



PROBLEMS OF LEGAL REGULATION OF PRIVATIZATION OF LAND PLOTS THROUGH ELECTRONIC ONLINE-AUCTION

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ABSTRACT

In this article, in the privatization of non-agricultural land plots, auctions, Internet auctions, e-commerce platform, implementation of entrepreneurship and urban development activities, Evaluation activities, Categories of land plots to be privatized, vacant land plots, agricultural lands owned by local government bodies, problems of state real estate objects are revealed.

KEYWORDS

non-agricultural land plot, privatization, electronic trade, categories of land plots, real estate objects.

Introduction

An auction is a very effective way to determine the counterparty with which the contract will be concluded on the best terms and to determine the best offers from the persons participating in the auction. Regulation of auctions for the sale of real estate is provided for in Articles 379-381 of the FC ("specific features of concluding contracts in auctions, tenders are determined by relevant documents of civil legislation"). Contracts concluded by means of auctions help to widely introduce market principles and mechanisms to business activities, to end the central distribution system, to create equal conditions for all economic entities to have material means, regardless of the form of ownership, and to improve the mechanisms of formation of market prices ¹.

D.N. Sakhabutdinov noted in his research that "auctions are one of the systems of the mechanism of realization of material goods. At the same time, the mechanism of acquiring property rights and other material rights in public auctions, which is a new reality in civil law, has a special status ².

The institution of auctions has gone through a complicated and long path of legal regulation from a procedural concession to a material-legal concept. If the concept of procedural legal regulation of auctions appeared from the middle of the 20th century, with the formation of new legislation, it was replaced by the material-legal concept. Today, mainly material and legal changes are observed in the development of the institution of auctions. It can be said that the institution of auctions now has the legal basis to talk about their material and legal basis.

¹Lutsenko, D.S. Collisions of the civil legislation of Ukraine in the sphere of sale of land plots through electronic auctions // Scientific Bulletin of the Uzhgorod National University: Series: Law / chapter. ed. Yu.M. Bisaga. - Uzhgorod: Publishing house "Helvetika", 2015. - V.1. Issue. Thirty-first - S. 137-141. – Bibliography: p. 141 .

²Sakhabutdinova D.N. Bidding as a sub-institution of contract law and legal procedure: Abstract of the thesis. diss...candidate of legal sciences. - Kazan, 2007. - S. 9 - 10.

The national legislature distinguishes two main areas of civil-legal regulation of the institution of public auctions. First of all, this is an independent method of concluding civil legal contracts. At the moment, auctions are also recognized as an independent type of civil-legal obligations within the framework of public tender norms. In other words, in this sense, we can talk about the dual legal nature and multifaceted legal importance of the institution of auctions.

From the point of view of the theory of civil rights, public tenders are one of the types of contracts that use the mechanism of offer and acceptance. The following stages are distinguished in the methodology of public auctions:

- the customer informs the customers about their desire to enter into the contract - the relevant documents and their price offer;
- the customers submit their offers;
- the winners of the auction are determined (however, this does not lead to the conclusion of a contract between the customer and the bidder);
- negotiations are conducted, a contract is concluded ³.

The first legally significant action in the mechanism of concluding a contract through auctions is the publication of information (message) about conducting auctions, therefore, the law associates with this action the emergence of a number of legally significant consequences. If the interested parties express their desire to become auction participants, that is, accept the organizer's offer, the organizer is obliged to recognize them as auction participants, consider their offers, determine the winner and conclude a contract with him.

Carrying out a civil-legal analysis of this type of contract, it should be noted that this contract is consensual, bilateral, but at the same time there may be many potential co-contractors. The execution of the contract on conducting the Kim Ashdi trade is an action that represents the consideration of the participants' proposals and the determination of the winner.

The property sold in public auctions or the users of physical rights in relation to this property, mortgagees under the next mortgage have the right to participate.

Selling goods by auction is a trade scheme recognized all over the world. First, it allows to determine the real price of this commodity. Secondly, it allows to use the reputation of a specific auction to build the reputation of a certain product in the world market (selling the product through an auction and including it in the catalog gives the product "status", makes it possible to inform about its authenticity, besides, the more prestigious and popular the auction, the more the sold product becomes more important). Thirdly, auction sales (very large sales) determine the direction of fashion development for a particular product in the coming years. Fourth, auction sales are based on precedent, and the price of previously unpopular goods can change dramatically as a result of auction sales.

According to D. M. Karakhodjaeva, the specialized auction is carried out in the form of open auctions in which persons who meet the requirements for buyers of state property have the right to participate ⁴. The object of such auctions are shares sold at a single price. Persons wishing to participate in the auction submit two types of applications, and in one of them the applicant expresses the desire to buy

³Valeev D.Kh. Conclusion of a civil law contract at the auction // Actual problems of private law regulation. Materials of the All-Russian IV scientific conference of young scientists (Samara, April 23 - 24, 2004). - Samara: Samar Publishing House. un-ta, 2004. - S. 244.

⁴Karakhodjaeva D.M. Ownership. – T.: TGUI Publishing House, 2009.120 p.

shares at any price; the second application expresses the same desire, but it provides for acquisition at a single sale price not higher than the maximum price for one share specified in the application.

