

V.D. Zhuk, Postgraduate
Odessa I. I. Mechnikov National University
Department of Civil Law Disciplines
Frantsuzskiy Boulevard, 24/26, Odessa, 65058, Ukraine

PECULIARITIES OF INHERITANCE ESCHEAT UNDER THE CURRENT RUSSIAN LAW

Summary

The article highlights the content of the escheat (inheritance) in the context of legal documents of Ukraine and the Russian Federation. The author focuses on the comparison of the Ukrainian and Russian legislation. First and foremost the line between the Ukrainian Civil Code of and the Russian Civil Code is drawn, the features of both legal documents for this category are specified, as well as the views of the Ukrainian and Russian scientists are analyzed.

Key words: escheat, inheritance, object of civil rights.

Formulation of the problem. One of the controversial issues tsivilisticheskoy science is still an object of civil law as abandoned property, namely heritage, which has for its feature of its parts distribution between the state or territorial authorities in the absence of an heir or a reluctance or refusal to accept the inheritance.

Recently the problem of using abandoned property sharpened. Some subjects, and not uncommon when public bodies illegally using land or other real estate, which does not claim his successor or not at all. To address this and other problems should be investigated components abandoned property to determine further characteristics of his civil regime. Separation of categories of heritage abandoned property itself evident in the study of legal regulation of content via the first comparative legal method, in particular, the relevant rules of Ukraine and the Russian Federation.

Analysis of recent research and publications. Currently the number of scientists who deal with development issues of abandoned property in Ukraine, not so great. Among these are the L.A. Musica, E.O. Riabokon, N.S. Korov'yakovska, S.Y.

Fursa and E.I. Fursa [1, p. 41]. As for Russia, it is still in pre-revolutionary times started activities to disclosure of the concept of this category, but it was not very active, but the first rudiments have been added. Particularly noteworthy monograph V.I. Kurdynovskoho [2, p. 149] and V.A. Ryazanovskiy [3, p. 52], which made a significant contribution to the development of Russian civil law. Thus the problems of legal regulation of relations with abandoned property not caused great interest of other prerevolutionary experts in the field of civil law. Thus, in textbooks and monographs revolutionary period can be found only a brief mention of abandoned property.

In the Soviet period jurist also paid little attention to abandoned property, although the CC RSFSR in 1922 the concept of "abandoned property" existed. Some information about the legal regime of abandoned property can be obtained from the works of N. Orlova [4, p. 118] M. Gordon [5, p. 74], P.C. Nykytyuk [6, p. 98].

Article 1151 of the Civil Code put an end to this situation. The state, of course, remains a member of the inheritance relationship, but its role is no longer exaggerated. It can not be regarded as a purchaser heritage: the law provides that in certain circumstances it goes some heritage [7, p. 1].

Now, "the state" in the field of inheritance plays the same role as in other civilized countries, it is no longer purchaser heritage, it just gets abandoned property [7, p. 1].

The above article is the only article in the whole section V of the Civil Code "Inheritance Law", which gives the state the right to directly obtain the property of deceased persons. It should be borne in mind that the Central Committee sharply expanded the circle of heirs at law. This change significantly limited the number of cases where the property may be abandoned [7, p. 1].

After the entry into force of the third part of the Civil Code dissertation research affecting the legal regime abandoned property held A.M. Baydihitovoyu [8, p. 10], V.V. Kiryukhin [9, p. 24], A. Kulakov [10, p. 18], L.I. Popova [11, p. 34] N.V. Shcherbina [12, p. 22].

The purpose of the article is a theoretical and applied considering the nature and content of civil legal regulation of relations of abandoned property in the civil law of Ukraine and the Russian Federation.

Presenting main material. According to Art. 1277 Civil Code of Ukraine abandoned property (heritage) is a property that is left after a deceased person and for which no claims or claims not declare nor the will, nor the right of inheritance by law [13, p. 1]. The same property is abandoned as a result of the removal of the heirs to inheritance rights, the rejection of their heritage, and the refusal of its adoption.

In Art. 1151 of the Civil Code states that "hereditary Property of pryznaetsya выморочным, If no naslednykov us on zaveschanyyu, us the law, Liboje None IZ naslednykov no blog right nasledovat, Liboje all naslednyky otstranены from nasledovanyya, Liboje all naslednyky otkazalys from legacy and at this None IZ they have not indicated, something otkazyvaetsya in favor of the second naslednyka "[14, p. 1].

Established a list of cases where the deceased considered abandoned property is exhaustive and not subject to broad interpretation.

The first case, "if there are no heirs both in law and under the will." The question of what kind of persons recognized heirs at law, decided in art. 1142-1150 Civil Code. In turn testamentary heirs dedicated st.1119-1121 Civil Code.

Citizens 'no' in the sense of Art. 1151 Civil Code, at the time of opening the inheritance alive no persons belonging to a circle intended testament heirs, and persons belonging to any queues heirs by law, and if there is a child conceived during the lifetime of the testator or born after his death (or if a child was conceived though during his lifetime, but born or not born alive). A legal entity is defined "missing" if it does not exist on the opening day of the inheritance. "The lack of" subjects of the Russian Federation is based on the Constitution (Part 1 of Article 65), and municipalities - based on the subject of legislation, in which they are [7, p. 1].

