

SUMMARY

Key Words: civil law, property law, inheritance law, inheritance, real estate.

Subject matter: Inheritance of immovable property

Author: Sobol Georgij Vladimirovich

Supervisor: doctor of law, Professor of Department of civil law and process law Institute Kokoeva Luiza-Tembolatovna

The supervising organization:

The relevance of the research topic The right of inheritance is an inalienable right of the individual in the life of modern society. The Constitution of the Russian Federation indicates that the right of inheritance is guaranteed (part 4 of article 35). According to item 2 of Art. 218 of the Civil code of the Russian Federation it is established that in case of death of the citizen the property right to the property belonging to it passes by inheritance to other persons according to the will or the law.

Among the cases arising from civil disputes and considered by the courts, cases of inheritance of real estate occupy a prominent place. In Russian courts cases of inheritance is becoming more and more from year to year. And this situation has objective reasons.

The norms of civil legislation regulating inheritance in General, and inheritance of real estate in particular, identify gaps and contradictions, complicate their practical application and require permission in law enforcement practice.

The Central place in the system of immovable objects of inheritance is occupied by residential premises. It should be borne in mind that the dwelling refers to such property, which provides vital human needs. When inheriting a dwelling, various problems arise. For example, the inheritance of premises in common joint ownership or pledge. Inheritance of land plots and property rights (transfer of property rights, transfer of mandatory rights) to land plots has a cross-sectoral nature and assumes the presence of simultaneous regulatory impact of two branches of legislation: civil and land. Thus norms of the civil legislation establish ways of transition of the parcels of land and property rights to the parcels of land while regulations of the land legislation define restrictions on turnover of the parcels of land and property rights to them. Here there is a significant impact of restrictions on the freedom of the working capacity of land. The ratio of civil and land legislation in the issue of the turnover of land on the example of their inheritance to date has not been the subject of serious scientific research.

The purpose of the work: in the implementation of a comprehensive analysis of the problems of civil law regulation of legal relations arising from the inheritance of real estate under Russian civil law, as well as in the development of proposals for the application and improvement of legislation in this area

Objective:

- to give a description of real estate as part of the inheritance;
- to study the procedure for registration of inheritance rights to real estate;
- to identify the features of inheritance of residential premises;
- to explore the features of inheritance of land; - to reveal the features of the inheritance of the enterprise as a property complex.

The theoretical and practical significance of the research it consists in the fact that the conclusions and recommendations developed as a result of the presented study contribute to the development of civil law knowledge, the proposals of the work can be used as a basis for further development of issues of inheritance of real estate. It is possible to use the materials of work in the educational process in the teaching of civil law, business law, commercial law.

Results of the study:

1. 1. In case of consideration of the issue of inheritance of the apartment it is necessary to consider the following. In the presence of two or more heirs by the law of one turn, the inheritance to them passes in equal shares (paragraph 2 of article 1141 of the civil code). However, the share of the apartment in kind is impossible to allocate. This object of civil law can be considered only as an indivisible thing and become the common property of the successors..

2. 2. The "purpose" of the land plot determines the restriction of the working capacity of land plots within the framework of hereditary relations. This is confirmed by the provisions of Art. 1181 and 1182 of the civil code, which, however, contain only the most common reference rule on the order established by civil law. Restrictions, first of all, follow from the provisions of the land legislation, from the analysis of the content of which it can be concluded that there are two types of such restrictions:
3. First, the "conditional" restrictions arising from the need for targeted use of land.
4. Secondly, the restrictions that establish a direct ban on the owner of the land plot to perform actions on the ownership, use, disposal of the land.
5. 3. The rule of article. 1178 of the civil code provides the heir, registered on the day of the opening of the inheritance as an individual entrepreneur, the preferential right to receive the enterprise as a property complex in the division of hereditary property in the account of its hereditary share.
6. Meanwhile, nothing prevents such a preferential heir to terminate the status of an entrepreneur at any time.

Recommendations:

1. Provide for the rule on the obligation to preserve the status of an individual entrepreneur by such an heir for a certain period of time, ensuring the preservation of the property complex for the established purposes of the enterprise.
2. Establish that the resolution of the notary on cancellation of the certificate on the right to inheritance is the basis of repayment of the corresponding record on the right in the Unified state register of real estate