



SCIENTIFIC-PRACTICAL ANALYSIS OF THE PRIVATIZATION METHODS OF NON-AGRICULTURAL LAND PLOTS

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Article history:	Abstract:
Received: February 7 th 2023 Accepted: March 1 th 2023 Published: April 10 th 2023	In this article, methods of privatization of non-agricultural land plots are scientifically and practically analyzed. Also, the analysis of views of scientists on the methods of privatization of non-agricultural land plots, the analysis of legal norms, the types of land plots and immovable property located on them, the determination of their legal status, and the problems of establishing absolute state ownership of land plots until now have been revealed.

Keywords: non-agricultural land plot, privatization, privatization method, state ownership, types of real estate.

The following are recognized as privatization methods: 1) sale of state or communal property rights at auction or 2) purchase of privatization objects. At the same time, auction sale: conditional auction; unconditional auction auction by the method of gradual reduction of the initial price and subsequent submission of price offers; auction by the method of reducing the initial price; It is divided into types such as an auction in the method of studying offers on prices.

When conducting a legal analysis of the procedure for the privatization of state property, it is necessary to support the opinions of D.A. Hertsev, in his opinion, the main legal facts that lead to the emergence, modification or termination of privatization legal relations are actions permitted by law, and legal consequences due to the voluntary orientation of these actions by the norms of law implies that it is related to At the same time, the creation, change or termination of property relations in the process of privatization requires a complex legal structure that has a complex nature and includes administrative and civil legal relations.

I.S.Petrov makes the following comments: in general, the legislation on privatization is complex and includes civil-legal and administrative-legal norms that regulate private and public relations arising from the process of privatization of state and municipal property. At the same time, the presence of a public element determines the specificity of the norms regulating civil relations between the seller and the buyer in the sale of state property. The peculiarity of the legislation on privatization is the establishment of mandatory norms for the seller and the buyer in relation to the procedure for the transfer of property and the impossibility of any changes to these rules with the agreement of the parties.

Indeed, privatization has both monetary and legal components as a complex act of converting public property into private property. However, privatization is nevertheless a civil-law category, because the superiority of private law categories in it is indisputable. At the same time, as I.S.Petrov correctly noted, "the existence of a public element does not exclude the fact that privatization legislation is an integral part of civil legislation, since legal relations in the process of privatization are primarily based on the principles inherent in civil law (equality of parties, non-interference in private affairs, property nature of responsibility and others".

The law on the privatization of non-agricultural land plots ensured a qualitatively new stage in the development of the legal institution of privatization of state property in Uzbekistan. The methods, principles and mechanisms provided for in this law have introduced new legal approaches that radically change the legal model that existed during the years of Uzbekistan's independence. At the same time, it should be noted that such approaches do not yet fully meet the European standards guaranteed by the Convention. This determines the need for a theoretical understanding of the law's innovations and an analysis to compare the expected results of the law and the results of its regulatory impact after its enactment.

"The lack of a systematic approach is perhaps one of the biggest shortcomings of the modern legislative process. Meanwhile, only systematic law is effectively applied in the direction set by the legislator, implements the legal idea and legal ideals contained in it, and therefore guides the development of social relations "in the prescribed direction" does.

It should be noted that this law itself was adopted hastily without the proven general concept of privatization and its role and place in the legal system



of Uzbekistan. In the new procedures of the law, the legalization of outdated approaches is especially noticeable, which, while allowing unscrupulous buyers to abuse their rights, deprives them of the opportunity to achieve the goal of legal regulation set in the legal institution of privatization.

Chapter 4 of the Law on Privatization of Non-Agricultural Land Plots defines the procedure for "privatization of land plots through electronic online auction". The procedure for conducting an electronic online auction is defined in the regulation of Annex 2 to the decision of the Cabinet of Ministers No. 71 of February 14, 2022 "On the procedure for providing plots of land for the implementation of business and urban development activities through an electronic online auction based on the right of ownership and lease."

According to the general rules, if the winner of the electronic auction refuses to sign the statement on the results of the electronic auction or the sales contract, or fails to sign such a statement or contract within the specified period, the winner of such electronic auction price is determined by the participant with the highest price offer.

In the era of privatization, this mechanism of e-auctions has a very high corruption component, which can negate the whole progressive idea of e-auctions in a "transparent" system. Such a mechanism opens a dangerous path for abuse, because it allows to artificially implement the scheme of purchasing the privatization object with only one step, losing the guarantee fee (and this is only 10% of the initial price).

Such a scheme of abuse is that if the participants of the electronic auction are two de facto (but not de jure) related companies, the following legal consequences may arise from the coordinated actions of the two: one company takes only one step, and the other openly offers an amount of In this case, all other participants cannot offer more than this amount. Usually, the winner does not sign the report on the results of the electronic auction, so the second highest bidder, that is, in practice, the acquisition of the auctioned privatization object by this company is ensured by the company that refused to win.

