



CIVIL LEGAL PROBLEMS OF SETTLEMENT LAND REGULATION: (HISTORY, CURRENT STATE, AND FURTHER IMPROVEMENT)

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Annotation. The article examines the importance, historical development, and improvement of civil law regulation of settlement lands. It is proven that in order to increase the effectiveness of the current land and civil legislation, serious work is needed to apply them in practice. Also, the author studied some historical development and features of modern civil law issues of legal regulation of settlement lands, conducted a scientific-theoretical analysis and recommendations for improving settlement land legislation in the Republic of Uzbekistan.

Keywords: land fund, settlements, land plots, settlement lands, rural settlements, settlement lands, urban planning zoning.

Settlement lands play an important role in the life of society, performing the function of a territorial-spatial basis. Covering a relatively small area according to the relationship to a whole area, these territories are considered to be the area where a huge portion of the population lives. Lands occupied by settlements are intended for the placement of cities, towns, rural settlements, and real estate objects that ensure the life process of residents.

The emergence and formation of the real estate institution as a whole occupies a significant period in the history of legal development. The first reliable historical data on the emergence of the foundations that created the necessary foundation for the formation of the real estate institution date back to the time of Ancient Rome.

In ancient Greek history, the mortgage of land was of particular importance. It was from Athens that this legal institution began: it was first introduced by the archon Solon in the 4th century BC. In 594 BC. Solon implemented his famous reform: he abolished land taxes, introduced freedom of will. Each owner received the right to dispose of the property at their discretion. Initially, in Athens, the collateral for this type of obligation was the personality of the debtor, who, if unable to pay the debt, was threatened with slavery [1].

The Roman institution of public lands created a special object of property, giving rise to the institution of state ownership of land, and also established the principle of protecting this type of property from any claims with the help of state coercion. The legal norms of Roman law concerning the exercise of rights and obligations by landowners were adopted by most Roman-German legal systems.

For the transfer of personal liability to property liability, Solon proposed to erect a pole on the debtor's estate (on the border border) with the inscription (Greek. hypotetheca - stand, support) that this land serves to secure claims for a certain amount. In the case of mortgage, the mortgaged land remained in the possession and use of the debtor, who was deprived of the right to dispose of it. If the debtor failed to fulfill the obligation, the land passed to the creditor.

Undoubtedly, the beginning of legal regulation of land and related objects dates back to the era of Ancient Egypt. The main feature of Egyptian land ownership throughout its entire development (mostly in the era of the Old and New Kingdoms, less pronounced - towards the end of the Old Kingdom, at the beginning of the Middle Kingdom, and practically throughout the history of the Late Kingdom) was the formal ownership of all the land to the pharaoh and the associated cult [2].

In practice, there were several types of land ownership: state, temple, private, and communal lands. Another innovation of Napoleon's Code should be recognized as the proposed construction of property rights, which was previously understood as conditional, fragmented, tribal possession, little distinguished from other property rights. According to Article 544 of the Code, property rights become central among them and are defined as "absolute, unlimited by law" [3].

"The legal regime of settlement lands is a special procedure for regulating people's life activities within the boundaries of urban and rural settlements, carried out by establishing incentives and restrictions, permits and prohibitions for subjects in the field of permitted land use and protection, determined by the urban planning, land, civil, environmental, and other legislation of the Republic of Uzbekistan.

In contemporary legal literature, elements of the legal regime of settlement lands are examined, such as, for example, the zoning of territories by H.A. Andrianov [4], the legal regime O.M. Kozyr [5] on the legal regulation of the use of settlement lands in urban planning legislation O.I. Krassova [6].

The foundations of the theory of the legal regime of settlement lands were outlined by A.P. Anisimov in his doctoral dissertation "Theoretical Foundations of the Legal Regime of Settlement Lands in the Russian Federation" in 2004 [7].

The main feature of the land of settlements is the territorial basis of many objects located on a relatively small territory, the main purpose of which is to ensure favorable living conditions and the main activity of the multi-million population of the Republic of Uzbekistan, the vast majority of which live in settlements.

According to Article 59 of the Land Code of the Republic of Uzbekistan [8], all lands within the administrative boundaries of cities and towns belong to the lands of cities and towns. These lands include: lands of urban and settlement development; lands of general use; lands of agricultural use and other lands; lands occupied by forest plantations; lands of industry, transport, communications, defense and other purposes; lands of protected natural territories; lands of the water fund; reserve lands [9].

This circumstance is characterized by a high level of anthropogenic impact, intensive use, an increase in the number and density of the population, the placement of industrial, residential, public-business, and other construction objects in a limited territory, an increase in the number of vehicles, which causes a conflict of economic, ecological, social, aesthetic, and other interests, and a combination of various types of functional purpose of lands and land plots.

