



## LEGAL ISSUES IN EXERCISING THE RIGHT OF OWNERSHIP TO HOUSING

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### Abstract

The article deals with the issues of possession, use and disposal of property rights to housing, violation of the rights and legally protected interests of citizens and legal entities. It is concluded that citizens who own a house or apartment have the right to use them for other purposes without violating the rights and legitimate interests of other citizens and legal entities.

**Key words:** property, housing, apartment, civil law, copyright holder, subjective rights.

In civil law, the exercise of a right is understood as the opportunities and powers established by law to perform actions aimed at the possession, use and disposal of rights belonging to a person, based on his will and interests. The exercise of civil rights is the ability of a particular right holder to perform an action arising from this right, through which the right holder satisfies his needs.

According to A.P. Sergeev, the realization of the right means the realization of the opportunities provided to the subjective right holder on the basis of a law or an agreement. In other words, the exercise of subjective civil law is a clear use by the subject of legal freedoms guaranteed by the state .

According to Article 9 of the Civil Code of the Republic of Uzbekistan, citizens and legal entities have the right to exercise their civil rights, including the right to defense, at their discretion. All issues related to the exercise of civil rights, methods of their implementation, limits, waiver of subjective rights or their transfer to another person, are carried out by an authorized person at his own discretion .

The homeowner also acts in accordance with the law and contracts in exercising the right of ownership of the housing he owns. In particular, according to article 11 of part 3 of the Housing Code, the right to own a dwelling is perpetual, without violating the rights and legally protected interests of citizens and legal entities, the state to own a dwelling in its own will and interests. The right to use and dispose of it, as well as to demand the elimination of a violation of its property rights. Changing the appearance of dwellings, their reconstruction or demolition

is allowed with the appropriate permission of local government authorities. Therefore, when exercising the right of ownership to ordinary objects, movable property, in particular, when changing or violating their appearance, the right holder can exercise the right of ownership in relation to the dwelling only if he observes the general conditions set forth in Article 9 of the Civil Code and the rules set forth in Article 172 of the Civil Code, a person must meet the requirements established by law. In other words, when exercising the right of ownership of movable property, the subject of law has broader powers than when exercising the right of ownership of a dwelling. That is, as D.I. Babaev, the realization of the rights of citizens and legal entities that are subjects of civil law depends on their will, and when exercising their rights, they must comply only with the requirements established by law .

When exercising the right of ownership of a dwelling, the subject of the right is given the opportunity to perform certain actions on the basis of the law and the contract, as well as the limits for exercising this right. V. P. Griбанov recognizes that the establishment of conditions and boundaries for the exercise of civil rights is not a restriction of these rights, but a legal expression of the economic equality of persons in the system of social relations, that is, a legal guarantee of the existing equality .

На наш взгляд, условия осуществления этого права собственности следует условно назвать границами права собственности и согласовываться с мнением П.В. Крашенинникова. По его мнению, условия объективны только в том случае, если они не вытекают из воли субъектов или судебной власти, вытекающей из закона .

According to O.V. Shvedkova, restrictions on the will of the owner in relation to his property can only be established within the framework of the law, regardless of this will. Thus, restrictions mean the exclusion of certain rights from the subject's property right in relation to the object, established by law . Similar ideas are found in other legal publications .

In addition to these considerations, the conditions and limits of the exercise of ownership can be divided into the following types, on the basis of which they arise:

1. Conditions established by law.
2. Contractual conditions.
3. Conditions set by the courts.



The conditions established by the legislation on the exercise of ownership of housing may include the rules established by Article 172 of the Civil Code of the Republic of Uzbekistan.

This rule establishes the following conditions:

- the exercise of the rights of the owner must not violate the rights and legally protected interests of other persons;
- in cases, on conditions and within the limits provided for by law, other owners are obliged to allow limited use of their property;
- the owner is not entitled to abuse his dominant position, to perform other actions that infringe on the rights and legally protected interests of other persons;
- the owner is obliged to take measures to prevent harm to the health of citizens and the environment in the exercise of his right.

Contractual boundaries (conditions) are determined by agreement of the parties. At the same time, one party to a civil law contract imposes certain restrictions on the exercise of property rights by the other party. For example, in accordance with Article 22 of the Law of the Republic of Uzbekistan "On Mortgage" dated October 4, 2006, when mortgaging a residential building under a mortgage agreement, the mortgagor may be assigned under the agreement.

Commenting on this article, R. Zh. Ruziev notes the following: this legal norm (Article 22) protects the right of the mortgagor to use the pledged property and is considered void if there are restrictions on the exercise of the rights established by the text of the mortgage agreement .

Of course, the restriction of property rights on a contractual basis in a certain sense follows from the legislation. For example, even if the leased property changes, the tenant's right to lease is retained, and the new owner's right to own and use the leased property is limited until the lease expires .

Restrictions on property rights by the courts are usually imposed on the owner of certain property or in the event of a dispute over the right to own or use this property or a dispute over the inheritance of property. That is, the right to dispose of this property is limited until the dispute is resolved in court. However, in some cases, the court may also restrict the right of possession and use of property to the parties to the dispute and transfer the storage of property to another person. A court arrest was imposed on this case (Article 900 part 2 of the Civil Code of the Republic of Uzbekistan).

In all cases, the conditions for exercising the right to own a dwelling should be based on rules clearly defined by law, and the restrictions and conditions for

exercising the right to own, in our opinion, should be qualified on the following two grounds:

1. Conditions under which property rights to housing are determined in the public interest.
2. The conditions under which the rights of the owner arise from the interests of a particular person, for example, the rights of neighbors or accomplices in common property.

Restrictions imposed in the public interest include avoiding pollution or harm to the environment when the owner uses the property, and conditions such as the interests of neighbors include easements. When determining the conditions and some restrictions on the exercise of ownership of a dwelling, it is especially important to take into account the purpose of its appointment. This is due to the fact that the current legislation provides that housing has a fixed purpose, which is primarily due to the high demand of citizens for housing. Consequently, the lack of a clear definition of the intended purpose of housing would exacerbate the need and condition of a significant part of the population for housing and the use of many residential buildings for other purposes.

Non-production enterprises, institutions, organizations and institutions may be located in non-residential premises of apartment buildings in the manner prescribed by law.

This rule also creates additional obligations, especially for homeowners in private partnerships. According to Article 16 of the Law of the Republic of Uzbekistan No. ZRU-581 dated November 7, 2019 "On the management of apartment buildings", the owner's non-use of his land plot or refusal to use common property does not exempt him from full or partial participation in common expenses.

This rule is also important as a specific restriction on the exercise of the right of ownership to a dwelling and establishes certain obligations and conditions in the exercise of the right of ownership of the owner of a land plot in relation to an apartment in a multi-storey building, combined with partnerships .

When exercising his property rights, the homeowner is not entitled to make loud noise and disturbances that adversely affect the normal life of neighbors living nearby. This rule is established by part 2 of article 23 of the Housing Code. According to it, citizens who own a house or apartment have the right to use them for other purposes without violating the rights and legitimate interests of other citizens and legal entities.

The practical application of the conditions in the exercise of ownership of housing, the harmonization of the norms of the Civil Code and the Housing Code in

determining the norms of legislation in this part, as well as ensuring the relationship between them, it is important and clearly define in the legislation the conditions under which homeowners exercise their property rights to housing.

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