Legal status of the real estate organization

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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, Germany 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 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.

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Rieltorlik faoliyatini tashkil etishning huquqiy holati

АННОТАЦИЯ

Мақолада ко'чмас мулк соҳасида хорижий мамлакатларнинг иjobиб тажрибаси о'rganilib, унинг O'zbekiston uchun qo'llanilishiga e'tibor qaratiladi. O'zbekiston Respublikasi Fuqarolik

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Правовой статус организации риэлторской деятельности

АННОТАЦИЯ

Статья рассматривает положительный опыт зарубежных стран в сфере недвижимости, акцентируя внимание на его применимости для Узбекистана. Согласно статье 83 Гражданского кодекса Республики Узбекистан, имущество подразделяется на две категории: недвижимое и движимое. Недвижимое имущество включает земельные участки, недра, здания, сооружения, многолетние деревья и другие объекты, тесно связанные с землей. Законодательство также предусматривает возможность включения в перечень недвижимого имущества и иных типов имущества. Статья исследует нормы и правила, регулирующие статус и описание недвижимости в разных странах, в частности в Германии.

Основной целью статьи является исследование проблем правового регулирования риэлтерской деятельности. Обсуждаются также ключевые проблемы в сфере недвижимости и пути их решения. В заключение автор подчеркивает необходимость изучения зарубежного опыта для дальнейшего развития и регулирования риэлтерской деятельности в Узбекистане.

Introduction.

Determining the legal status of real estate organizations is important for the democratization and renewal of the country and the development of civil society. In particular, legal regulation of their activities and improvement of existing regulatory legal documents is one of the urgent problems.

In the process of large-scale economic reforms implemented in our country under the leadership of President Sh.M. Mirziyoev, mechanisms for the development of all market
segments were created. Real estate transactions are an integral part of modern market relations. Our national legislation is being improved in order to regulate the activity in this regard, to harmonize it with the principles of socially oriented economic policy aimed at protecting the rights and interests of citizens of our country.

During the years of independence, the legal framework for the development of entrepreneurship and the main guarantees of the state in relation to private property were formed. The adoption of the Law "On Real Estate Activities" is a logical continuation of the ongoing work in this regard.

**Material and methods.**

In the development of the real estate market, a new type of entrepreneurship has appeared – the provision of services for the conclusion of contracts related to real estate objects and the transfer of rights to them. Our country provides such services to economic entities and residents through many specialized exchanges and auctions. However, over time, it has become clear that there are shortcomings in this area. The fact is that until now such work was carried out by brokers, who did not have any license or professional training, their activities were not regulated and controlled. They did not pay taxes and did not provide any legal guarantees to the participants of the real estate transaction. This, in turn, allowed rogue businessmen to defraud gullible customers and earn free profits. The fact that the former Supreme Economic Courts considered more than 1,500 cases related to the violation of the rights of consumers in the field of real estate by intermediaries is an indication of how big a problem this is.

Now, the Law “On Real Estate Activities” was adopted in order to carry out such business only within the framework of the law. During its development, international legal standards in this regard and the experience of many foreign countries were studied. For example, in Belgium, Germany, the Netherlands, Luxembourg, and France, the activity of realtors (the word "realtor" in English means an agent selling real estate) is regulated by issuing a license. In addition, a special study was conducted on the real estate market of our country and the current legislation was studied. In the course of these studies, it was determined that the concept of "real estate activity" and the relevant norms that clearly define the rights, obligations, and responsibilities of real estate agents and users of such services are necessary. Thus, the purpose of the adoption of the law is to create a single system aimed at the gradual development of real estate activities in Uzbekistan, in which the interests of the real estate market participants and the state coincide.

The new law stipulates that the business activity of legal entities and individuals for the provision of services related to the conclusion of agreements on real estate objects and their rights on the basis of a contract will now be carried out on the basis of a license issued by an authorized state body. In addition, the realtor must have a certificate of qualification and their own civil liability insurance policy. The law regulates and controls real estate activities through these requirements.

It provides all types of real estate services, i.e., mediation during the conclusion of transactions related to real estate objects and rights to them, organization of sales of real estate objects and rights to them, reliable management of real estate objects, as well as provision of information and consulting services in the real estate market.

