

Development of Legislation on the Legal Regime of Unauthorized Buildings

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ABSTRACT: The article deals with the historical aspects of the relationship between the sale and purchase of buildings, analyzes the legal issues of legislation on the legal regime of unauthorized buildings. It is concluded that in connection with economic changes and large-scale reforms in Uzbekistan, the urgent task is to improve the legislation governing housing relations.

KEYWORD: purchase and sale, land, real estate, building, residential buildings, property rights, ownership.

We considered it appropriate to highlight the historical aspects of the relationship between the sale and purchase of buildings since ancient Rome. Indeed, during this period, important institutions of civil law - contracts, property and other property rights, certain aspects of the sale and purchase relationship are also distinguished in a certain way by legal regulation¹. In ancient Roman times, real estate was subject to a separate legal regime. This rule was also associated with a special procedure for acquiring ownership of such objects.

In ancient Rome, *res mancipi* was divided into Italian land, slaves, working animals, and *res nec mancipi*, that is, everything else. Land plots were referred to as *res mansipi* objects. This indicates that since that period much attention has been paid to the importance of real estate and its legal regulation. If the acquisition of property rights in *res nec mansipi* objects was considered a tradition of simply transferring an object, then a special procedure was required for *res mansipi*. *Mansipatio* or *jure cession* (fictitious waiver in Roman law), which occurred later and could also be used to acquire ownership of movable property².

The regulation of housing relations in Muslim law has its own characteristics. The buyer has the right to inspect the house when buying it. If a person buys a house after seeing its facade, then he does not have the freedom to inspect the house, even if he does not see the living rooms. This rule also applies if the buyer has seen the back of the house or the trees in the garden³.

Imam Zufar also noted that the buyer should look at the living rooms of the house. According to him, the above rule was used in accordance with the custom of the time regarding the adequacy of the view of the front or back of the house. This came from the fact that all the houses built at that time were the same, and it was enough to see it from the front or back to get an idea of its interior. Currently, it is necessary to enter the

¹ Ibratova, F. B., et al. "Special features of modern legal systems: cases and collisions." (2017): 60-60.

² Pokrovsky I.A. History of Roman law. -M.: Statute, 2004. pp. 340-341.

³ Hidoya. Commentary on Muslim Law. / Under the editorship of A.Kh. Saidov. B.2 part. Part 1. T.1-2. -M.: Wolters Kluwer, 2008. -581 b.

house to be bought, because the houses consist of various complex engineering structures and due to their different area it is impossible to imagine the internal structure of the house from its appearance⁴.

All real estate is also included in the contract of sale of housing⁵. If someone sells a house with a lock installed on it instead of a hanging one, then the key to this lock is included in the sale and purchase transaction. Because the castle is considered part of the house and is attached to it. Of course, the key to the lock is an integral part of the lock without exception, and a lock without a key is considered useless⁶.

During the former Soviet Union, a separate legal regime was established for housing. Houses are considered the only real estate object (individual houses) that citizens can own on the basis of the right of personal property. After the October Revolution of 1917, lands were first excluded from civil circulation⁷ (on the basis of the decrees "On land", "On the socialization of land"), and then real estate in cities and villages⁸. According to this decree, the division of things into movable and immovable property, which had existed since ancient times, was abolished. The land became the property of the socialist state and could belong to other persons only on the right of use. At the end of 1918, a municipal housing stock was created, transferred to the jurisdiction of local councils.

For a long time since 1917, the legislation of the former Soviet Union did not recognize real estate as an independent type of civil legal relations⁹. As a result, housing began to be treated with disdain.

It should be noted that the Law of the Republic of Uzbekistan "On Property" adopted on October 31, 1990 in terms of regulating property relations¹⁰. Because this law is considered the first legal document that defines the existence of different forms of ownership in our country¹¹.

The Law on Expropriation and Privatization, adopted on November 19, 1991, created the legal basis for expropriation and privatization.

The first law of the Republic of Uzbekistan that specifically regulates the privatization of housing and gives it special significance is the Law on the Privatization of the State Housing Fund, adopted on May 7, 1993. In accordance with Article 1 of this Law, the privatization of the state housing stock means the sale of occupied or newly built apartments, houses (part of their houses) of the state housing stock to citizens at their discretion, including sale on preferential terms or donations.

⁴ God. Commentary on Muslim law. / Pod ed. A.Kh. Saidov. V.2 ch. Ch.1. T.1-2. - M.: Walters Kluwer, 2008. -582 p.

⁵ Савина, Анна Владимировна. "Правовой режим самовольной постройки." *АВ Савина.–автореф. дисс. на соиск. уч. степ. канд. юр. наук, М* (2010).