In legal literature, the first definition of the concept of "legal regime of settlement lands" was formulated by V.P. Balesin, who proposed to understand it as "a legally established system of rules that determine the position and place of this type of land in the unified state land fund, as well as the procedure for proper behavior in relation to these lands by state land

management bodies, land users, and all other persons obliged to treat land as a national treasure" [10].

Some authors believe that specific incentives and restrictions, permissions and prohibitions for rights holders of land plots regarding their use and protection within settlements are established by land use and construction rules - a municipal legal act regulating the use and modification of real estate objects through the establishment of urban planning regulations [11].

Land legislation distinguishes these lands as a separate category of lands. The lands of settlements are all lands within the city, settlement boundaries, and the boundaries of rural settlements. The legal regime of this category of land is defined in Articles 59-68 of the Land Code [12] and Article 12; Articles 61-73 of the Urban Planning Code [13] of the Republic of Uzbekistan, and is also regulated by a special "Regulation on the Procedure for Using the Lands of Rural Settlements," approved by the Resolution of the Cabinet of Ministers dated October 30, 2014, No. 301 [14].

By its significance, the next type is the land use of populated areas, in which about 38 million people live. These lands, as an administrative-territorial unit, differ from other land fund categories in their specifics, legal regime, and primary purpose of use. The total land area of settlements in 2024 amounted to 226.7 thousand hectares or 0.51% of all land [15].

Therefore, the urgent task in the Republic of Uzbekistan in the modern conditions of development is the need to improve the territory of settlements in order to create a favorable environment for the life of the population, prevent negative impacts on the environment and human health, for which it is necessary to ensure the practical implementation of urban planning, sanitary, fire safety, and other norms when placing various objects.

Reforming land relations in settlements based on territorial planning is becoming a priority task today, which, in turn, should contribute to the formation of the land and other real estate market in settlements, as well as the protection of the rights and legitimate interests of the subjects of land legal relations. However, in practice, gaps are being identified in the sphere of regulating land relations in settlements, which makes it difficult to successfully fulfill the above-mentioned tasks in the new conditions of farming.

The practical meaning and significance of the rules governing the real estate sales contract are predetermined by the fact that real estate objects are inseparable from their location, and sales contracts can be concluded in any other place. Participants in property turnover, when concluding such transactions, must know the legal status of the specific object being acquired, and, in particular, whether this property is encumbered by the rights of third parties, etc.

In the contract for the sale of a land plot (purchase), it is necessary to indicate its location (address); the category of the land; the intended purpose; the purposes of further use; the cadastral number of the land plot; the real estate objects located on it (if any); who owns the land plot; the rights of third parties; the obligations of the parties, as well as the total area and the normative price of the land plot. It is important to note that historically and culturally designated lands and lands provided for defense needs cannot be the subject of a purchase and sale agreement. Only land plots that have undergone state cadastral registration may be the object of sale. The seller, when concluding a contract, is obliged to provide the buyer with the information available to him regarding encumbrances and restrictions on the use of the land plot. Lands of public use in populated areas (squares, streets, driveways, roads,

embankments, parks, forest parks, squares, gardens, boulevards, reservoirs, beaches); lands of reserves, natural monuments, national and dendrological parks, botanical gardens; lands of health and historical-cultural purpose; lands provided for agriculture, subsoil use and protection; lands contaminated with hazardous substances and susceptible to biogenic contamination; land plots in temporary use are not subject to privatization. Lands occupied by settlements are intended for the placement of cities, towns, rural settlements, and real estate objects that ensure the vital activity of the population in the context of climate change.

According to Article 64 of the Land Code of the Republic of Uzbekistan the lands of common use of populated areas include: squares, streets, driveways, roads, irrigation networks, embankments, etc.; lands used to meet the cultural and domestic needs and recreation of the population (forest parks, parks, boulevards, squares, as well as irrigation ditch networks); communal and domestic lands (cemeteries, waste disposal and utilization sites, etc.).

Land plots from lands of general use, with the exception of roads and irrigation ditches, may be provided by the organizations specified in the second part of this article to legal entities and citizens for short-term lease for the construction of facilities of a simplified type (trade tents, kiosks, advertising structures, etc.) through an electronic online auction.

The use of settlement lands prioritizes ensuring the well-being of the population living there. Due to this, the principle of rational land use is manifested here, along with the principle of economical allocation of land plots, in compliance with sanitary and hygienic standards when allocating and constructing land plots for settlements.

