

SUMMARY

Key Words: contract, construction of an apartment building, shareholder

Subject matter: the law governing the mechanism of conclusion of the contract of participation to link in shared construction stretching properties, namely, developing apartment living, convenience to-MOU, as it is trading legal nature, responsibility to reconcile the parties on the activities of this contract.

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The relevance of the research topic This topic is interesting from a practical point of view, since mortgage lending is one of the leading areas for solving the housing problem. Therefore, the mortgage lending system should today become a necessary institution in Russia, which in the conditions of a market economy, the state would use both in economic and social policies. The number of people applying to commercial organizations (banks) for a mortgage loan is growing every year. Mortgage loan helps to solve the eternal housing problem.

In the Russian Federation today, not only economic, but also legal prerequisites are being created for the implementation of the mortgage lending system: the Civil Code of the Russian Federation, the Federal Law "On Mortgages (Real Estate Pledges)" are in place, laying the legal basis for the functioning of the mortgage lending system; legislatively formalized the activities of all professional subjects of the mortgage market (appraisal, real estate, insurance companies); mortgage legal relations between the subjects of mortgage schemes begin to form and regional systems of mortgage lending develop. In world practice, there are two schemes of mortgage lending - banking and non-banking. Non-bank mortgage lending mechanisms should receive government support.

The purpose of the work: conduct a study of the place of the contract of participation accompanied in the shared construction management of apartment buildings only, the allocation accompanied by the main problems of the impact of legal regulation, as well as the development of recommendations for further improvement of the Russian impact of legislation in the field of the distribution of construction of apartment

Objective: to analyze the concept of separation and the element sources of legal regulation of relations and participation in equity construction of apartment finding the trading houses; consider the essential active conditions and procedures for trading a contract of shared construction trade; to characterize the extent, the parties and the contents of the business contract equity demand the participation of more citizens in housing construction; to disclose system restore and order General amendment and termination of the retail agreement of share participation in construction Department of housing; to identify features of application of measures of responsibility for violation of the terms of this agreement; to develop proposals of the government on improvement of the state legislation.

The theoretical and practical significance of the research The theoretical significance of the research tor gosassistant leaving a comprehensive retail research and analysis to establish the legal regulation to link the relations arising between citizens and legal impact of commercial enterprises, or persons developing individual entrepreneurs emerging in the construction process are presented on the equity basis enterprises, in order to control the satisfaction of household goods (housing) needs of the ultimate citizens and families.

The practical significance of the study in the formulated recommendations to the parties at the conclusion of the contract of equity participation in the construction of an apartment building.

Results of the study:

11. Equity construction is a special form of investment. In its framework, the construction company is engaged in attracting funds of citizens or organizations that are required for the construction of real estate. Citizens who invest in housing under construction, are directly involved in the shared construction. The developer enters into a contract with them to participate

in shared construction.

2. The contract of equity participation in construction is an independent civil contract that creates an effective tool to protect the interests of shareholders, as developers often seek to circumvent the procedure for obtaining permits and other provisions protecting the interests of shareholders.

3. The Czech scheme of shared housing construction is not profitable for Russian developers. With such a scheme of construction to deceive shareholders will not work. But the state needs to decide whose rights to protect: citizens-participants of shared construction or the interests of construction capital.

4. The main purpose of the Federal law "About participation in share building of apartment houses and other real estate" – to protect the rights and interests of citizens and legal entities, which invest in housing and other real estate (excluding production facilities) in order of equity participation, which is implemented by solving the following tasks:

1) reducing the risks of equity construction participants by establishing the obligation of developers to disclose information about both developers and housing projects ("project Declaration»);

2) the establishment of mandatory conditions, the procedure for the conclusion, modification and execution of contracts of participation in shared construction;

3) the obligation to account for contracts of participation in shared construction to prevent the transfer of rights to one apartment under construction or another object of shared construction simultaneously to several persons;

4) return the developer of the funds of shared construction participants when termination of the agreement by establishing a pledge of a land plot and a building object;

5) state control over shared construction.

Recommendations:

1. Since, in practice, sometimes the process of putting into operation construction object by the state acceptance Commission for years need to be clarified in the Federal law dated 30.12.2004 No. 214ФЗ "About participation in share building of apartment houses and other real estate and on amendments to certain legislative acts of the Russian Federation", the maximum amount of change of the term of the permission to commissioning of the constructed object.

2. In order to facilitate law enforcement activities and reduce the number of lawsuits to introduce a norm in the Federal law of 30.12.2004 No. 214-FZ "on participation in the shared construction of apartment buildings and other real estate and on amendments to some legislative acts of the Russian Federation" obliging the parties to make the contract, namely in the paragraph Thanks to this column the Builder, without violating the principle of target use of money, carried out "passing duties", and participants of share construction could defend the rights concerning not only object of share construction, but also, for example, improvement of the adjacent territory. At the same time, the developer would not have to pay "passing duties" at his own expense, but proceed from additional costs.

3. In order to avoid further confusion in determining its civil nature, to fix the contract of participation in the shared construction of apartment buildings and other real estate in the Civil code of the Russian Federation as an independent type of contract.

4. It is possible to formulate its definition as follows: the contract of participation in shared construction – this is an agreement under which the developer is engaged in entrepreneurial activity, is obliged personally or through other persons, in due time transferred to him on loan (personal) monetary (non-cash) funds of citizens and (or) legal entities (shareholders) to build the building (construction) and after construction to transfer part of the building (structure) to the shareholders proportional with their part of cash (non-cash) assets, and the shareholders undertake to take part of the building (construction) in view of the subsequent registration of ownership and pay for the activities of the developer. The proposed definition of the contract of participation in shared construction, we believe, contains the necessary features to distinguish the contract under consideration with adjacent civil constructions;

5. To present section 1 of article 5 of the Law "On participation in shared construction" as follows: "the contract specifies the contract price, i.e. the amount of money and other property payable to the participant of share building for building (creation) of object of share building, defined as the amount of cash and other property for reimbursement of expenses for the construction (creation) of object of share building and the amount of cash and other property to pay for the services of the Builder»;

6. Whereas, the participant of share building has the necessary knowledge regarding the proper definition of the object of the contract of participation in shared construction of housing, and the developer is a professional member of the relations on the organization of construction, it is necessary to specify in article 2 of the Law on share participation the specific criteria of individualization of the object of shared construction.