

The Essence, Significance and Legal System of the Legal Aspects of the Contract of Trust Management of Property

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ABSTRACT

In this research work, the concept of trust management of property, its basic principles, the role and importance of the norms of legislation in the field of trust management of property in the conduct of entrepreneurial activity are studied. At the same time, legislation in the field of business law and civil law norms related to trust management of property were analyzed.

Legislative acts and the associated law-enforcement practice of some foreign countries in the field of trust management of property in conducting entrepreneurial activities were thoroughly studied, and proposals were developed for further improving national legislation in this area.

The issues of introducing the institution of trust management in the law of inheritance, the distribution of the property of the deceased by inheritance and on a legal basis, proposals for amendments and additions to the relevant legislation, as well as its practical application are also discussed.

KEY WORDS: Trust management of property, Civil code, public benefit, executor of a will, guardianship, property rights, inheritance, civil law regulation, ownership of the property.

As far as we know, the trust management agreement is one of the newest agreements in our national legislation, civil law relations, the regulation of which is not regulated only by one law or another by-law, but by various normative legal acts. The legal basis is defined. Although the norms of general managerial importance governing this contract are set out in the Civil Code, it is worthwhile to study other normative legal acts regulating this social relationship. Below we will get acquainted with the norms of normative legal acts that can directly and indirectly affect the regulation of the contract of trust management of property.

The articles of the Law of the Republic of Uzbekistan "On Property" set a number of norms as the legal basis for the contract of trust management of property.

"Property rights are recognized and protected by law in the Republic of Uzbekistan.

The owner owns, uses and disposes of his property at his own discretion.

The owner has the right to take any action against his property that is not against the law. He may use the property to carry out any economic or other activity not prohibited by law.

The owner has the sole right to transfer the right to own, use and dispose of his property to other persons. In cases stipulated by the legislation of the Republic of Uzbekistan, the owner may be obliged to allow other persons to use his property in a limited way.

The owner has the right to enter into an agreement with citizens on the use of their labor in the exercise of their property rights within the conditions and within the limits provided by the legislation of the Republic of Uzbekistan.

Regardless of the form of property that is the basis for the use of labor, a citizen is provided with the socio-economic rights and guarantees provided for in the Constitution and other legislation of the Republic of Uzbekistan.

The exercise of property rights must not harm the environment, violate the rights of individuals, legal entities and the state, or infringe on the interests protected by law. ”¹ According to the provisions of this law, a citizen has the right to use the labor of others as long as he uses the property that belongs to him. It is not difficult to understand from these norms that a contract of trust management of property can also be concluded in accordance with the provisions of this norm.

The law also defines private property, which states:

"Private property is the right to own, use and dispose of one's property in a private manner. Private property can be based on the owner's direct participation in the production process or in the use of hired labor.

Private property, like other forms of property, is inviolable and protected by the state. An owner may be deprived of his property only in cases and in accordance with the procedure provided by law.

Private property is property received in accordance with the income of citizens from employment, entrepreneurial activity and investments in credit institutions, shares and other securities, inheritance and other grounds not prohibited by applicable law. -produced and multiplied by the possession of property. Private property of citizens is also allowed to be created through their participation in the privatization of state property.

Citizens have the exclusive right to manage their labor force. He exercises this right independently or on the basis of a contract (agreement, agreement).

Housing cooperative, housing construction, country house, garage co-operative or a member of another co-operative acquires ownership of the property upon full payment of the share fee for the apartment, country house, garage or other building or structure given to him for use.

The owner of Toshuyjoyjamgarmabank, the holder of these bonds, acquires the right to the apartment if he fully repays the soft loan or pays in full the value of the purchased apartment;

The lessee and his family members who have rented accommodation from the house of the state and departmental housing fund have the right to purchase the corresponding apartment or house (part of the house) from the owner.

After the purchase of this property, the citizen has the right to dispose of it at will - to sell, bequeath, lease, use it as collateral, and enter into other agreements that do not contradict the law.

Private property can be used as an investment, the property of the state, cooperatives and other enterprises, the purchase of leased property, the sale of property at auction or by law. occurs during purchases on other grounds.

