

**CLAIMING PROPERTY FROM ILLEGAL POSSESSION OF ANOTHER PERSON (VINDICATION CLAIM)**

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Abstract

In this article, the concept of property rights and attention to property rights in our country, civil legal methods of protecting property rights, vindictive rights to protect property rights, the procedure for acquiring property from illegal possession of personal demand, as specified in the laws set norms, the application of the vindication suit in the legislation of foreign countries is described.

Keywords: property, vindication suit, limitation period, honest owner, illegal possession, expropriation.

Introduction

The concept of property rights is defined in Article 164 of the Civil Code of the Republic of Uzbekistan. According to it, the right of ownership is the ownership, use and disposal of property owned by a person at his own will and for his own interests, as well as his right to property, by whomever, in any way consists of the right to demand the elimination of the violation. [1]

The right to property is first of all consolidated in the Constitution of the General Assembly and international normative legal documents. Article 65 of the Constitution of the Republic of Uzbekistan states that "property in various forms the basis of the economy of Uzbekistan aimed at improving the welfare of citizens. The state creates conditions for the development of market relations and fair competition, guarantees the freedom of economic activity, entrepreneurship and labor, taking into account the priority of consumer rights.

In the Republic of Uzbekistan, equal rights and legal protection of all forms of property are ensured. Private property is inviolable. It is specified that the owner cannot be deprived of his property except in the cases and procedures stipulated by the law and not based on the decision of the court.[2]

On August 24, 2022, the President of the Republic of Uzbekistan Shavkat Mirziyoyev signed the decree "On reliable protection of the inviolability of property rights, preventing



unreasonable interference in property relations, and measures to increase the level of capitalization of private property".

Starting from September 1, 2022, the document cancels a number of procedures and requirements that directly or indirectly limit the right to own, use and dispose of private property. It is noted that they prevent the full implementation of the principles of the market economy in property relations.

The vindictive claim is primarily a procedural law norm, meaning *rei vindicatio* (I announce the use of force - *vim dicere* - I use force). As a result of the further improvement of Roman law, along with procedural norms, material-law norms also developed and changed, and eventually turned into a vindication claim consisting of material legal norms, and civil (in material law) is included in this main type of claim.[3]

According to Article 228 of the Civil Code of the Republic of Uzbekistan, the owner has the right to claim his property from the illegal possession of another person.[4] In the theory of civil law, such claims are called vindication claims.

It is this vindictive claim that is specified in Article 20 of the Law of the Republic of Uzbekistan "On Protection of Private Property and Guarantees of Owners' Rights". According to it, the owner has the right to claim his property from illegal possession of another person. In the implementation of this right, state bodies must assist the owners.[5]

One of the important conditions for filing a vindication claim is that there is no relationship between the claimant and the defendant regarding the disputed item. A claim for the return of property by a person with whom the owner of the property has an obligation must be resolved in accordance with the norms of rights of obligation. For example, if the defendant owns the property under a lease agreement, the vindication claim cannot be satisfied.[6]

As stated in Article 229 of the Civil Code of the Republic of Uzbekistan, if the property was taken for a fee from a person who did not have the right to give it to another person, the recipient did not know it and could not know it (honest possessor). If the property was lost by the owner or by the person to whom the owner gave it for ownership, or was stolen from the owner or the person to whom he gave the property, or otherwise, in another way beyond their control if it is out of their possession, the persons who received this property have the right to claim it.[4]

The general statute of limitations applies to vindication claims. Therefore, it should be remembered that when resolving disputes related to property rights, if it is related to the application of the period of ownership that creates the right of ownership, the calculation of the period that creates the right of ownership does not begin before the end of the specified three-month period [1].

The claim of vindication is also strengthened in foreign laws. For example, in Article 302 of the Civil Code of the Russian Federation, the procedure for reclaiming property from an honest owner is established. [7]

Article 193 of the Civil Code of the Republic of Turkmenistan also defines the procedure for claiming property from the illegal possession of another person, and according to paragraph 2 of this article, if the right to property is violated in any other way than by confiscation or deprivation of the object it is stated that the owner can demand the offender



to eliminate the violation. If the encroachment continues, the owner can file a lawsuit to demand that such action be stopped.[8]

In conclusion, unlawful possession is said to be the possession of an object without sufficient legal grounds. An illegal possessor is a person who arbitrarily takes or appropriates a found thing, as well as a person who does not receive the object from the owner on the basis of law or contract. When the property is acquired by a method not allowed by the law, even if there is no legal basis for its possession, such acquisition is also an illegal acquisition. Only an illegal possessor, that is, a person who is in illegal possession of the disputed property at the time of the lawsuit, can be considered.

References:

1. Fuqarolik huquqi. Darslik. I qism. Mualliflar jamoasi. O‘zbekiston Respublikasida xizmat ko‘rsatgan yurist, prof. O. Oqyulovning umumiy tahriri ostida. – T.: TDYU nashryoti, 2017. – 311 bet.
2. O‘zbekiston Respublikasi Konstitutsiyasi 01.05.2023-y.
3. Oral Ernazarov “Rim huquqi” Darslik. “Namangan” nashriyoti. 2005
4. O‘zbekiston Respublikasi Fuqarolik Kodeksi 01.03.1997-y.
5. O‘zbekiston Respublikasi “Xususiy mulkni himoya qilish va mulkdorlar huquqlarining kafolatlari to‘g‘risida”gi Qonuni 25.09.2012-y.
6. O‘zbekiston Respublikasi Fuqarolik Kodeksiga sharh. 1-jild (birinchi qism) Adliya vazirligi. – T.: «Vektor-press», 2010.- 816 b.-(Professional (malakali) sharhlar).
7. Гражданский Кодекс Российской Федерации ч.1 от 21.10.1994 N 190-ФЗ
8. Гражданский Кодекс Туркменстана от 17 июля 1998 года №294-I