

ON THE RULES OF INHERITANCE BY LAW IN THE REPUBLIC OF UZBEKISTAN

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Annotation

This article examines the rules of inheritance by law in the Republic of Uzbekistan. It delves into the legal framework governing inheritance, focusing on the key principles and regulations outlined in the Uzbek Civil Code. The article provides an overview of the different categories of heirs, the order of succession, and the distribution of the deceased's estate. Additionally, it explores the procedures for claiming inheritance rights and addresses potential legal issues that may arise during the inheritance process. By highlighting the specificities of Uzbek inheritance law, this article aims to provide a comprehensive understanding of how inheritance is regulated and implemented within the country.

Keywords: Inheritance, heirs, succession, judicial protection, property rights and obligations, will, testator, inheritance mass, opening of inheritance, death.

Radical changes in our state require improvement of legal regulation in all spheres of public life. Every day citizens of our country and the whole world enter into relations of inheritance. Life is inexorable and death, unfortunately, takes away from us the dearest people, and then the inheritance left by them is only a good sign, telling that there were good family relations with the departed person. However, there are other situations when possible receiving or not receiving of inheritance is a determining factor of attitude to a person. It can also happen that a person who lived all the time in one place suddenly receives a notice that he has become the sole heir



of his distant relative who lived in another place, even in another country, and that he, the "heir", did not even suspect the existence of such a relative. It should be emphasised that it is the norms of inheritance law that create certainty in the legal regime of inherited property, as well as the rights and obligations of a person provided for in the event of his death.

Interest in inheritance issues is growing and will only increase in the future. If we trace the evolution of inheritance legislation, we can conclude that it has never fundamentally changed, but simply adjusted and improved. To clarify, the number of civil cases in courts on inheritance issues is constantly increasing, so that new judicial practice is formed. This is primarily due to the increasing legal literacy of the population and the increasing complexity of market relations, the availability of judicial protection, a large number of lawyers who are able to provide legal assistance to the population to protect their violated or disputed right. Thus, inheritance is a very delicate issue that requires careful analysis of the legislative framework and judicial practice.

Today, the number of civil cases in courts on inheritance issues is constantly increasing and new court practice is emerging. This is primarily due to the increasing legal literacy of the population and the increasing complexity of market relations, the availability of judicial protection, a large number of lawyers who are able to provide legal assistance to the population to protect their violated or disputed rights. According to Article 1112 of the Civil Code of the Republic of Uzbekistan (hereinafter, Civil Code), inheritance is carried out by will. In the case when there is no will or it does not determine the fate of the whole inheritance, its alternative - inheritance by law - is applied.

The subject matter is the property, property rights and obligations that make up the inheritance mass and are called inheritance. It also includes all rights and obligations that do not cease with the death of the testator and belong to him at the time of opening the inheritance. The property to which the ownership right will be terminated and those rights that will not be owned by the day of the testator's death cannot be the objects of inheritance relations (especially in a will)¹. For example, a testator may specify in a will that his car (property) belongs to a certain person. If this car is owned by the testator on the day of making the will, but then he sold it or

¹ Shamukhamedova Z.Sh. Legal regulation of certain types of inheritance. - T.: TSUL, 2022. - 29 c.



gave it as a gift, the heirs do not have the right to claim the car despite the fact that the will is still in force.

The right of inheritance also applies to property that is in common joint ownership. In this case, it is necessary to allocate the share of the testator². The inheritance estate includes everything to which the testator has the right of ownership, even if it is in the possession and use of third parties (rent, storage, mortgage) at the time of the opening of the inheritance. Property that can be bequeathed includes things (house, flat, money, plot of land, car, etc.), property rights and obligations, intellectual property rights, as well as securities and cash deposits belonging to the testator, corporate and exclusive rights and other non-property rights. Since the inheritance includes only the property legally owned by the testator, unauthorized or unregistered buildings are included in the inheritance mass only if the deceased is recognized as the owner of the said buildings in accordance with the established procedure³.

When the right of inheritance arises and is exercised, two moments are important - the time and place of opening of inheritance, since inheritance legal relations arise with the opening of inheritance. The basis for the opening of inheritance is the death of a citizen or declaration of his/her death by a court.

Accordingly, the time - the day of opening of inheritance is the day of death of a citizen, about which a certificate is issued in the civil registry office (article 1117 of the Civil Code). These legal facts are necessary elements of complex legal compositions that give rise to several interrelated legal relations. The death of a citizen as an event affecting the emergence, change and termination of rights and obligations belongs to the acts of civil status and in accordance with the current legislation is subject to state registration. The basis for state registration of death is a document of the established form issued by a medical organisation. In addition, death may be confirmed by a court judgement in a case to establish the fact of death. As mentioned earlier, another ground can be the declaration of a citizen as deceased on the basis of Article 36 of the Civil Code of the Republic of Uzbekistan. A citizen may be declared dead if there is no information about his/her place of residence for

² Cherkashina I.A. Texts of lectures on the subject of civil law of the Republic of Uzbekistan. - T.: UMED. 2023. 301c.

³ Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On application by courts of legislation on the right of inheritance" dated 20.07.2011. Supreme Court of the Republic of Uzbekistan: (2006 - 2016). - T.: Adolat, 2014. - P.768.



five years. In this case, the time of opening of inheritance is recognised as the day of entry into force of the court decision, unless this decision specifies another term (the date of the disaster). At the same time, if a citizen goes missing under circumstances that threatened death or give reason to assume his death from a certain accident (plane crash, death as a result of an explosion of a residential building, etc.), the declaration of the citizen dead may follow six months after his disappearance. Special rules are laid down for servicemen and other citizens who have gone missing in connection with military operations. Such persons may be declared dead by a court not earlier than two years after the end of hostilities. Declaring a citizen dead entails the same consequences with regard to the rights and obligations of such a citizen as would be entailed by his or her death. Declaring a citizen dead entails the same legal consequences as physical death (including mandatory state registration with the registry office). At the same time, the law provides for special consequences of the possible appearance of a citizen declared dead (Article 37 of the Civil Code). In such a case, the decision to declare a citizen dead is subject to cancellation by the court. The claim of a citizen declared dead to return the retained property is based on this norm.

Furthermore, According to Article 1116 of the Civil Code, if citizens, let's say, husband and wife, died on the same day (within 24 hours), then regardless of which of them survived the other, they are considered to have died at the same time and do not inherit after each other. In such a case, the heirs of each of them are called upon to inherit.

The place of opening of inheritance is the last place of residence of the testator (Article 1117 of the Civil Code). If the last place of residence of the testator, who had property in the territory of Republic of Uzbekistan, is unknown or is outside the territory of country, the place of opening of inheritance in Uzbekistan will have to be determined by the location of the inheritance or its main part. In case of absence of immovable property - the location of the main part of the movable property. Thus, if the main part of the inheritance is a residential house or other immovable property, the place of opening of the inheritance will be the place where this property is registered. If the main part of the inheritance is expressed in shares or a share in the



capital of another company or partnership, the inheritance shall be opened at the place of registration of the relevant legal entity⁴.

Thus, the determination of the place of opening of inheritance is of the most important importance, as the circle of persons called to inheritance is determined by this place.

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