Objects that cannot be private property shall be determined by the legislation of the Republic of Uzbekistan.

Objects of trade and services, along with the land plots on which they are located, may be transferred to private ownership of legal entities and individuals in the manner and on the terms 741 provided by law. ”² The aspects of this norm related to the contract of trust management of property are reflected in the fact that the exercise of rights to property, such as the transfer of property by a citizen or legal entity in private trust, is the most common practice is calculated.

¹Vitryanskiy V.V. Obyazatelstva po doveritelnomu upravleniyu imushchestvo: ushchestvo i harakternye priznaki. Household and law. Moscow. 2001. p. 433

²V.A.Doziertsev. Doveritelnomu upravleniyu imushchestvom. Civil Code RF (GK RF). Chast vtoraya. 2001

The norms of the Law of the Republic of Uzbekistan "On denationalization and privatization" also define the range of entities that have been denationalized and can be privatized and have the right to privatize. is important in a trust management agreement.

"In the process of denationalization and privatization:

Citizens of the Republic of Uzbekistan, other countries, stateless persons;

non-state legal entities;

foreign legal entities may be subjects of public property purchases.

Persons prohibited from engaging in entrepreneurial activity may not purchase state-owned and privatized objects, participate in tenders and auctions as buyers, and purchase shares of privatized enterprises (except for open joint-stock companies)."³ As mentioned above, the subjects of the trust management agreement are important, and the norms of this agreement clearly define the scope of the subjects, which is also important for the persons who are the founders of the property.

The Law of the Republic of Uzbekistan "On Lease" also contains a number of comparative provisions related to the contract of trust management, which helps to understand the essence of the contract of trust management of property. We can see that there are similarities and differences in the order of liability for breach of trust agreement and lease agreements. According to him: In the following cases:

in violation of the procedure and conditions of the contract;

in case of non-performance of contractual obligations;

unilateral amendment or termination of the contract;

legal entities and individuals, government officials guilty of violating the procedure and conditions of amendment and termination of the contract shall be held liable in accordance with the law.

The laws of the Republic of Uzbekistan also provide for liability for special violations of the law on rentpossible.

Legal entities and individuals must compensate the victim for the damage caused by them, including lost profits in the manner prescribed by the laws of the Republic of Uzbekistan.

On the debts of the lessee:

with their own property (for state-owned rental companies);⁴

with their own property and personal property of the members of the tenant community (for public property, private property-based rental enterprises, as well as for individuals engaged in individual or group employment), they are sufficient. in the absence of

- is responsible in the manner and to the extent established by the legislation of the Republic of Uzbekistan. In addition to the provisions of this norm, we can see that the issues of liability in the contract of trust management of property are similar to the provisions of this norm. According to Article 859 of the Civil Code of the Republic of Uzbekistan, the responsibility of the trust manager is established. This provision states: "A trustee who does not adequately care about the interests of the beneficiary or the founder of the trust during the trust management of the property shall not return to the beneficiary the profit lost during the trust management of the property, and the trustee shall not receive the property. indemnifies for damages caused by freezing or damage to it, as well as lost profits.

³Commentary to the Civil Code of the Republic of Uzbekistan: (second volume. 2013. p. 912, volume 2, edited by HA Rahmonkulov and O. Akyulov.) Professional comments. T 2 / Ministry of Justice of the Republic of Uzbekistan. T. Baktria press, 2013. 912 p

⁴Civil law: Textbook. Ch.2.A.P.Sergeeva, Yu.K.Tolstoga. 2003. S. 102.

If the trustee is unable to prove that these damages were caused by force majeure or by the actions of the beneficiary or the management entity, he or she will be liable for the damages.

The trust manager shall personally fulfill the obligations under the agreement entered into by the trust manager in violation of the powers vested in him or in violation of the restrictions imposed on him. If the third parties to the agreement were unaware or did not need to be aware of the deviation from the powers or the established restrictions, the obligations arising shall be performed in accordance with the procedure set forth in paragraph 4 of this article. In this case, the management may require the trustee to pay damages.

Debts on liabilities arising from the trust management of the property are settled at the expense of the property. In case of insufficiency of this property, the recovery may be directed to the property of the trustee, and in case of insufficiency of his property, to the property of the trustee, which has not been transferred to trust management.

