CONCEPTUAL PRINCIPLES OF THE LEGAL ADJUSTING OF THE LANDED RELATIONS

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Raising of problem

From 1992 in Ukraine the process of forming of market relations began in the field of land-property. Land becomes not only a natural resource, territorial-spatial base of residence and economic activity of people, by the basic mean of production in a rural and forest economy, but also by the object of property legal relationships. Appearance of plenty of proprietors of objects of the real estate, in particular lot lands, does impossible the imperative method of management the landed resources, which dominated at the terms of the administratively-command system. Demonopolization of public domain on land and other objects of the real estate stipulate the necessity of cardinal change of paradigm of organization of the use of land and land-tenure. One of important pre-conditions of organization and adjusting of organization of the use of land, steady development of land-tenure there is creation of the effective cadastre system. However, on the modern stage insufficient plenitude and correctness of land-cadastre information brake forming of valuable market of land and other objects of the real estate, there are the optimally balanced interests of society and certain user at that.

Connection is with important scientific and practical tasks

The necessity of maintenance of natural resources predetermines a requirement in events on a guard and scientifically reasonable, rational use of land and her bowels of the land, water resources, vegetable and animal world for maintenance of cleanness of air and water, providing of recreation of natural riches and improvement of environment. The decision of these questions requires the all-round study of bowels of the land, water and forest resources among that the special value of the masses land landed.

An analysis of the last researches and publications is after a problem

The theoretical and practical aspects of problem of improvement of the system of the state landed cadastre found a reflection in scientific works of many home scientists, in M. Likhogruda, A. Martina, L. Perovicha, I. Perovicha, M. Stupenya, A. Tretyaka, P. Chernyagi and other.

Unsolved parts of general issue

The state landed cadastre in the process of management, organization of the rational use and guard of land, realization of organization of the use of land; the landed relations must provide public authorities and organs of local self-government, physical and legal persons by complete and reliable information on the objects of the real estate. However, the questions of dataware of cadastre remain finally unexhausted.

Raising of task of problem

The aim of this article is research of theoretical and practical aspects of the legal adjusting of the landed relations.

Exposition of basic material of problem

To entering of our country into the European and world institutes of collaboration assured the key by Constitution of Ukraine right of ownership on land. In accordance with the article 13 of the Constitution of Ukraine «...Land, her bowels of the land, atmospheric air, hydrogen's and other natural resources that are within the limits of territory of Ukraine, natural resources her continental shelf, exceptional(marine) economic zone are the objects of right of ownership of the Ukrainian people. The state provides the protection of rights for all legal of property and ménage subjects, social orientation of economy. All property legal subjects are levels before a law…». In accordance with the article 14 of the Constitution of Ukraine Land is basic national riches that is under the special guard of the state. It is constitutional position that has fundamentally an important value for the settlement of the landed relations it is envisaged in the new Landed code of Ukraine [**Помилка! Джерело посилання не знайдено.**]. Creation of the new system of the landed relations, that are based on the right of ownership on land of citizens, legal entities, territorial communities and state, is basis of the landed reform, main vector of market economy of the state. «...Land is a one of components of environment, major natural resource, which during all history used for satisfaction of different necessities…»[**Помилка! Джерело посилання не знайдено.**].

Transformation processes that take place in our country stipulate the necessity of perfection of instruments of market mechanism. In this context the special value is acquired by the process of management the landed resources and landed relations. Land, as a management object, carries out a triple role: in the ecological understanding is a natural object, component part of natural environment, that cooperates with other objects of nature – forests, bowels of the land, by waters, and in

the wide understanding – embraces all natural resources; from the economic point of view land comes forward as an object of economic and other activity, is the basic mean of production in a rural and forest economy, and also carries out the role of territorial-spatial base.

The landed code of Ukraine, that was entered into by 1.01.2002, was outline directions of the landed politics of the state, that is concentrated on the decision of problems of development of relations of property on land, forming of the civilized market of land, development of the mortgage crediting, strengthening of state control after the use and guard of land and others [1].

According to a century 79 the Landed code of Ukraine lot land as shows the object of right of ownership a soba part of land surface with the set limits, the determined location of location, with certain in relation to her rights. «...The right of ownership on lot land spreads in her limits on a superficial (ground) layer, and also on water objects, forests and long-term planting that are on her, if other is not set by a law and does not violate rights for other persons…» [1].

On the modern stage, in development of the Landed code of Ukraine, over 50 laws that regulate the landed relations are accepted. Except that, the whole spectrum of the department normatively-legal acts, sent to adjusting, development of the landed relations and completion of the landed reform is accepted. At the same time forming proceeds normative base, directed, in particular, on regulation of market turnover of land of the agricultural setting.

Beginning from 2010 year, a basic position paper that defined a row strategically important directions of development of the landed relations and development of corresponding projects of normative acts is Program of economic reforms on 2010-2014 on years «…Solvent society, competitive economy, effective state…».

