

CHANGES OF REAL ESTATE REGISTRATION IN UKRAINE

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Abstract

Changes to the legislation governing the state registration of rights to immovable property and their encumbrances aimed at simplifying relevant procedures, they will improve the existing legal regulation in this area and are designed to ensure the safety and protection of the rights and legitimate interests of the owners, users real estate by creating additional safeguards for them.

Key words: *state registration of real rights, real estate property, the State registry, state registrar of real rights on real estate (notaries).*

Introduction

Since the introduction of the new system of state registration of rights in 2013 the Registration Service, let us say mildly, has acquired not the best reputation. The reason for this is of the objective and subjective nature. To the first we could refer the inadequate legislation in general, inconsistency in reforming the land relations at the earlier stages and so on; to the second - poor logistical support, inadequate software, corruption factor, etc. As a result - the inability to satisfy the quality requirements of applicants. Representatives of businesses and ordinary citizens suffer from that. Unfortunately, farmers are the most at risk. After all, these are they, who enter into the contracts at the most distributed lease of lands and the very lease rights registration procedure is dragged on for months and even years. The consequences can be, among other things, unjustified deprivation of the fixed agricultural tax producer status, claims of the tax authorities regarding additional tax on income from selling products grown on "unregistered" lands.

Methodology of research and materials

The state registration of rights to immovable property is an essential element of legal regulation of real estate. To improve the procedure of state registration of rights to immovable property, a new Law of Ukraine "On Amendments to the Law of Ukraine" On State Registration of Rights to Real Estate and Their Encumbrances "and some other legislative acts of Ukraine concerning the decentralization of powers of state registration of rights in real estate and their encumbrances ", came into force on 13.12.2015.

December 13, 2015 came into force a law that introduces a number of significant innovations in the system of state registration of rights to immovable property in Ukraine.

Although the system of state registration of rights to real estate has been modernized in recent years, in practice it remained bureaucratic and opaque. New law changes are implemented mainly at improving the registration of rights to immovable property by providing better access to the registration process.

Discussions and results

Since December 13, 2015 came into force the Law of Ukraine issued in November 26, 2015 № 834-VIII «On Amendments to the Law of Ukraine" On State Registration of Rights to Real Estate and Their Encumbrances "and some other legislative acts of Ukraine concerning the decentralization of powers of state registration proprietary rights to real estate and their encumbrances ". The document is aimed at simplifying the said settlement procedures and procedural issues related to the transfer of powers to local authorities.

The main changes in the law are:

- Extension of the subject composition of persons who have authority for registration of rights to immovable property and their encumbrances;
- Terms of state registration of rights;
- Rates of administration fee for state registration of rights, amendments to the records of the State Register of rights to immovable property and information from the said register;
- To enable citizens to appeal decisions, actions and omissions of state registration of rights in administrative proceedings for violation of terms of state registration of rights to immovable property and their encumbrances the state recorders;
- Subjects of the state registration of rights will bear disciplinary, civil, administrative or criminal liability in the manner prescribed by law;

- Receiving the documents for the review of statements in the state registration of rights in electronic or paper form with the help of software of the State Register of rights are equally valid and used in accordance with the law.

Anticipated innovation is the expansion of subject composition of persons who have authority to registration of rights to immovable property and their encumbrances, namely notaries (including if the property right appeared without committing notarial acts); citizens of Ukraine who meet the qualification requirements and are working for the executive committee of the city council of regional importance, the district, district in cities of Kyiv and Sevastopol Administration or the bank.

It appears that conducting the state registration of rights to immovable property and their encumbrances by Ukrainian notaries will become an effective mechanism for fighting corruption in this area, which has already proved its effectiveness. Currently, notaries are entitled to state registration of rights only in notarial acts. Out of notarial acts they may perform only original state registration of real rights on agricultural land. So the expansion of their powers in this area and supplement of the list of state registers with bank employees (which is justified on the last - with restrictions on registration of rights), is a positive trend.

The period during which an administrative service is provided:

- 2 hours, except weekends and holidays, from the time of the application - the state registration of property rights, for which is paid an administrative fee of 6890.00 UAH .;
- 24 hours, except weekends and holidays, from the time of the application - the state registration of property rights, for which is paid an administrative fee of 2760.00 UAH .;
- 2 working days - state registration of property rights, for which is paid an administrative fee of 1380.00 UAH .;
- 5 working days - state registration of property rights, for which is paid an administrative fee of 140.00 UAH .;
- 24 hours, except weekends and holidays, from the time of the application, state registration of ownership of the enterprise as a single property complex, for which is paid an administrative fee of 13,780.00 UAH .;
- 7 days - state registration of ownership of the enterprise as a single property complex, for which is paid an administrative fee of 6890.00 UAH .;
- 14 working days - state registration of ownership of the enterprise as a single property complex, for which is paid an administrative fee of 1380.00 UAH.