A contract of trust management may provide for a pledge by a trustee to ensure that the trustee or the beneficiary is compensated for any loss that may result from improper performance.” By this norm, it can be understood that if the trustee does not take sufficient care of the interests of the founder and the beneficiary, violates their interests, does not properly perform its obligations under the trust management agreement, he is the founder of the management and it is stated that the beneficiary must compensate the damage in front of the beneficiary.⁵ The trustee is liable to the beneficiary only for the lost profits under the trust management, because the beneficiary is not the owner of the property transferred to the trust management and only suffers a loss in the unearned part. The founder of the board can also see the real damage as he entrusts his property to a trustee. Therefore, the founder of the management is compensated for losses such as loss or damage to the property, taking into account the natural depreciation of the property. If the trust management of the property is established in favor of the management entity, it must be compensated not only for the actual loss, but also for the lost profits.

Law of the Republic of Uzbekistan "On Banks and Banking" Article 4: “Banks carry out the following banking operations in their activities:

opening and maintaining accounts of individuals and legal entities, including representative banks, settlement of accounts;

attraction of deposits;

to issue loans on its own behalf and at the expense of borrowed funds, subject to repayment, interest and maturity of loans.

Banks can also carry out other types of operations, such as:

cash management under an agreement with the owner or disposer of funds;

purchase and sale of foreign currency in cash and non-cash form from legal entities and individuals;

collection of cash, promissory notes, payment and settlement documents;

issuance of guarantees for the performance of obligations on behalf of third parties;

obtaining the right to demand performance of obligations from third parties;

issue, purchase, sale, accounting and storage of securities, management of securities under the contract with the client, performance of other operations with securities;

banking consulting and information services;

lease to individuals and legal entities special buildings for storage of documents and other assets or steel boxes inside them;

financial leasing;

⁵V.A.Doziertsev. *Doveritelnomu upravleniyu imushchestvom*. Civil Code RF (GK RF). Chast vtoraya. 2001.

other operations specified in the license in accordance with international banking practice.

Banks are not allowed to engage in direct production, trade and insurance activities, except as provided by law. ”⁶ If we pay attention to the norm of this law, there are objects that can be the objects of the contract of trust management of property, which is defined by the norms of the Civil Code. According to him, in cases provided by securities and other normative-legal acts, money can also be a reliable management of property. Issuance, purchase, sale, accounting and storage of securities, management of securities under the contract with the client, other operations with securities are one of the main activities of banks, and in practice there are cases related to this. sufficiently common.

The norms of the Law of the Republic of Uzbekistan "On the mechanism of functioning of the securities market" also relate to the securities market, the relations with the securities entrusted to trust management and norms related to the main task of the subjects of this relationship are established. According to the law, "Nominal custodian of securities is a person who holds shares on his behalf in accordance with the instructions of another person (owner of the securities or other authorized custodian) without the owner of the securities.

Banks, depositories (except for investment fund shares), and investment institutions that enter into securities transactions on behalf of and on behalf of the owner of the securities or the person he represents may be nominal custodians of securities.

Regarding the securities held by the nominal holder of the securities in accordance with the instructions of another person:

make every effort to ensure that the person receives all the payments due to him on these securities;

to carry out securities transactions and transactions only in accordance with the instructions of the person who instructed him to keep the shares and in accordance with the contract concluded with him;

to keep the accounts of the securities held by him on behalf of other persons in separate off-balance sheet accounts and to comply with the requirements of the persons who have instructed to keep the securities must always have a sufficient amount of securities in these accounts in order to be satisfied.