For example, mediation, i.e. real estate transactions, rent, mortgage, exchange, donation, rental, free use of real estate and transfer of housing (apartment) to another person under the condition of lifetime security, provision of real estate services concluded
with the customer is carried out by the real estate organization on the basis of the contract. In this case, the real estate organization cannot be a direct party to these transactions. Organization of sales is also carried out on the basis of the contract concluded with the customer. This service includes the preparation and publication of notices about the conduct of the sale and its results, advertising of real estate objects for sale, acceptance, and consideration of orders for participation in the sale, conclusion of agreements on zakat, conducting the sale, drawing up a report on the results of the sale, sellers and includes the creation of conditions for settlement between buyers. The activity of trust management of real estate objects is the implementation of management of real estate objects given on the basis of a separate contract by a real estate organization on its own behalf for a fee for a certain period of time in the interests of the management institution or the person designated by it (beneficiary). Information and consulting services of realtors provide the customer with information about real estate objects and their rights, analysis, and forecasting of the state of the real estate market and its participants, the conjuncture of this market, regulatory legal documents in this regard, as well as the organization of the distribution of advertising of real estate objects. Includes recommendations on the selection of parties to the transaction.

In addition, this law defines the rights and obligations of realtors and buyers. In particular, the customer has the right to demand the cancellation of the contract in case of non-fulfillment of the realtor’s terms of provision of the realtor’s services, compensation for damages caused by the realtor’s fault, and compensation for moral damage. Also, the legal basis for the provision of real estate services and the essence of the contract are defined in the law, which ensures compliance with the law in their implementation.

This is reflected in the following provisions of the law:

First of all, real estate is a business activity on the basis of a contract for the provision of services related to the conclusion of transactions related to real estate objects and rights of legal entities and individuals. Mediation during the conclusion of transactions related to real estate objects and rights to them, organization of sales of real estate objects and rights to them, reliable management of real estate objects, provision of information, and consulting services in the real estate market are the main directions of real estate activity.

Second, the basic requirements for the real estate organization and realtors to carry out activities were defined. In particular, in accordance with Article 4 of the Law, a real estate organization may be established and perform its activities as a licensed commercial organization in any organizational legal form provided for by law. Currently, in order for the real estate organization to carry out its activities, it is necessary to have at least two employees with a certificate of competence in providing real estate services in the state, including its leader, and to have its own civil liability insurance policy.

Research results, conclusions, and recommendations.

It should be noted that the real estate organization cannot be established by state authorities and management bodies, and at the same time, this organization does not have the right to perform other types of activities except real estate activities. In addition, a real estate organization may be granted a license to provide one or more types of real estate services described above upon application by its head. Individuals are required to have a certificate of qualification and license and their own civil liability insurance policy in order to be self-employed as a realtor.
Licensing of real estate activities and qualification requirements for real estate agents will be reflected in the law, which will create ample conditions for the provision of real estate services at the level of demand in the future, as well as the implementation of quality control mechanisms. The requirement to have a civil liability insurance policy ensures the professional liability of the real estate market intermediaries and guarantees the damages caused by the real estate organization (realtor) to the consumers.

Thirdly, Chapter 2 of the law entitled “Types of real estate services and the procedure for providing them” defines the specific characteristics of providing each real estate service. Importantly, in the provision of these services, other legal documents in force, in particular, the civil, land, housing, and urban development codes of the Republic of Uzbekistan, as well as “On appraisal activities”, “On notary”, “On mortgage”, “Protection of consumers’ rights”. It is also required to comply with the provisions of the law.

Fourthly, the law defines the rights and obligations that ensure the proportionality of the interests and responsibilities of the subjects of real estate activity, which, along with the providers of real estate services, are of urgent importance in protecting the interests of the consumers of this service, and in the compliance of the executors with the appropriate procedures in the process of properly fulfilling their obligations. This will undoubtedly have a positive effect on the protection of the rights of consumers of the real estate market and on the further improvement of the quality of the provided services.

The recognition of the obligation to conclude a contract for the provision of real estate services in the law, in turn, is an important legal basis for preventing disputes between the real estate organization or the realtor and the customer, and at the same time for resolving disputes of this category by the courts. After all, the quality of real estate services is closely related to how contractual relations are established.

In conclusion, it should be noted that the implementation of these laws in our social life will significantly expand the legal system regulating the real estate market, ensure the protection of the legal rights of consumers, create control mechanisms over the fulfillment of the obligations of real estate organizations, improve the quality of services, and at the same time improve real estate objects. serves to increase the efficiency of management, to optimize the interaction of the participants of this market. This creates conditions for the expansion of competition in the real estate market and the development of modern market infrastructure in the field.

REFERENCES: