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Modern Tools for Sustainable Development of Territories. Special Topic: Project Management in the Regions of Russia

LEGAL MECHANISMS FOR SUSTAINABLE DEVELOPMENT OF TERRITORIES

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Abstract

The purpose of the study is to identify the legal regulation problems of the process of sustainable development of territories, to determine the scope of the legislative use of the term “sustainable development” and to formulate the main directions for improving legal regulation in this area. The authors emphasize the global meaning of the term “sustainable development”. At the same time, the legislation of the Russian Federation uses this term, first of all, aiming at regulating urban planning, housing and land legal relations. The authors determined that the greatest number of practical issues arise in the field of legal regulation of the built-up territory and sustainable rural development. Among the main problems of the effective implementation of these processes the following are noted: shortcomings of the tender documentation for the contract signing; the developer’s improper performance of the undertaken obligations; spot development implementation instead of integrated development of the territory; failure to meet project deadlines. The solution of these issues should be based on improving the legislation governing urban planning and land relations. The rural territories development requires an integrated approach, which allows covering all spheres of life of the rural population, and not just economic aspects. The balance of private and public interests as well as the involvement of non-state subjects in public administration within the framework of public-private partnership are of great importance in the implementation of legal norms in the studied area.

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Keywords: Balance of private and public interests, interaction between public and private entities, rural development, sustainable development of the territories.



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1. Introduction

The concept of sustainable development has global significance and covers all spheres of life in the modern society. Legislatively this term is used in relation to the development of territories, agriculture, social infrastructure and environmental protection. Thus, in the documents of the United Nations Conference on Environment and Development (Rio de Janeiro, 1992), the term “sustainable development” is used in the context of human-biosphere interaction aimed at solving socio-economic problems taking into account the need to preserve the natural resource potential to ensure the needs of present and future generations. To pursue the resolutions adopted at this conference, in 1996 the Concept of the Russian Federation's Transition to Sustainable Development was approved in the Russian Federation (Decree of the President of the Russian Federation, 1996). The harmonious, continuous, consistent development of mankind, the state and the society presupposes settling many issues that ensure the coherence of the natural resources exploitation, scientific and technological development, and the development of human personality.

Sustainable development of territories is currently one of the top priority areas of the Russian Federation's state policy. In order to ensure the necessary conditions for the development of territories, a number of regulatory legal acts of both federal and regional importance have been adopted, budget funding is allocated, national projects are developed. However, in some cases, the current legislation does not fully provide for a sustainable development implementing mechanism.

A separate area of legal regulation which special regulatory legal acts are devoted to is the sustainable development of rural areas. Particular attention is paid to this area due to the fact that the economic and social development of rural areas is specific, related to the peculiarities of the legal status of agricultural entities, the need to apply state support measures for agriculture, the uneven intensity and results of economic activities of business entities in rural areas, which is due to the climatic factor. At present, there exists and is being implemented the Strategy for Sustainable Development of Rural Areas, which provides for a number of measures aimed at ensuring such development in the period until 2030 (Order of the Government of the Russian Federation, 2015). In the scientific literature, an opinion is expressed that when regulating the sustainable development of rural territories one cannot limit oneself only to issues of agricultural production development or economic development. It is necessary to consider the process of development of the territory more broadly, in the context of all spheres of life of the rural population: demographic, labor, natural resource issues should also be affected by normative regulation when formulating a development concept (Lazhentsev & Terent'ev, 2011).

The presence of effective legal mechanisms for the sustainable and integrated development of territories is an essential condition, since their absence entails significant risks for investors, complicates the implementation of designed projects for the development of territories, and in some cases raises doubts about the very possibility of implementing the project, creating prerequisites for the violation of the balance of private and public interests.

Among the problems encountered the following are found: shortcomings of the tender documentation for the contract signing; insufficient regional regulatory framework; improper performance of obligations undertaken by the developer; spot development implementation instead of the integrated development of the territory or failure to meet project deadlines.

Thus, the need to improve existing legislation in order to create an effective legal mechanism for the sustainable and integrated development of territories is a prerequisite for the further development of the institution in question and its wider application.

This study aims at identifying critical points of legal regulation that create obstacles to the implementation of projects for sustainable and integrated development of territories and choosing mechanisms for their elimination.

