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ON THE VARIABILITY OF FEDERAL TREASURY PROPERTY
OBJECTS

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Abstract

The federal treasury is important for the Russian Federation and its population; therefore, issues of treasury property are of particular socio-economic importance and legal relevance. One of these issues requiring research is an unclear position of the legislator on the claim to federal treasury property, since its composition is constantly changing which explains the instability of the provision on the claim to the Russian property managed by unitary enterprises and institutions. One and the same property object can be transferred from the distributed one, i.e. managed by enterprises and institutions, to the undistributed one which is free from the rights of federal companies. A thorough study of the issue is required due to the fact that it is not possible to foreclose on all types of treasury property objects. In particular, it is not possible to foreclose on property objects that are in a limited civil circulation. Currently, it is impossible to foreclose on land and other natural resources that are owned by the federal government, since there is no legal act regulating this process. There are no proper rules in the land and natural resource legislation. At the same time, limitation of the types of property objects that can be foreclosed should not affect the general principle of compensation for damage.

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1. Introduction

The federal treasury is important for the government and its population (Crocì et al., 2016). In this regard, it is necessary to define this concept in civil legislation, identify features of the property that is part of the federal treasury (Sadrieva, 2017). According to the current civil legislation, federal state property consists of two parts: assigned to federal companies – institutions and unitary enterprises (distributed federal property). The second part is undistributed property, which is not assigned to legal entities, and federal budget funds (Ding-Hsiang et al., 2019). Thus, this property is referred to as "treasury" in accordance with civil law. Due to the variety of the types of property objects, a large number of questions remain outside the scope of this study.

2. Problem Statement

The difficulty of the issue on the federal treasury property is due to the fact that the concept of federal property, unassigned to federal enterprises and institutions, as defined in the Civil Code of the Russian Federation (hereinafter referred to as the Civil Code of the Russian Federation), cannot be regarded as an invariable, identical, stable, constant volume of property (Komagin, 2014). After all, one and the same property object can be transferred from the distributed one, i.e. assigned to enterprises and institutions, to the undistributed one, that is free from the rights of federal companies. Thus, federal property can be distributed and undistributed. This division is not legally specific: the property object can be assigned to an institution or an enterprise, the limited property right may be terminated, or the property object may be seized, withdrawn from the treasury as result of a transaction. An exception is property that is limited in circulation.

3. Research Questions

Due to the uncertainty of the composition of treasure property, the rule according to which property assigned to unitary enterprises and institutions cannot be foreclosed is rather controversial. It is not possible to foreclose on all types of treasure property objects (e.g., property that can be in state ownership (paragraph 2, clause 3 of article 212 of the Civil Code of the Russian Federation), i.e., objects limited in civil circulation (paragraph 1, clause 2 article 129 of the Civil Code of the Russian Federation)). It is impossible to foreclose on land and other natural resources that are in state ownership, since the law (paragraph 2 of Art. 126 of the Civil Code of the Russian Federation). Likewise, the relevant rules are absent in the land and natural resource legislation. Limitation of the types of property that can be foreclosed does not affect the general principle of compensation for damage (Article 15, Clause 1, Article 1064 of the Civil Code of the Russian Federation).

4. Purpose of the Study

The Russian Federation pursues the interests of the entire population (Oglezneva & Sadrieva, 2019); therefore, it is important to ensure safety of federal property. This property is designed to

compensate, for the interests of the population. However, all federal property objects, including those assigned to the operational and economic management, belong to the Russian Federation.

5. Research Methods

The descriptive, analytical and formal legal methods were used

6. Findings

The duality of the relationship associated with the division of federal property into distributed and undistributed objects is manifested as follows: the legislation establishes a different procedure for foreclosing on distributed and undistributed property objects, which affects the composition of treasury property (Komagin, 2014).