A significant place in the management of settlement lands is occupied by the prospective and current planning of their use through territorial planning and urban planning zoning. Planning is reflected in urban planning documentation, since the main purpose of these lands is the construction of industrial, cultural, residential, and other facilities on them.

The President of the Republic of Uzbekistan signed the law on August 6, 2024. "On Recognizing Rights to Unauthorized Seized Land Plots and Buildings and Structures Built on Them" [16].

The law also clearly defines the main conditions for recognizing rights. For example, a land plot should not be allocated to other persons or put up for auction; there should be no dispute over the land plot; there should be no contradiction to the master plan. Recognition of rights is carried out in stages by region. Reconciliation of information and documents regarding illegally seized land plots and buildings and structures built on them is carried out through the automated information system of the Cadastre Agency. 15 authorized organizations are also entering relevant information into this system.

The completeness and legality of the collected documents are being verified by the regional justice department. The results will be announced on the Cadastral Agency website and in the neighborhood corners. Citizens who receive a positive conclusion will receive an SMS message, based on which a one-time payment will be made. After that, the rights will be recognized quarterly by the decision of the regional council of people's deputies.

The prosecutor's office, internal affairs bodies, agroinspection, ecology, and cadastre establish state control over the implementation of the law. Also, the law pays special attention to public control. Thus, by decision of the district councils of people's deputies, public groups will be created in each mahalla. These groups will include a district council deputy elected

from the constituency where the mahalla is located, the mahalla chairperson, and active citizens.

A one-time payment is charged for recognizing the rights to land plots under residential buildings, privatized or recognized as property rights to buildings and structures. The amount of the payment is 5 BRV in the city of Tashkent, 3 BRV in the city of Nukus and regional centers, 2 BRV in cities and 1 BRV in other settlements. Persons included in the Unified Register of Social Protection, as well as persons with disabilities, are granted a discount. The one-time payment is directed to cover the expenses of the cadastre and justice bodies, the "Uzbekcosmos" Agency. The remaining funds will be allocated to the activities of the initiative budget, that is, to mahallas. The law will come into force on 3 months, before that, explanatory and preparatory work will be carried out on the ground. The law will be in effect until January 1, 2028.

It should be noted that work in this direction has already begun in the Republic of Karakalpakstan. By the Decree of the President of Uzbekistan dated July 28, 2023, it was permitted to recognize rights to undocumented residential buildings and land plots located in the region by decision of the Jokargy Kenes of the Republic of Karakalpakstan.

After that, working groups were created in all districts and cities, which studied 43,432 houses built in the Republic of Karakalpakstan without legal documents. The location, condition, and time of construction of the houses were checked based on the analysis of land records and satellite imagery. Following a comprehensive discussion, ownership rights to 27,590 residential buildings and the right to lease land plots on which they are located were recognized. The results of this noble policy have had a positive impact on the lives of more than 100 thousand citizens living in 27 590 households. They gained the right to legally register their housing, sell it to another person, and register family members permanently. Also, owners will now be able to receive preferential loans for repairs or additional construction, and in case of withdrawal of housing for public needs, to demand compensation in accordance with the law.

In our opinion, the Law "On Recognition of Rights to Unauthorizedly Seized Land Plots and Buildings and Structures Built on Them" will expand the scope of this noble work throughout the country. If we take into account that each of the more than 3 million 600 thousand land plots concerns an average of This law will solve the problems of more than 10 million people and create a legal basis for their further life [17].

In this regard, at present, for the improvement of land legislation, special attention should be paid to the following points:

It is necessary to pay attention to the introduction of advanced foreign experience, the application of innovative technologies and scientific achievements for the further rational use and protection of the lands of settlements. In this regard, at present, for the improvement of the Land and Civil Codes, it is necessary to pay special attention to the following points:

1. It is necessary to clearly formulate the definition of the concept **"legal regime of lands of settlements"**. It is proposed to understand the legal regime of the lands of settlements as a set of legal means established by the legislation of the Republic of Uzbekistan, its subjects, regulatory legal acts of local self-government bodies, including the establishment of the procedure for the use and protection of lands within the boundaries of settlements, the definition of the rights and obligations of subjects of rights to land plots, the implementation

of urban planning zoning and territorial planning, the development and approval of land use and construction rules, the establishment of permitted use of land plots and objects located on them, the regulation of construction, the adoption by state authorities and local self-government bodies of other legal measures in order to ensure the sustainable development of settlements.

2. Civil law regulation of settlement lands includes **norms of civil and land legislation** that define the procedure for using, owning, disposing of, and protecting lands within settlement boundaries. This legal regime is aimed at ensuring the rational use of land, protecting the interests of owners and users, and developing the territories of settlements.