The second case, if "none of the heirs has no right to inherit or excluded from all heirs inherit" needs no comment because the law makes direct reference to Art. 1117 Civil Code, which is called "unworthy heirs."

In turn, Art. 1117 of the Civil Code provides three grounds for exclusion from inheritance.

These grounds for exclusion from inheritance apply to the heirs of those who are entitled to a compulsory share of inheritance, such as dependents of the testator who committed illegal actions against him or other heirs.

Unlawful acts and the circumstances that serve as grounds to declare an heir unworthy, must always be confirmed:

- 1) the commission of criminal acts - a court sentence;
- 2) termination of parental rights - court decision;
- 3) fraudulent evasion of the duty of maintaining the decedent - the court decision.

The law stipulates that those citizens who were deemed unworthy or heirs are not entitled to inherit in case of unjustified receive property from the heritage obliged to return the property.

The third situation - "none of the heirs not accepted the inheritance." The law has in mind here the inheritance using the application and, moreover, the heir to the period prescribed Clause 1, Article. 1154 of the Civil Code.

If none of the heirs has not filed a declaration under the said rules laid down in the rules, then comes vidumerlist. However vidumerlist still does not occur even in cases of failure to the application if any of the heirs committed acts that indicate the acceptance of the inheritance. The list provided in the following paragraph. 2, Art. 1153 of the Civil Code. So vidumerlist arise in cases where at least none of the heirs not applied for the inheritance, but respect any of them there is a presumption of acceptance of the inheritance.

The order of succession and accounting abandoned property and the procedure for the transfer of its ownership of the Russian Federation or the ownership of municipalities is defined by the Civil Code. The subject of the right of succession abandoned property is exclusively Russian Federation. This means the inability to inherit property abandoned citizens, legal entities and municipalities that are not heirs at law or will. Here we see the difference between Ukrainian legislation where ch. 3.

1277 Civil Code of Ukraine stated that heritage, acknowledged abandoned, becomes the property of the territorial community of the place of opening the inheritance. In ch. 2, Art. 1151 of the Civil Code specifies that a particular classification of persons who may become owners of a property. First, it refers to the urban or rural settlements, municipal areas and city districts. By way of inheritance by law in their property becomes abandoned following property located on their respective territory: the living room; land, and on it are buildings, structures and other immovable property; share in right of common share ownership in listed in the second and third paragraphs of this paragraph immovable property. If these objects are a subject of the Russian Federation - the city of federal significance Moscow or St. Petersburg, they become the property of the subject of the Russian Federation. Here we see a vivid manifestation of the principle of federalisation of the country, on which rests the Russian Federation. Other abandoned property is transferred to inheritance by law the ownership of.

One of the main features of the position of the Russian Federation in the field of inheritance abandoned property is the special situation of the state as heir. The first feature of the position of the Russian Federation concerning the inheritance due to the fact that it is acting in dual roles. On the one hand, the Constitution confers on it the role of guarantor inheritance rights. The decree of the Constitutional Court number 1 MP said that the Constitution provides "state switching harantirovanny estate, prynadlezhavsheho umershemu, for second persons. This - konstytutsyonnaya duties of the Russian Federation "[15, p. 1].

Another feature of as legal heirs abandoned property is that it is endowed with a status that in some respects different from that of other heirs at law. First of all, the Russian Federation, acting as successor abandoned property must not take the inheritance: "For Purchase of property *выморочно* Adoption legacy is not required" (p. 1 Art. 1152 Civil Code).

Another significant difference in the position of the Russian Federation as legal heirs abandoned property concerns rejection of heritage. Civil Code states that "naslednyk exercise *otkazatsya* from legacy in favor of others persons or entities not

specified in favor, that nasledstvennoho of property" (p. 1 Art. 1157). When the Russian Federation is the heir legally abandoned property, the Civil Code deprives her of this right: "When the property nasledovanyy refusal from legacy not allowed" (p. 1 Art. 1157).

Conclusions. The paper describes the main provisions concerning abandoned property under the Civil Code, and as a result, found both similarities and differences between Ukrainian and Russian law. Primarily, this is due to the fact that Russia is a federal state, and Ukraine - unitary. By definition implies special subjects - Moscow and St. Petersburg. The Civil Code of Ukraine stated that in case of finding of abandoned property in the Kiev region, the property becomes the property of the city. Kyiv. It goes either to some local community, or state ownership in general. Also the CC nor Ukraine nor the Central Committee of the Russian Federation there are no rules that would ensure the prevention of abuse in the transmission of abandoned property (Heritage), the form of responsibility for violating the law. This allows us to propose the idea to create such rules.

Summarizing should be pointed out that the lack of special legislation significantly reflected in the distribution of abandoned property (Heritage) between subjects that encourages lawyers every day to find a new and analyze old information to create the necessary standards.

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