2. Problem Statement

Sustainable development of territories is regulated by multilevel normative legal acts belonging to various branches of law. In this regard, often arises the problem of correlation of the rules of law of various regulatory acts governing similar legal relations, for example, in the issue of land acquisition for the implementation of integrated development of territories. In practice, the problem of correlation and subordination of legal norms means the possibility of choosing a rule of law that is not subject to application in specific legal relations and, as a result, possible disputes, including those in court and the likelihood of recognition of obligations under contracts concluded invalid.

Sustainable development of territories is possible in the following forms:

- development of the built-up area;
- integrated development of the territory;
- land development for the construction of standard housing;
- integrated development of the territory in order to build standard housing;
- integrated development of territories initiated by landowners;
- integrated development of territories initiated by local governments;
- sustainable rural development.

The difficulty also lies in the periodic change in legal regulation. For instance, bill No. 503785-7 is currently under consideration which provides for the need to amend the requirements for territorial planning and land acquisition in order to ensure sustainable development of territories (Government of the Russian Federation, 2018).

So the researchers are faced with the task of determining effective legal measures aimed at the development of territories.

3. Research Questions

In the framework of this work, a number of issues with both theoretical and practical significance were investigated:

- identification of deficiencies in the current legislation in the field of sustainable development of territories that impede the effective implementation of projects in this area;

- study of the existing proposals for improving the mechanism of sustainable development of territories;
- determination of effective measures to improve the existing legislation in the field of sustainable development of territories.

4. Purpose of the Study

The aim of the study is to identify the most pressing problems of legal regulation in the field of sustainable development of territories, including rural ones, and directions for improving legislation in the sphere of public relations in question, aimed at eliminating the obstacles in the implementation of projects for sustainable or integrated development of territories practice, preparing appropriate proposals for improving legal regulation and effective application of existing legal norms.

5. Research Methods

To achieve the research goal, a complex of the universal method of scientific knowledge and general scientific and special research methods were used in the work. The authors chose a systematic approach as a universal research method. The application of this method made it possible to consider social relations arising in the process of sustainable development of territories as a complex system of relations, where each of the elements has its own specificity, taking into account the intersectoral legal impact. The application of the systematic approach was carried out taking into account the subject and scope of the study, its interdisciplinary nature as well as the limits of its possible application to the study of legal phenomena.

Among the general scientific methods used in the study, a special role is assigned to analysis. In the presented paper, extensive information was analyzed: current regulatory legal acts, decisions of various courts, materials of law enforcement practice, information obtained from open sources, including information resources of the Internet. Thus, on the basis of the conducted analysis, real problems were identified in the practice of law enforcement in the field of sustainable development of territories.

A special place in the study was given to the intersectoral method, since the considered social relations are governed by the norms relating to various branches of law and the determination of their specificity is possible only after the study of the relationship of their legal regulation with the diverse branches of legal norms.

Along with the above research methods, the formal legal method was widely used in the work, which allows to determine the essence of the existing legal phenomena by examining their legal nature and interpretation of the rule of law.

Taken together, the presented methods of scientific research allowed us to formulate conclusions aimed at improving the legislative regulation of the relations arising in the field of sustainable development of territories.

6. Findings

One of the most difficult problems in this area is the of built-up area development. Its main manifestation is the impossibility of erecting new apartment buildings at the site of demolished emergency residential buildings, since the territory occupied by the demolished object does not meet the modern requirements of urban planning and other norms. In addition, there may be architectural monuments that are not subject to demolition on the built-up territory, also within the boundaries of the territory there may be protected zones of architectural monuments, which also complicates the implementation of the investment project. Thus, during the implementation of development projects for built-up territories, technical problems arise associated with difficulties in complying with urban planning standards and housing legislation.

When planning the development of the respective territories, the local authorities are faced with the important task of ensuring a fair balance between the public interests and the legal rights and interests of individuals living in this territory. The Supreme Court of the Russian Federation has repeatedly pointed out this circumstance (Supreme Court of the Russian Federation, 2018).