Fee for providing information from the State Register of rights to immovable property is levied in the respective calculation of the minimum wage in the monthly rate established by law on January 1 of the calendar year in which such an information is obtained, rounded up to 1 UAH and is credited to the state budget in the manner prescribed by the Budget Code of Ukraine.

The minimum wage for 01.01.2016 was 1378 UAH.

- 5 minimum wages (6890.00 UAH.) - On state registration of property rights within 2 hours, except weekends and holidays, from the time of the application;
- 2 minimum wages (2760.00 UAH.) - On state registration of ownership within 24 hours, except weekends and holidays, from the time of the application;
- 1 minimum wage (1380.00 UAH.) - On state registration of property rights in the term of 2 working days;
- 0.1 minimum wages (140,00 UAH.) - On state registration of property rights in the term of 5 working days;
- 10 minimum wages (13780.00 UAH.) - On state registration of ownership of the enterprise as a single property complex for 24 hours, except weekends and holidays, from the time of the application;
- 5 minimum wages (6890.00 UAH.) - On state registration of ownership of the enterprise as a single property complex in term of 7 working days;
- 1 minimum wage (1380.00 UAH.) - On state registration of ownership of the enterprise as a single property complex in term of 14 days.

As well, with the entry into force of the new law, citizens have the opportunity to appeal the decisions, actions and omissions of state registration of rights administratively. Now, Article 37 of the Law provides the procedure for appealing decisions, actions or inaction in the state registration of rights, namely: "Decisions, actions or omissions of state registrar of the state registration of rights may be appealed to the Ministry of Justice of Ukraine and its territorial bodies or to court ". Part 3 of Article 37 of the Law provides a term of appeal for decisions, actions or inaction of the state registrar, subject of the state registration of rights to the Ministry of Justice of Ukraine and its territorial bodies, during:

- 30 calendar days from the decision appealed or from the date when the person knew or could learn about the violation of his rights under an act or omission.

In this period of appeal against a decision, action or inaction of the territorial bodies of the Ministry of Justice of Ukraine:

- 15 calendar days from the decision appealed or from the date when the person knew or could learn about the violation of his rights under an act or omission.

In turn, for violation of terms of the state registration of rights to immovable property and their encumbrances the state registrars, subjects of the state registration of rights shall bear disciplinary, civil, administrative or criminal liability in the manner prescribed by law.

It should be noted that the new in registration of real estate is a change in confirmation of possessions. Now the certificate of title to immovable property shall not be issued. In fact, the results of the application of the civil registration of rights to real estate applicant will receive only the decision of the state registrar. This decision is available in electronic form and only at the request of the applicant - in paper. Thus the decision to the state registrar is not stamped by any stamps or signed.

It should be noted that the information available in the State Register of rights is open for both the object and the subject and each citizen has the right to obtain information from the register in electronic form about any property and its owner. You need only register on the website of the Cabinet of electronic services and conduct appropriate payment for the provision of information.

Thus, the new law aims to simplify the registration procedure and transfer the authority of the state registration of rights to immovable property and their encumbrances to local governments, which will speed up the registration process and will allow the person to choose where to apply for registration steps.

Conclusions and proposals

A document that is going to work in 2016, in particular, provides as follows:

1. The state registration of property rights and other rights held regardless of the location of immovable property within the Autonomous Republic of Crimea, Kyiv and Sevastopol, except for state registration of ownership and other proprietary rights held by notaries, regardless of the location of real estate.
2. From the date of enactment of this Act notaries are empowered to public registrar of real estate rights and may exercise state registration of rights to immovable property and their encumbrances without notary's commission on such property.
3. The state registration of property rights and other rights is held within a period not exceeding 5 working days.
4. The application for the state registration of rights and requirement of the original documents for the registration is submitted by the applicant in paper or electronic form in the cases provided by law.
5. The decision of the state registrar, the information from the State Register of rights is available electronically and (if the applicant wishes) in paper form.
6. For state registration an administrative fee is levied in particular for the state registration of rights to immovable property (except state registration of ownership of the enterprise as a single property complex) within the prescribed period - 0.1 minimum wages. In the case of shortening the term the payment increases.
7. The decisions, actions or omissions of state registrar of state registration of rights may be appealed to the Ministry of Justice of Ukraine and its territorial bodies or the courts.
8. Thus, the changes to the legislation governing the state registration of rights to immovable property and their encumbrances aimed at simplifying the relevant procedures.

References

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