At the same time, this law provides for the possibility of resolving disputes arising between the seller and the buyer in the contract of sale of the object of privatization with the consent of the parties, as well as the possibility of resolving such disputes in the international commercial arbitration court. At the same time, if in the contract of sale of the object of privatization, the privatization body provided for the settlement of disputes arising between the seller and the buyer in the international commercial arbitration

court based on the contract of sale of the object of privatization, but the parties did not reach an agreement on the choice of the international commercial arbitration court where such a dispute should be heard. If there are, any dispute or objection regarding the sale contract of the privatization object, including the violation, termination or invalidity of this contract, should be resolved by arbitration in accordance with the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (Article 26).

The experience of developed countries confirms the effectiveness of the introduction of this legal institution. Low economic efficiency and insufficient use of privatization are observed in Uzbekistan. This is partly due to abuses and violations during privatization. In addition, there are shortcomings in the current legislation in the field of privatization, which are related, among other things, to insufficient scientific understanding and understanding of the legal nature and essence of privatization.

One of the main categories of public property is a plot of land not intended for agriculture, which includes objects of social and economic purposes necessary for the living of the population, housing, buildings and structures of legal entities, and industrial production, and can be used by all members of society within the framework established by law without restrictions. directed. In addition, non-agricultural land parcels include dry land for general use, plots of land reserved for the livestock of the residents of the respective rural areas, such objects are included in the Universal Declaration of Human Rights (1948) the right to rest and leisure (Article 24 of the Declaration), creates conditions for free participation in the cultural life of society, enjoyment of natural objects and realization of other rights.

According to Article 214 of the FC, land is an object of republican property rights. The property belonging to it, both directly and through state property, is carried out by relevant organizations, executive bodies and local state authorities. The legal regime of public property is formed as a result of the implementation of the normative function of the body of two legal entities - republican and local state power. Currently, the rule that a plot of land can be private property is defined in Article 18 of the Land Code. As mentioned above, the procedure for privatization of land not intended for agriculture is reflected in the special law on this matter. However, the contractual and legal procedure for the privatization of the land plot, which is implemented by this law, is not fully provided for. Instead, in this law, 4 general and declarative



articles on "privatization of land plots through electronic online auction" are briefly expressed. It is also necessary to pay attention to the application of the law "On State Expropriation and Privatization" in relation to the privatization of land plots. From the point of view of the general and legislative system, the forms of privatization provided for in this law, which has been in force since 1991, are contractual and legal, such as the selection and auction for privatization, and the formalization of transactions. regulatory norms may apply to the privatization of land plots. In fact, the law "On Privatization of State Property" is aimed at regulating the relations of privatization of public property, its purpose is to increase the socio-economic efficiency of production and attract funds for the structural restructuring of the country's economy. Therefore, it is possible to apply the norms of the law of 1991 to the privatization of a plot of land based on the compatibility of the purpose of privatization of non-agricultural property with the purpose of privatization of other types of public property.

According to the scientific literature, attention is paid to the uniqueness of privatization as a legal form of alienation of state-owned objects, which is manifested by the establishment of private property rights in relation to privatized property with the involvement of these objects in the sphere of private ownership. The owner of such property, in fact, continues to have legal relations with the public owner and assumes a number of obligations that are not characteristic of civil property relations.

The purchase and sale of non-agricultural land in the course of privatization has certain characteristics, which include the following.

First of all, this contract is subject to the special provisions contained in the legislation on privatization, which combine the methods of public-law and private-law regulation.

Secondly, this contract is distinguished by the fact that the parties are not legally equal, because the seller must be the state privatization body - the State Asset Management Agency, its regional departments, which have the authority in accordance with the law, in particular, they control the fulfillment of the requirements of legal documents and the terms of the concluded contract. they do.

Thirdly, if the content of the sale as a civil-legal contract consists of conditions determined by the parties and agreed upon by them, as well as mandatory conditions in accordance with civil legislation, then in the process of privatization, the contract for the sale of non-agricultural land plots includes a business plan or a privatization plan or the obligations of the parties

determined by the terms of the auction, selection or subsequent purchase should be provided.

In short, privatization of non-agricultural land plots, in particular "Privatization of land plots belonging to subjects of privatization on the basis of permanent use (ownership), lease or lifetime ownership rights" is carried out on the basis of private and public procedures. In this case, privatization is purchased by paying an appropriate fee, which is determined on the basis of a complex technical and legal procedure. In this complex procedure, as one of the main factors, special attention is paid to the reduction of direct human participation, the use of electronic information and communication technologies to determine the price of the land plot being privatized. Based on the complexity of such a procedure of privatization today, it would be appropriate to develop ways of simplifying its implementation procedures and processes, to inform the population about the procedures and methods of privatization, and to explain the advantages of privatization and the ease of private property rights in relation to a plot of land. This, in turn, served to effectively ensure various abuses, violations of the law, and the rights of individuals and legal entities.

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