⁶ Hidoya. Commentary on Muslim Law. / Under the editorship of A.Kh. Saidov. B.2 part. Part 1. T.1-2. –M.: Wolters Kluwer, 2008. -565 b.

⁷ Decree "On Land" of October 25, 1917 No. 2. // Collection of legalizations and orders of the Workers' and Peasants' Government of the RSFSR. 1918. No. 65. st.715.

⁸ Decree "On the prohibition of transactions with real estate" of December 16, 1917 // Decrees of Soviet power. T.1. –M.: 1957. p.240. Decree "On the abolition of the right of private ownership of real estate in cities" of August 20, 1918 of the All-Russian Central Executive Committee. // Systematic collection of legalizations and orders of the Workers' and Peasants' Government of the RSFSR. M.: 1919. p.111-115.; Decree of the People's Commissariat of Justice of 09/06/1918 "On the illegality of transactions for the purchase and sale of buildings located in villages." // Collection of legalizations and orders of the Workers' and Peasants' Government of the RSFSR. 1918. No. 65. st.715.

⁹ Decree of SovNarKoma on December 14, 1917 "O Zapreshchenii sdelok s nedvijimostyu". Based on this document, all foreclosures, mortgages and other transactions related to real estate are suspended.

¹⁰ Bulletin of the Supreme Council of the SSJ of Uzbekistan 1990. No. 31-33, Article 371.

¹¹ Ibratova, F. B. "The Concept and Characteristics of Bankruptcy Procedures for Business Entities With the Status of a Legal Entity." *Middle European Scientific Bulletin* 20 (2022): 143-147.

This Law determines the legal, economic, social foundations and procedure for the privatization of state housing stock in the territory of the Republic of Uzbekistan. Housing ownership allows citizens to effectively spend their funds on real estate, freely own, use and dispose of their housing¹².

In pursuance of the Regulation "On the privatization of the state housing stock in the Republic of Uzbekistan", approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated March 1, 1993 No. 114 "On the continuation of the privatization of the state housing stock Housing stock in the Republic of Uzbekistan", the privatization of the state housing stock is understood as the sale of individual residential houses, parts of houses, apartments that are part of the state housing stock, including sale on preferential terms and in voluntary ownership to citizens without payment. Although the concept of privatization is defined in a number of regulatory legal documents (for example, in the Law "On Alienation and Privatization), the legal concept of privatization of residential premises is defined in this regulatory document.

On October 4, 2006, the Law of the Republic of Uzbekistan "On Mortgage" was adopted, which regulates the pledge of real estate, as well as on May 6, 2005 No. PQ- No. 69 Resolution of the Cabinet of Ministers "On Measures to Organize the Activities of the Mortgage Lending Support Fund". In connection with the adoption of the Regulation "On the provision of mortgage loans for the construction, reconstruction and acquisition of housing", approved by Resolution No. 2 of January 3, 2007 and the Law of the Republic of Uzbekistan "On Mortgage" of April 5, 2007, in accordance with the legislation of the Republic of Uzbekistan, changes were made and additions.

The rapid development of a market economy, the widespread settlement of property relations, the adoption of housing legislation at the level of a single codified law¹³. As a result, the Housing Code of the Republic of Uzbekistan was adopted, which entered into force on April 1, 1999.¹⁴

Article 2 of the Housing Code of the Republic of Uzbekistan describes the relations regulated by it, on the basis of which the legislation on housing construction regulates the relations of citizens, legal entities, government bodies and local governments on the following issues:

- the emergence, exercise, change and termination of the right of ownership, possession and use of residential premises¹⁵;
- housing stock accounting;
- provide maintenance, care and repair of housing stock;
- control over the observance of the housing rights of citizens and the targeted use of the housing stock¹⁶.

Relations related to the construction of residential buildings, reconstruction and redevelopment of residential premises, the use of engineering devices, the provision of public services are regulated by the Housing Code of the Republic of Uzbekistan and other legal acts.

¹² Ibratova, Feruza. "Foreign Practice of Use of Mediation on Collective Labor Disputes." *American Journal of Social and Humanitarian Research* 3.10 (2022): 57-62.

¹³ Иваненко, Анна Владиславовна. *Теоретические и практические аспекты понимания и легализации самовольной постройки*. Diss. Волгоград, 2013.

¹⁴ Civil code of the Republic of Uzbekistan. Bulletin of the Oliy Majlis of the Republic of Uzbekistan. 1999. Issue 1. Article 4.

¹⁵ Ibratova, F. B. "The Concept and Characteristics of Bankruptcy Procedures for Business Entities With the Status of a Legal Entity." *Middle European Scientific Bulletin* 20 (2022): 143-147.

