point out the article on the enterprise (Article 85): The entire enterprise is considered real estate as a property complex. The whole enterprise or its part may be the subject of purchase and sale, mortgage, lease and other transactions related to the determination, change and cancellation of material rights.

An enterprise that is a property complex includes all types of property intended for its activity, including land plots, buildings, structures, equipment, inventory, raw materials, products, demand rights, debts, as well as private signs that reflect the enterprise, its products, works and services. (company name, trademarks, service marks) rights and other exclusive rights, unless otherwise provided by law or contract.

The term "enterprise" is used in civil law both in relation to legal subjects and in relation to legal objects. In particular, in the Civil Code of the Republic of Uzbekistan, a unitary enterprise based on the right to conduct business, as well as a state unitary enterprise based on the right to operational management (Articles 71-72) are recognized as a type of legal entities. At the same time, this term itself is used to express a certain type of legal objects. This article of the Civil Code of the Republic of Uzbekistan speaks in the same sense.

In the above sense, an enterprise means a specific set of assets used for the implementation of business activities. This complex includes all assets intended for the enterprise's activities. In this article, this property includes land plots, buildings, constructions, equipment, inventory, raw materials, products, right of demand, debts, as well as private signs that reflect the enterprise, its products, works and services (company name, trademarks, service marks) and other exclusive rights, unless otherwise provided by law or contract.

It is clear that any rights, including the rights listed above, belong to state unitary enterprises, which are recognized by the legislature as subjects, that is, first of all recognized as legal entities.

All other enterprises, that is, those who make up the structure of the legal entity of all other owners, can also represent a set of property of different types. In such a case, only the rights and obligations belonging to the owner of the enterprise and specific to the property being alienated can be transferred to the buyer along with the collection of goods.

The enterprise appears as an object of various transactions. In this case, there is often talk about their sale in connection with privatization.

An enterprise can also be a pledge (mortgage). It can also be leased and bequeathed.

The sale of the enterprise is carried out as part of the property specified in Article 85 of the Civil Code. However, deviations from it are also allowed, only the deviation can be in the direction of expansion, and not in the direction of narrowing the relevant object. In particular, in part 3 of Article 272 of the Civil Code: when transferring an enterprise to a mortgage, the right of claim



and exclusive rights, as well as the rights acquired during the mortgage period, are included in the mortgage of the enterprise, unless otherwise provided by law or contract.

As a separate object of the law, not the whole enterprise itself, but a part of it can be considered. In such a case, the list of assets that make up this part is an important condition of the transaction being concluded.

Conclusions.

Real estate market demand depends on the sum of individual demands of consumers in a particular market. Real estate market demand can be obtained by adding the individual demands of consumers in a given market. A special feature of the real estate market is that the market is not always in equilibrium. Maybe the demand will prevail over the supply and this will cause the price to be higher in the market. Based on the comparative analysis of real estate and real estate activity in the laws of

foreign countries and the legislation of the Republic of Uzbekistan, the following conclusion was reached:

\* construction of housing real estate taking into account the social strata of the population (low, middle, high income) for the development of the real estate market and mortgage house sales;

\* in order to build real estate in the republic, it is necessary to first study the demand for it. Because there is a high demand for the purchase of middle-class real estate in our country, it is appropriate to organize work to meet this demand.

\* creation of tax incentives for real estate agents and real estate advertising, etc.

If the above is implemented, the demand for the real estate industry will increase sharply. The development of the real estate market and real estate activity in business legal relations is an important factor in the development of the real estate market in our society.

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