SUMMARY

Key Words: insolvency, bankruptcy, debtor, creditor, bankruptcy commissioner, arbitration court.

Subject matter: Features of consideration of cases of insolvency (bankruptcy) by the courts of the Russian Federation

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The relevance of the research topic. The institution of insolvency (bankruptcy) is the most important legal instrument for regulating property relations. Subjects of property turnover at various stages of their functioning can undergo certain financial difficulties, which often leads to the fact that they can go bankrupt. Debtors are experiencing financial difficulties, from which it is not possible to get out on their own, and creditors have losses in connection with this objective result of the functioning of market relations. Therefore, the problem of creating effective legal mechanisms that can be aimed at restoring the solvency of debtors, as well as regulating the relations of the debtor with creditors in the future, is of particular importance. Recently, the number of bankruptcy cases considered by arbitration courts has increased significantly. At the same time, as law enforcement practice shows, for some individuals, bankruptcy often serves as a tool for the realization of their illegal interests.

The purpose of the work: to analyze the competition legislation of the Russian Federation and identify the specifics of the consideration of cases of insolvency (bankruptcy) by the courts of the Russian Federation.

Objective: to reveal the concept and signs of insolvency (bankruptcy); consider the subject composition of competitive legal relations; identify individual problems that arise when considering cases of insolvency (bankruptcy); to investigate the problems of concluding a settlement agreement as a way to prevent bankruptcy; identify the problems of establishing the claims of applicants in insolvency (bankruptcy) cases); analyze the problems of recovery of losses from the arbitration manager in the bankruptcy case; suggest possible solutions to the identified problems.

The theoretical and practical significance of the research The theoretical significance of the research is that the conclusions formulated in the work can be used in the preparation of textbooks on such disciplines as" Business Law"," Arbitration process","Competition law".

The practical significance of the research is that the results of the research can be used in the teaching of such disciplines as civil law, competition law, business law, arbitration process.

Results of the study:

Today, the central place in the system of legal regulation of insolvency (bankruptcy) is occupied by the Federal Law of October 26, 2002 "On Insolvency (Bankruptcy)", the tasks of which are, on the one hand, to exclude insolvent entities from civil circulation, and on the other hand, to provide conscientious entrepreneurs opportunities to improve their affairs under the control of the arbitration court and creditors and re-achieve financial stability.

Despite the fact that the legislator quite fully regulated the entire process of bankruptcy, in practice the persons participating in the bankruptcy case face inaccuracies and gaps. Many of them are successfully completed by regulatory and judicial acts. However, some remain unresolved. In our work, we tried to focus on just such unresolved problems.

1. At present, the problem has arisen of determining the most reasonable amount that meets both the interests of the debtor and the creditors of the minimum amount of claims against the debtor. In our opinion, the consolidation of the minimum amount of debt in the current legislation is quite reasonable. However, at the same time, it would be necessary to expand the differentiated approach, according to which one or another amount of debt would be applied to commercial organizations, depending on their legal status and type of activity.

2. Analysis of bankruptcy legislation and judicial and arbitration practice shows that in Russia the main approach to the legal regulation of bankruptcy legislation has not been fully determined: either the legislator stands on the side of the creditor, primarily protecting his interests, or on the side of the debtor. When the arbitration court in one decision supports the position of the debtor, and in the other it is on the side of the creditor, then the efficiency of the bankruptcy process itself is significantly reduced and the significance of the legal institution of bankruptcy, in fact, is leveled.

Consequently, the goals of bankruptcy law are primarily in taking the organization out of the crisis, moving to sustainable work by increasing the efficiency of management and use of resources, ensuring the protection of the interests of owners and creditors, creating conditions for active innovation and investment processes. The specified goals of the bankruptcy law are most fully realized in the implementation of such bankruptcy procedures as financial rehabilitation and external management. However, the amicable agreement procedure also corresponds to the line of continuing bankruptcy legislation, since it allows restoring the debtor's solvency through effective functioning in a market economy.

Recommendations:

1. Further development of legal regulation of insolvency (bankruptcy) should be carried out on the basis of a holistic theoretical concept of insolvency (bankruptcy) in the Russian Federation, which is a set of scientific ideas about the entire complex of legal relations: both private and public, constituting the subject of regulation, arising in legislation on insolvency (bankruptcy), and ways to ensure a balance of interests of the debtor and creditors, other persons involved in the insolvency (bankruptcy) case, the use of which, ultimately, should contribute to the stabilization of civil turnover.

2. A quick procedure for initiating an insolvency (bankruptcy) case using the currently existing external signs of insolvency (a debt of 300 thousand rubles and a delay in execution of 3 months) seems to be quite dangerous, since it damages civil circulation and the institution of private property. In this regard, it is necessary to toughen the conditions for initiating insolvency (bankruptcy) procedures of the debtor and to legislate the principle of the debtor's real solvency.

3. It is necessary to significantly strengthen the organizational role of the court in the case of insolvency (bankruptcy) to ensure the balance of interests of the creditor and the debtor.

4. The expediency of introducing an independent arbitration manager into the institution of insolvency (bankruptcy) is obvious, who would not be a member of a self-regulatory organization (SRO) and would be registered in an arbitration court. At the same time, in relation to creditors, guarantees of the exercise of the right to choose a candidate for an arbitration manager submitted for approval by an arbitration court must be preserved.

5.To conclude an amicable agreement, third parties should be involved, since they, participating in the amicable agreement, pursue their own goals: obtaining the opportunity to participate in the debtor's activities, maintaining contractual relations with the debtor who is a long-term partner, etc.

6. It is necessary to introduce specialists in the field of economics, banking, securities, etc. to the composition of the court considering an insolvency (bankruptcy) case, which will improve the quality of consideration and resolution of such a complex category of cases as insolvency (bankruptcy) cases. These can be arbitration assessors.