In particular, for the decision of question of improvement of the landed relations before completion of the 2014 year it is envisaged Program to carry out [3]:

- creation of pre-conditions for functioning of market of land, in particular by realization of taking of inventory of the landed resources, completion of delivery of state acts on the right of ownership on land, selection of limits of lot lands in nature(on locality);
- improvement of the methodical going near the money estimation of land of different categories with the aim of determination of them the real market value;
- creation of electronic national cadastre of land and corresponding land-informative database;
- creation of effective infrastructure of market of land;
- development of mechanisms of adjusting of market of land and effective turnover of land of the agricultural setting;
- simplification of mechanism of selection of low lands is under building.

Annually one of foreground jobs of the State landed agencies of Ukraine there is realization of envisaged by the National plans of actions in relation to introduction of Program of economic reforms on the corresponding year of tasks and events that is sent to perfection of the landed relations and completion of the landed reform.

In a century 2 the Landed code of Ukraine the landed relations are certain as «…public relations are in relation to possession, use and disposing of land…». Thus, the Landed code of Ukraine fastened the basic spheres of the landed relations. However, such list does not exhaust. In particular, the landed relations embrace public relations that is constrained, for example, with the guard of land, their recreation, fertility-improving of soils, application of responsibility for offence in the field of the landed relations [4], by the rational use, realization of management in the field of the landed relations [5] and other. In scientific and literary sources it is possible to meet other determinations of the landed relations. In particular, M. Shulga determines the landed relations, as «...volitional public relations, the object of that are land as component part of biosphere that provides the proper existence of flora and fauna and vital functions of man…». [6, p. 118]. More wide determination points V. Nosik, in opinion of that the landed relations – it «...public relations, that arise up between subjects in the process of realization of right of ownership on land of the Ukrainian people, government control of the landed relations and adjusting of the landed relations, that is conducted by local communities, implementation of events on a guard and rational use of land as to basic national riches, protection of the equitable landed rights and legal interests of citizens, legal entities, territorial communities, state…», are well-regulated norms and methods of the private, public law landed. [7, p. 153]. It is in this context necessary to mark that value of land, her importance for development of society is stipulated circumstance that land is the object of the legal adjusting in many fields of law: constitutional, civil, land, ecological.

A term «lot land» is one of base terms of organization of the use of land, occupies a central place in the system of objects of the real estate. Problem related to determination of term «lot land» is very actual, as from the rightness of his understanding, the rightness of application of norms of the different fields of law, which use this concept, depends. In fact from one side lot land is the object of the real estate, and from other - examined as a natural resource that must be rationally used and guard from

the unfavorable action of nature and anthropogenic factor. [8, p. 12].

Determination of term «land" is driven to GOST of a 26640-85(ST SEV 4472-84) «Land. Terms and determinations». According to this document land - it «...major part of natural environment, that is characterized space, relief, climate, ground cover, vegetation, bowels of the land, waters, is the main mean of production in a rural and forest economy, and also by a spatial base for placing of enterprises and organization of all industries of national economy…».

In a home legislation two terms are used: «land» (as an independent value and as «lot land») and «lot land». However the object of the landed relations is not land in the wide understanding of this word, but lot land in relation to that the set is certain legal mode is individualized. In accordance with a century 79 the Landed code of Ukraine lot land as object of right of ownership - it «...part of land surface with the set limits, the determined location of location, with certain in relation to her rights. The right of ownership on lot land spreads in her limits on a superficial (ground) layer, and also on water objects, forests and long-term planting that are on her, if other is not set by a law and does not violate rights for other persons. The right of ownership on lot land spreads to space that is above and under the surface of area on a height and on a depth, necessary for erection of housing, productive and other building and building…» [4]. However, taking into account circumstance that one of constituents of the state landed cadastre there is a money estimation of lot lands, to our opinion, completer is the determination driven to the National standard № 2 «Estimations of the real estate», namely: «..lot land is part of land surface with the set limits, the determined location of location, certain in relation to her rights. During realization of estimation lot land is examined as part of land surface and (or) space above and under her in high and in depth, that needed for realization of the landed improvements…». [9]. To the landed improvements belong «...results of any events that result in the change of quality descriptions of lot land and his cost. The material objects located within the limits of lot land belong to the landed improvements, moving of that is impossible without their depreciation and change of setting, and also results of economic activity or realization of certain type of works(change of relief, soil-amendment, placing of sowing, long-term planning, engineering infrastructure and others like that)…» [9].