¹⁶ Ibratova, F. TERMS IN CIVIL LAW AND THEIR APPLICATION IN LEGAL PROTECTION OF CITIZENS IN THE REPUBLIC OF UZBEKISTAN.

The Plenum of the Supreme Court of the Republic of Uzbekistan adopted the following resolutions related to the construction of residential buildings, reconstruction and redevelopment of residential premises, the use of engineering devices: dated May 2, 1997 "On judicial practice in cases related to the possession, use and disposal of privatized residential premises"; dated September 14, 2001 "On judicial practice in housing disputes"; dated September 24, 2004 "On jurisprudence in disputes related to ownership rights to an individually built house"; dated December 22, 2006 "On some issues arising in the application of the rules of law governing transactions in judicial practice".

More than 5,000 applications were received in the virtual lobby of the President of the Republic of Uzbekistan, more than 3,000 applications were received at mobile receptions conducted by deputies, senators, officials of state authorities with a request to issue cadastral documents for housing, property of citizens¹⁷.

Even in ancient Rome, the ownership of houses differed from the ownership of other ordinary movable property in that separate rules were applied¹⁸. House-related agreements could be made by taking solemn oaths using symbolic symbols.

During the period of the former union, real estate, including houses, was forbidden to be in free civil circulation. During this period, the consideration of private property as "wealth" and "a sign of capitalism" led to the prohibition of property by law, the disappearance of the class of owners and the dominance of a single state property.

The Laws of the Republic of Uzbekistan "On Property", "On Expropriation and Privatization", "On Privatization of the State Housing Fund", "On Mortgage" and the Housing Code are also considered an integral part of the legal framework of the housing sale contract.

The adoption of the Decree of the President of the Republic of Uzbekistan dated April 20, 2018 No. PF-5421 "On holding a one-time nationwide action on additional measures of social support for citizens and recognition of ownership of unauthorized residential buildings" was eagerly awaited by our people. Because the majority of citizens did not have housing documents. This made it possible to recognize that it was built legally¹⁹.

Because there are many cases of collusion between farmers and peasant farms, in connection with the illegal provision of land plots to citizens for housing construction for a certain fee²⁰. As a result, this problem has become widespread throughout the country, and the lack of necessary documents for housing has led to other social problems for the population, in particular, the inability to obtain property rights and exercise them.

¹⁷ Decree of the President of the Republic of Uzbekistan dated April 20, 2018 No. PF-5421 "On conducting a one-time nationwide action on additional measures for social support of citizens and recognition of property rights to arbitrarily built residences" // Information on legal documents national base, 04/21/2018, No. 06/18/5421/1092

¹⁸ Esenbekova, P., F. Ibratova, and L. Rakhimkulova. "CIVIL LAW PROBLEMS OF BANKRUPTCY OF AN INDIVIDUAL ENTREPRENEUR OR AN INDIVIDUAL WHO HAS LOST THE STATUS OF AN INDIVIDUAL ENTREPRENEUR." *BIOLOGICAL SCIENCES* 38-2 (2021): 20-24.

¹⁹ Baratov, M., F. Ibratova, and Kurbanova Kh. "GROUNDS AND SIGNS OF BANKRUPTCY OF AN INDIVIDUAL ENTREPRENEUR OR AN INDIVIDUAL WHO HAS LOST THE STATUS OF AN INDIVIDUAL ENTREPRENEUR." *Norwegian Journal of Development of the International Science* 81 (2022): 5-8.

²⁰ Ibratova, F. "BANKRUPTCY OF A LIQUIDATED BUSINESS ENTITY: PROBLEMS AND SOLUTIONS." *Norwegian Journal of development of the International Science* 2021 (2021): 45.

In the course of the development of a market economy, the introduction of residential buildings into civil circulation creates a number of opportunities for participants in civil circulation²¹.

Real estate, including houses, was introduced as an object of civil law immediately after independence. After all, economic changes and large-scale reforms required a number of changes in the legal regulation of civil relations. A number of regulatory and legal documents aimed at regulating relations related to housing have been adopted and developed²². Already now an urgent task is to improve the legislation regulating housing relations.

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²¹ Sh, Ruzinazarov, F. Ibratova, and Kalkanova Zh. "THE NATURE OF JUDICIAL DECISIONS IN THE CONDITIONS OF THE DIGITAL TRANSFORMATION OF THE JUDICIAL POWER OF UZBEKISTAN." *Sciences of Europe* 79-3 (2021): 10-12.

²² Назарова, Надежда Александровна, and Иван Николаевич Григорьев. "ЧТО ЖЕ ТАКОЕ САМОВОЛЬНАЯ ПОСТРОЙКА?." *Печатается в авторской редакции*: 60.

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