The Federal Agency for State Property Management (Rosimushchestvo) is endowed with the powers of the owner of treasury property, as well as the right to seize property objects that are unused or misused. This agency is responsible for accounting for federal property; in order to identify federal treasury property objects, the bailiff-executor makes a request to the territorial body. Conditions and procedures for the execution of judicial acts on the transfer of funds are established by the budgetary legislation of the Russian Federation (part 2 of Article 1 of Federal Law No. 229-FZ dated 02.10.2007 "On Enforcement Proceedings"). The execution of a judicial act on the collection of funds from the Russian Federation at the expense of the budget must be carried out by the Ministry of Finance of the Russian Federation within three months (clause 6 of Article 242.2 of the Budget Code of the Russian Federation). The bailiff-executor has the right to perform executive actions for the arrest and sale of property objects belonging to the Russian Federation, which can be foreclosed only after it has been established that it is impossible to execute the judicial decision at the expense of the budget. After all, foreclosure is carried out on budget funds; in the absence of the latter, other treasury property objects can be foreclosed (Krishnamurthy & Vissing-Jorgensen, 2015). The rule on the priority of foreclosure on monetary funds is confirmed by the provision according to which the foreclosure on debtor's property is enforced in the absence of funds sufficient to satisfy the claims. In this regard, in the event of issuance of an executive document, the bailiff-executor has the right to carry out enforcement actions for the arrest and sale of property belonging to the Russian Federation (only after establishing the impossibility of executing the judicial decision at the expense of the budget). Priority foreclosure on monetary fund cannot be interpreted as a restriction on the sources of foreclosure by budget monetary funds, since it contradicts Articles 126,214,215 of the Civil Code of the Russian Federation.

The issue of dormitories and individual premises transferred to the municipal ownership with violations is of interest.

In accordance with Article 7 of the Federal Law of December 29, 2004 N 189-FZ (as amended on May 25, 2020) "On the Enactment of the Housing Code of the Russian Federation", the rules of the Housing Code of the Russian Federation on the social employment contract do not regulate the relations on the use of residential premises that were located in residential buildings owned by state or municipal

enterprises or institutions and used as hostels and transferred to the local governments, regardless of the date of transfer of these residential premises and the date of their provision to citizens on legal grounds.

Thus, if the object was transferred to the balance sheet of the municipality and lost the status of a hostel, all persons living there legally acquire social renting rights. However, the territorial bodies of the Federal Property Management Agency used the procedure for classifying such objects as specialized housing stock, despite the fact that they had previously been transferred to the municipal ownership. According to clause 3 of the Rules for classifying residential premises as specialized housing stock, approved by the Decree of the Government of the Russian Federation No. 42 of January 26, 2006 (as amended on July 18, 2016), the categorization of residential premises as specialized housing stock is not allowed if the residential premises are occupied under social tenancy or lease contracts. In other words, the premises of former hostels encumbered with the right to use them cannot be classified as specialized housing stock without the preliminary resettlement of these facilities.

There are situations when dormitory buildings were transferred to the municipalities without the knowledge of federal state property management bodies, as a result of which when a building or individual premises were recorded both in the register of federal property and in the register of municipal property. In addition, the registers of federal or municipal property lack such buildings and individual premises. Both situations turn into the complexity and even the impossibility of realizing the rights of citizens to privatize residential premises located in such unregistered objects.

It is worth noting that the beginning of the limitation period for challenging transactions involving the loss of ownership in relation to property objects is calculated from their state registration. Thus, even a flagrant violation of the procedure for transferring ownership may not entail the recognition of the procedure as illegal due to the omission of the limitation period. We can cite arbitration case No. A22-341/2010: the defendant applied for the application of the statute of limitations. The court refused to satisfy the claims of the territorial bodies of the Federal Property Management Agency. In addition, the decision was assessed by the judge of the Supreme Court of the Russian Federation A.N. Manenkov (the Decision of the Supreme Court of the Russian Federation of July 21, 2015 (No. 308-ES15-8958)). He established that there were no violations of the rules.

7. Conclusion

In order to comply with the interests of the indefinite circle of individuals, it is necessary to adopt a federal law establishing a list of property objects that cannot be foreclosed (forests, water, land, subsoil, etc.).

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