BIBLIOGRAPHY

1. Vitryanskiy V.V. Obyazatelstva po doveritelnomu upravleniyu imushchestvo: ushchestvo i harakternye priznaki. Household and law. Moscow. 2001. p. 433
2. Mirzaraimov B. Effective Measures Of Preventing Due Process Paranoia In International Arbitration // The American Journal of Political Science Law and Criminology. - 2020. - T. 2. - №. 11. - С. 72-80.
3. Akramov, Akmal. "Prospectives Of Trust Management Of Property In Uzbekistan." The American Journal of Political Science Law and Criminology 2.11 (2020): 143-150.
4. Akramov, Akmal, Bakhodir Mirzaraimov, and Yulduz Akhtamova. "FOREIGN EXPERIENCE RELATED TO THE LEGISLATION AND PRACTICE OF TRUST MANAGEMENT OF PROPERTY IN BUSINESS ACTIVITIES." Збірник наукових праць ЛОГОΣ (2020): 12-14.
5. Civil Code RF (GK RF) - Part 2. Chapter 53. Doveritelnomu upravleniyu imushchestvom.
6. V.A.Doziertsev. Doveritelnomu upravleniyu imushchestvom. Civil Code RF (GK RF). Chast vtoraya. 2001.

⁶Wolfson, J. Lin. (2011) A Survey on Trust Management for Intelligent Transportation System. Proceedings of the 4th International Workshop on computational transportation science, IWCTS '11 Ryabov A.A. Trust in Russian law // State and law. 2007. №9. S. 42–51.

7. Commentary to the Civil Code of the Republic of Uzbekistan: (second volume. 2013. p. 912, volume 2, edited by HA Rahmonkulov and O. Akyulov.) Professional comments. T 2 / Ministry of Justice of the Republic of Uzbekistan. T. Baktria press, 2013. 912 p.
8. B.R.Topildiev. Civil law regulation of trust management of property. (Monograph) FA RU. Publishing House of the Institute of Philosophy and Law. 2009. №201-2737 / 20019.
9. Civil law: Textbook. Ch.2.A.P.Sergeeva, Yu.K.Tolstoga. 2003. S. 102.
10. Wolfson, J. Lin. (2011) A Survey on Trust Management for Intelligent Transportation System. Proceedings of the 4th International Workshop on computational transportation science, IWCTS '11 Ryabov A.A. Trust in Russian law // State and law. 2007. №9. S. 42–51.
11. Sardor Mamanazarov, "legal issues of the role of supervisory board in governance joint-stock companies", journalnx - a multidisciplinary peer reviewed journal, isae-2020, issn : 2581-4230, page no. 1100-1107.
12. Akhtamova Y. Protection of International Investments. Analysis of Certain Clauses in International Agreements. Uzbekistan Case Study //Analysis of Certain Clauses in International Agreements. Uzbekistan Case Study (March 25, 2016). – 2016.
13. Bozarov S. S. Prospects for the innovative development of free economic zones in the Republic of Uzbekistan //Review of law sciences. – 2018. – Т. 2. – №. 1. – С. 23.
14. Narziev, Otabek. "The Perspectives Of The Establishment Of International Financial Centers In Uzbekistan And The Implementation Of English Law." Turkish Journal of Computer and Mathematics Education (TURCOMAT) 12.4 (2021): 1104-1108.
15. ТУРДИАЛИЕВ, Мухаммадали. "ЭРКИНИҚТИСОДИЙЗОНАЛАРДОИРАСИДАИНГЛИЗХУҚУҚИНИЖОРИЙЭТИШНИНГХОРИЖВАМИЛЛИЙТАЖРИБАСИ." ЮРИСТАХБОРОТНОМАСИ 1.6 (2020): 151-158.
16. Said, Gulyamov, and Rustambekov Islambek. "RECOMMENDATIONS ON THE PREPARATION AND PUBLICATION OF SCIENTIFIC ARTICLES IN INTERNATIONAL PEER REVIEWED JOURNALS." Review of law sciences 4 (2020).
17. Gulyamov, S. S., Rustambekov, I., & Bozarov, S. S. (2020). LEGAL BASES FOR BUSINESS ACTIVITIES IN FREE (SPECIAL) ECONOMIC ZONES OF THE REPUBLIC OF UZBEKISTAN. PalArch's Journal of Archaeology of Egypt/Egyptology, 17(10), 1884-1895.
18. Gulyamov, S. (2021). The Institutional and Legal Framework of Emerging Capital Markets: The Experience of CIS Countries. Turkish Journal of Computer and Mathematics Education (TURCOMAT), 12(4), 1117-1131.