In addition, a significant obstacle to the implementation of the project may be the reluctance of individuals to sell their real estate while measures to compel the sale or forced transfer of property in the situation under consideration are not provided. Thus, the refusal of even one person to receive a buyback calls into question the possibility of implementing the entire investment project, starting from the need to find other opportunities, which, as a rule, entails additional investments, and ending with a complete refusal to implement. The current judicial practice confirms the absence of the necessary legal grounds for the seizure of land for state and municipal needs in case of concluding an agreement on the development of the built-up territory, justifying this by the fact that the development of the built-up territory (taking into account the commercial component) alone does not entail satisfaction of state and municipal needs (Supreme Court of the Russian Federation, 2016).

Nevertheless, the mechanism of land acquisition is quite successfully applied in cases when it comes to the integrated development of the territory. In this connection, such an ambiguous situation requires legislative solution.

At the moment, the State Duma is considering a bill providing for the possibility of extending the mechanism for land acquisition provided for by land legislation for state and municipal needs to relations arising in the process of implementing a development project for a built-up territory. At the same time, it is necessary to pay attention to the fact that this mechanism should be used in exceptional cases, when there are no other options (including those requiring high costs), which is dictated by the nature of the withdrawal mechanism under consideration.

It should be noted that the withdrawal procedure itself is quite laborious, based on the need for strict compliance with the legislation requirements related to both the decision to withdraw and the determination of an equivalent compensation for the withdrawn property. Nevertheless, it is the legislator's very approach to the problem posed that makes it possible to ensure the balance of private and public interests to the greatest extent.

The main factors affecting the efficiency of rural development are the financial, material and technical development of agricultural production, the availability of natural and recreational resources,

the population of a particular rural area and the level of social services. The economic situation and income generating policies in agricultural organizations also have a significant impact on rural development (Tret'yakova & Lavrikova, 2012). In general, the following areas of rural territories development are distinguished in the literature, reflecting the specifics of their legal regime: demographic situation, employment, income and social infrastructure (Lazhentsev & Terent'ev, 2011). In addition, the importance of interaction between the public and private sectors as a source of attracting investment in the implementation of rural development projects should be mentioned. Public-private partnership has already established itself as an effective institution for solving economic, social, and infrastructural problems (Tatarkin, Tatarkin, & Sidorova, 2008), in this connection, which justifies the need to involve relevant mechanisms in the sphere of ensuring rural territories sustainable development.

7. Conclusion

The study indicates the formation of the main legal mechanisms aimed at sustainable development of territories in the current legislation. At the same time, the mechanisms under consideration are not without certain shortcomings that arise, as a rule, due to the short-term use of the institutions in question. Since it is impossible to foresee all the possible legal situations, the legislator is forced to solve such problems as they arise in practice.

At present, aiming at the sustainable development of territories, a draft law No. 503785-7 has been developed to eliminate the existing deficiencies in legal regulation in this sphere of relations. The adoption of this law will reduce the risks of potential investors and expand the list of territories where development projects may be implemented.

The necessary measures to improve legislation aimed at regulating the sustainable development of territories include expanding the list of objects located in such territories, introducing the mechanism for the compulsory land withdrawal for state and municipal needs in the development of built-up territories, establishing a clear procedure and conditions for the development of territorial planning documents and tender documentation for the purpose of holding auctions to sign territorial development agreements, determining a clear sequence of an investor's and a developer's actions as well as the development of an investor-authorities interaction system. It should be noted that state and municipal contracts are concluded in accordance with the law on public procurement, which is being improved in the context of the public finance management system reform, which is one of the key areas to ensure a competitive and transparent procurement system to meet the state (municipal) needs in (Guseva, Astafichev, & Sizov, 2017; Guseva & Khovanskaya, 2018).

The development of rural areas is based on the specifics of the economy, demographic situation, social sphere in such areas. The peculiarities of the rural areas development include the need for the agricultural cooperation development. The legislative framework for regulating this form of entrepreneurial activity in the Russian Federation has been developed; however, it is necessary to develop interaction and maintain joined activities of large and small producers in agriculture. The development of agricultural cooperation is designed to solve the problem of the producers' participation in the price formation for agricultural products, and will also increase the access of small businesses to modern storage and product-processing infrastructure.

An important direction of increasing the effectiveness of the state programs implementation in the field of rural development is a comprehensive approach, expressed in the interaction of public and private entities when influencing the main areas of life of the rural population (Tret'yakova & Lavrikova, 2012).

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