Taking into account the above-mentioned, and also taking into account circumstance that «…the proprietor of lot land can use at own discretion everything, that is above and under the surface of this area, if other is not set by a law and if it does not violate rights for other persons…» [10], it is possible to agree with opinion the Russian scientist O. Krassova, that a legislative isolation of the mode of the real estate is as single unit the staple of that is land. «...Progress of legislation trends about the real estate it is allowed to do conclusion about forming of general approaches in determination of the legal mode of all elements of concept the real «estate». A leading role in this process is taken to land, as to basis of the real estate. The indicated circumstances are objective pre-condition of expansion of sphere of action of the landed right as rights for the real estate, including in the complement of the article of the legal adjusting of this industry of the questions, related not only to other natural resources but also with the objects created by a man - building and building…» [11, p. 60].

Will notice separately, that in accordance with the article of a 6 Law of Ukraine «About the state landed cadastre» to basic principles on that the conduct of the State landed cadastre is based, principle of continuity of bringing belongs to the State landed cadastre not only of descriptions of lot lands, and also other objects of the real estate, located on these lot lands, material rights on them and their limitations [13].

According to the Civil code of Ukraine the right of ownership and other material rights on immobile things, limitations of these rights, their origin, transition and stopping are subject to state registration [10]. To January, 1, 2013 in Ukraine of forming of lot lands and registration of rights on them came true by the conduct of one register - State register of land(competence of the State agency of the landed resources of Ukraine and him territorial organs), however, there are two registers on this time, namely: forming of lot lands is fixed in the State landed cadastre, and registration of rights on lot lands - in the State register of material rights on the real estate and their burdens(competense of Мінюсту). The electronic databases of the state landed cadastre must serve as basis for the conduct of the State register of material rights and next branch and department cadastres:

- town-planning cadastre;
- state forest cadastre;
- state water cadastre;
- state cadastre of water bioresources and рибогосподарських water objects ;
- state cadastre of territories and objects of the naturally-protected fund of Ukraine;
- state cadastre of natural territories of resorts;
- state cadastre of natural curative resources;
- regional cadastres of natural resources;
- state cadastre of deposits and displays of minerals;
- state cadastre of the vegetable world;
- state cadastre of animal kingdom;
- state cadastre of depositories and places of temporal storage of radioactive wastes;
- state register of immobile sights of Ukraine;

- single register of objects of public domain;
- to the register of places of moving away of wastes;
- to the register of objects of formation, treatment and utilization of wastes;
- to the account of places of mass rest and places of the amateur and sport fishing;
- state register of place-names.

Component part of town-planning cadastre at any level(from state to municipal) is information about only digital topographical basis of territory on the basis of topographical maps and cartographic basis of the state landed cadastre and limit of administrative-territorial units on the basis of data of the state landed cadastre [14]. Authentication of objects of the real estate for registration of material rights comes true on the basis of index cadastre maps [15], [16].

Taking into account the above-mentioned, it is possible to draw conclusion, that land-cadastre information a priori serves as basis of adjusting of the landed relations. In this context the special value is acquired by plenitude and integrity of land-cadastre information, creation of the single system of normatively-legal acts in the field of the state landed cadastre, including of reasonable technical, economic and legal requirements to the complex of standards and norms in the field of the landed relations and land-tenure, rational use of the landed resources. Taking into account this fact, it is possible to agree with opinion I. Perovicha in relation to the necessity of association of different cadastres for the single cadastre system in Ukraine [17].

Will mark separately, that in the field of town-planning DBN operate, that develop and assert a central executive body and other executive bodies for budgetary facilities, that provides forming of public policy in the field of a town-planning. However, for ten years of existence of Law of Ukraine «About organization» of the use of land» from 52 standards it is worked out only three, that conditioned by absence of the national program and, as a result, envisaged budgetary facilities for development of technical documentation.

The informative bases of data of the State landed cadastre, town-planning cadastre, State register of material rights must fully correlate inter se, that stipulates the necessity of development of theoretical positions and practical recommendations in relation to maintenance, volume and standardization of cadastre information.

Conclusions

On results research it is possible to do such conclusions:

1. Land, as a management object, carries out a triple role: in the ecological understanding is a natural object, component part of natural environment, that co-operates with other objects of nature - forests, bowels of the land, by waters, and in the wide understanding - embraces all natural resources; from the economic point of view land comes forward as an object of economic and other activity, is the basic mean of production in a rural and forest economy, and also carries out the role of territorial-spatial base.

2. Value of land, her importance for development of society is stipulated circumstance that land is the object of the legal adjusting in many fields of law : constitutional, civil, land, ecological.

3. Basis of adjusting of the landed relations land-cadastre information serves as.

4. The informative bases of data of the State landed cadastre, town-planning cadastre, State register of material rights must fully correlate inter se, that stipulates the necessity of development of theoretical positions and practical recommendations in relation to maintenance, volume and standardization of cadastre information that will be the article of further researches.

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Conceptual principles of the legal adjusting of the landed relations

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The theoretical and practical aspects of the regulation of land relations are analyzed. It is argument that the basis of regulation of the land relations is the land cadastral information. The necessity to create a unified system of legal acts in the sphere of the state land cadastre is grounded.