



CIVIL INHERITANCE CASES IN COURT HEARINGS ACCORDING TO JUDICIAL PROCEDURE AND ISSUES OF JURISDICTION

Sultonova Totiyohan Saidumarona

Candidate of Legal Sciences, lawyer

Article history:	Abstract:
Received: October 7 th 2023 Accepted: November 6 th 2023 Published: December 11 th 2023	Civil cases involving inheritance issues are, by their nature, complex matters. In civil procedural law, civil cases are not divided into categories of simple and complex cases. However, the court (judge), when considering the content of the case, must determine the size of the claims, the substantive law that should be applied, the circle of interested parties who should be involved in the case, and the issues to be resolved during the case hearings. The number of plaintiffs and defendants, determining the circumstances relevant to the case, appointing an expert, and taking into account other circumstances—some cases in judicial practice are considered complex.

Keywords: Civil cases, civil procedural law

It should be noted that in legal literature, the concepts of "applicability to a judicial case," "belonging to a judicial case," and "judiciality" are used in the same sense. In particular, Chapter 5 of the Civil Procedure Code of the Republic of Uzbekistan uses the concepts of jurisdiction and jurisdiction. The concepts of jurisdiction and jurisdiction are different, and it is necessary to distinguish them. In our opinion, applicability means that the controversial legal relationship to be resolved is directly applicable to a civil court. After determining whether the disputed legal relationship to be resolved is applicable to the court, it is also important to decide in which court the disputed legal relationship is assigned to the judiciary. For this reason, it is necessary to determine which court will hear and resolve cases within the jurisdiction of the court.

Scientist-technologist Sh.Sh. Shorahemtov said that "decision" means the distribution of all cases related to the court between the branches of the judicial system. Determining the jurisdiction of a case means determining which court is competent to hear and decide the case. M.M. Mamasiddikov admits that "the judicial system of civil cases is a set of norms of civil procedural law that determine the distribution of cases between the courts of the same system depending on the types of cases and their location." The issue of jurisdiction is reflected in Chapter 5 of the Civil Procedure Code of the Republic of Uzbekistan. In practice, inheritance disputes are often considered on their merits in the first instance in an interdistrict civil court.

The issue of judicial liability also plays an important role in the judicial consideration of disputed relations regarding inheritance. Article 33 of the current Civil Procedure Code of the Republic of Uzbekistan determines the general rules of jurisdiction, and based on the requirements of this law, applications are

submitted to the court at the place of permanent residence or permanent work of the defendant. Article 1117 of the current Civil Code of the Republic of Uzbekistan determines the place of inheritance. Based on the requirements of this law, the last place of permanent residence of the testator is the place of opening of the inheritance. If the last place of residence of the testator is unknown, then the place where the real estate or the main part of it belonging to the testator is located, and in the absence of real estate, the place where the main part of the movable property is located is the place where the inheritance was opened.

This legal requirement is also taken into account by the courts under the jurisdiction of the court when considering civil cases on inheritance disputes. Article 35 of the Code of Civil Procedure of the Republic of Uzbekistan provides for special cases of jurisdiction, according to which claims made by the testator's creditors before the heirs accept the inheritance are subject to consideration in the court at the place of residence where the inherited property or its main part is located.

In practice, the legal fate of inheritance is regulated in two ways. The issue of accepting an inheritance between the heirs, determining shares, and registering the inheritance in proportion to the shares is conflict-free. If there is a mutual agreement between the heirs on the division of shares, this issue is resolved by a notary office, and in case of a dispute, through the court.

In practice, the issue of inheritance is often formalized by notary offices in the absence of a dispute. Based on the requirements of the Law "On Notaries," notary offices perform only indisputable notarial actions in defense of the rights and interests of individuals and legal entities in accordance with the law. However, in



several cases, conflicting legal relations arise based on notarial acts performed. In such cases, the person whose right has been violated has the right to go to court to restore his right. The interested person's appeal to the court will be in the form of a claim. In this case, a claim is a procedural means of going to court. In our opinion, the consideration of such disputes by the courts, in turn, ensures control over notarial activities by the courts. According to A.Ya., Bugreey, E.B. Tarbagayeva, "an application filed in connection with a notarial act committed is considered in the courts as a conflicting legal relationship."

Analyzing judicial practice, if we approach the issue of inheritance from a legal point of view, citizens go to court on the issue of inheritance in two different cases. The first is when the heirs accepted the inheritance, but a dispute arose between them over the distribution of shares in kind. They could not come to an agreement on this issue. The second is when a dispute arose between them without accepting the inheritance.

In the first process, if the heirs received a certificate of the right to inheritance by law or will, and subsequently a dispute arose between them regarding the initial distribution and use of the inherited property, this contradictory relationship will be considered on its merits in courts in a lawsuit. In the second process, if the heirs did not receive the inherited property in accordance with the law and the will, and a dispute arose between them about the determination of the shares of the inherited property and the proportional distribution of shares, in this case, as well as if other heirs object to the notarized will of the deceased, according to their requirements, the case is considered according to its content.

In judicial practice, plaintiffs also file a claim to annul a certificate of the right to inheritance by law or notarized, and in some cases, a will. There is a certain procedure for considering this type of claim in court. In the process of preparing inheritance cases for trial, the judge will have to perform a number of procedural actions. In particular, in the process of preparing a case for consideration in court, the judge first of all requires from the interested person a notarial act, which the interested person considers unlawful—i.e., a certificate of the right to inheritance in accordance with the law or will, a notarial act that the plaintiff indicated in the statement of claim. The period for filing a claim for a completed notarial act begins from the moment the interested person learns that his rights have been violated. One of the procedural features that should be paid attention to in the process of considering such cases in court is determining whether the statement of claim was filed within the period established by law. The court (judge) accepts the application for proceedings and assigns the case for consideration even if, in the process of preparing the case for consideration in court,

the period for consideration of the claim has passed, and the application is filed after the expiration of the period. What has been established in general terms is not a basis for refusing to accept it. The claim may be rejected if the court (judge), when considering the case on the merits, comes to the conclusion that missing the claim period is inappropriate or the defendant requests the application of the claim period.

The judge may take other actions that are important for the correct resolution of this dispute: withdrawal of the notarial act from the notary's office, a ban on all actions related to its assignment in relation to the subject of the dispute, as well as other actions based on the law, can be carried out at the request of the interested party.

Currently, due to the fact that in judicial practice there is a property dispute based on inheritance cases, the courts often reach an agreement only in the process of dividing the inherited property into shares after appointing an expert in inheritance cases and determining the true state of affairs. market value of inherited property. Cases of this type are heard in open court. During the consideration of the case on the merits, evidence is checked, statements of the parties, experts, and expert opinions are heard. According to the requirements of Article 72 of the Code of Civil Procedure, the obligation of the parties is to prove and provide evidence. By law, each party is obliged to prove during the trial the circumstances on which they based their claims and objections. Evidence is presented by the parties and other persons participating in the case.

REFERENCES

1. DeVries, Henry P., and Andreas F. Lowenfeld. "Jurisdiction in Personal Actions-A Comparison of Civil Law Views." *Iowa L. Rev.* 44 (1958): 306.
2. Shelton, Dinah. "The participation of nongovernmental organizations in international judicial proceedings." *American Journal of International Law* 88.4 (1994): 611-642.