3. Taking into account the peculiarities of the legal regime of lands in rural settlements, it is proposed to provide for norms in the legislation aimed at protecting and preserving agricultural lands located within the boundaries of rural settlements. Unfortunately, neither the Civil Code nor the Land Code of the Republic of Uzbekistan addresses cases where, in addition to the plurality of persons in any building, there are isolated objects of other persons located under or above this building (underground garages, large linear engineering communications, civil defense facilities, suspended structures, and other similar objects).

4. To increase the activity and effectiveness of public participation in territorial planning in settlements, the need to legally regulate the mechanism for conducting public hearings on draft land use and construction rules, as well as the master plan, has been substantiated. It is proposed to adopt by local self-government bodies, taking into account land legislation, a regulatory legal act specifying the procedure for organizing and conducting such hearings, which should provide for the following norms: on the form of conducting public hearings; on the formalization of public hearings (minutes, certificates, etc.); on the criteria for taking into account the opinion of the population when conducting public hearings; on the criteria for determining public hearings as held; on establishing a quorum for making decisions on draft master plans, land use and construction rules, including making changes to them.

5. Taking into account the special significance of suburban green zones for cities, namely, their fulfillment of protective and sanitary-hygienic functions, it is proposed to supplement the Land Code of the Republic of Uzbekistan with green zones of urban settlements as part of suburban zones, as well as to establish within them partial restrictions or complete prohibitions on carrying out economic and other activities that have a harmful impact on the environment.

6. The legal regime of settlement lands is aimed at ensuring the sustainable development of territories through territorial planning and urban planning zoning, as well as ensuring the balanced consideration of environmental, economic, social, and other factors when carrying out urban planning activities.

In our opinion, these and other events would allow us to define priorities for further joint work aimed at addressing the civil law problems of settlement land regulation.

List of used sources:

1. History of Religions: in 2 vols. Vol. 2: India: the Vedic and Brahmin religion. Jainism. Buddhism. Hinduism. Persians: Zoroastrianism. Avesto. Greeks. Romans. Baltics and Slavs. The Germans // edited by D. P. Shantepi de la Sousse. 2nd ed. M.: Russian Peace Foundation, 1992. - P. 526.

2. History of the Ancient East. Moscow: Higher School, 1988. - P. 32-33.
3. French Civil Code of 1804//trans. Persterskiy - Moscow, 1941. - P. 169-246.
4. Andrianov N.A. On the Procedure for Developing Urban Planning Zoning Documents for Settlement Territories // State Power and Local Self-Government, 2006. - No. - P. 55-56.
5. Kozyr O.M. Features of the legal regime of settlement lands. // Environmental Law, 2005. - No. - P. 57-62.
6. Krassov O.I. General plans and projects of urban and rural settlements. // Law and Economics, 2006. No. 1; The procedure for preparing, approving, and reviewing urban planning documentation. //Legislation and Economics, 2006. - No. - P. 77-83.
7. Anisimov A.P. Theoretical Foundations of the Legal Regime of Settlement Lands in the Russian Federation: Diss.... Dr. of Juridical Sciences. Saratov, 2004; Anisimov A.P. Current Problems of the Legal Regime of Settlement Lands in the Russian Federation: Monograph. M.: Yurlitinform, 2010. - P. 50-51.
8. Land Code of the Republic of Uzbekistan // Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 1998. - No. 5-6. - p. 82.
9. With amendments and additions as of 27.12.2023. Urban Planning Code of the Republic of Uzbekistan // National Database of Legislation, 22.02.2021, No. 03/21/676/0142.
10. Balezin V.P. Legal Regime of Lands in Rural Settlements. Moscow. 1972. - p.27.
Land Law of Russia: Textbook. //Anisimov A.P., Ryzhenkov A.Ya., Trofimov A.S., Chernomorets A.E.; edited by doc. legal Sciences A.P. Anisimova. - M.: Higher education, Yuriyt-Izdat, 2009. - P. 307-308.
12. Land Code of the Republic of Uzbekistan. // Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 1998. - No. 5-6. - Art. 82.
13. Urban Planning Code of the Republic of Uzbekistan // National Database of Legislation, 02/22/2021, No. 03/21/676/0142.
14. "Regulations on the Procedure for Using the Lands of Rural Settlements," approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated October 30, 2014 No. 301. Collection of Legislation of the Republic of Uzbekistan, 2014. - No. 44. Art. 539.
15. National Report on the State of Land of the Republic of Uzbekistan. Tashkent, 2024. - P. 6.
16. The President signed a law affecting the lives of more than 10 million people. // <https://president.uz/ru/lists/view/7443>.
17. President signed a law affecting the lives of more than 10 million people.//<https://president.uz/ru/lists/view/7443>.