An auction is a form of market relations, characterized by separate economic and organizational mechanisms, based on direct competition, in which a consensus of the interests of the seller and buyer is reached, the law of supply and demand is observed, and the winner of the auction is the person who offers the maximum price.⁵

The feature of virtual or Internet auctions is that they are open to a wide range of sellers and consumers, and it is carried out on the Internet with the help of a specially provided program installed on the site of the auction organizer.

Internet auctions are a very young but promising field of electronic commerce. Their turnover can be compared with the turnover of all retail sales carried out over the Internet today. More than a million Internet users make deals on them every year.

The information system, which provides Internet auctions, allows you to put an unlimited number of goods on sale without any additional requirements and provides trading processes between many participants⁶.

According to A. Yakovenko, "Social relations in electronic commerce are legal relations related to property in the form of goods and money. Compared to traditional commerce, e-commerce is related to the method of conducting commercial transactions remotely and the mechanism of their implementation. All or part of e-commerce transactions are carried out electronically; delivery of goods and services from producer to consumer; is the provision of "remote services" related to the electronic purchase and sale of goods and services through communication networks⁷.

In our opinion, electronic commerce is the implementation of civil transactions in the electronic space using the Internet. In this case, the main part of the issues related to the transaction (except for the delivery of the goods to the buyer) takes place in the electronic space. That is, the conclusion of the contract, the agreement of the parties, the quality of goods, work and services, their review and similar actions are carried out on the relevant site or network.

of the Republic of Uzbekistan "On Electronic Commerce" ⁸No. ORQ-792 of September 29, 2022, "e-commerce is the purchase of goods (works, services) within the framework of entrepreneurial activity, carried out in accordance with the contract concluded through the electronic trading platform using information systems. sold".

According to the analysis of the norms of the law "On Privatization of Land Plots Not Intended for Agriculture", it is necessary to determine the quality of the vacant land plot for privatization of land plots through electronic online auction. According to Article 25 of this law, "vacant land plots are determined in accordance with the master plans of settlements, detailed planning projects of parts of settlements, other documents on the complex development and construction of areas, permitted types of land use."

⁵ Magay L. Civil - legal aspects of public auctions : author. dis. ... cand. legal Sciences. - Tashkent: 2010. - 15 p.

⁶Magay L. Civil-legal regulation of the institution of public auctions in the Republic of Uzbekistan // Tadbirkorlik faoliyatini amalga oshirishda erkin raqobatni ta'minlashning xalqaro muammolari. Materials of the scientific-practical conference.- Tashkent: TGUI, 2010.- P.49-58.

⁷ Yakovenko A.A. Problems and prospects of civil-law regulation of e-commerce in the Republic of Uzbekistan: autoref. dis. ... Dr. an elephant by law (PhD) - Tashkent: 2022. - 19 p.m.

⁸<https://lex.uz/docs/6213382>

The vacant land plot is considered one of the categories of privatized land plots in legal literature ⁹. The question of which lands are included in the category of vacant plots of land not intended for agriculture is not clearly defined in the legislation. In contrast to this, the Land Code establishes rules for "vacant agricultural plots" (Article 45 ¹). According to it, "agricultural land that is not allocated to individuals and legal entities in accordance with the law and is owned by local government bodies is vacant agricultural land." Based on this rule, vacant plots of land not intended for agriculture, not allocated to individuals and legal entities and owned by local government bodies, can be privatized.

The next category of land to be privatized through electronic online auction includes "land plots with state real estate objects". Such land plots are determined by the State Assets Management Agency of the Republic of Uzbekistan. Also, "land plots with state real estate objects to be privatized will be put up for electronic online auction as a single property complex."

According to Article 27 of the Law "On the Privatization of Non-Agricultural Land Plots", "Order to participate in the electronic online auction for the privatization of land plots: for the implementation of entrepreneurship and urban development activities - by citizens and legal entities of the Republic of Uzbekistan; It is given by citizens of the Republic of Uzbekistan for individual housing construction and home improvement. The online auction will be held in accordance with the requirements of the regulation on the procedure for organizing and holding electronic online auctions and contests on the "E-auction" electronic trading platform, Annex 1 to the decision of the ¹⁰Cabinet of Ministers dated January 12, 2022 No. 18. According to paragraph 23 of this regulation, "The auction is held when there are at least two participants. It is allowed to sell objects put up for auction and draw up a sales contract only when at least two participants participate in the auction.

In accordance with Article 28 of this law, when a plot of land is privatized on the basis of an electronic online auction, the value of this plot of land is determined according to the results of the auction. However, the starting price of such a plot of land is based on the market value at the time the plot of land is put up for online auction. In this case, the market value is determined by the relevant evaluation organizations. According to the first part of Article 7 of the Law No. 811-I of the Republic of Uzbekistan dated August 19, 1999 "On Appraisal Activities", "the market value of the object of evaluation is understood as the most likely price, according to which the object of this evaluation in the conditions of competition in the open market, all parties to the transaction ¹¹having the necessary information, acts rationally and voluntarily in the way of his interests, and the high or low price of the transaction does not reflect any extraordinary circumstances, including the obligation of one of the parties to join this transaction."

Also, "the initial price of the plot of land on which state real estate objects are located, which needs to be privatized, is determined based on the value of this object as a single property complex" (Article 28, part three of the Law).

It should be noted that in the current legislation, the term "auction step" is used in the procedure of electronic online auction. According to paragraph 28 of the regulation "Auction step: ten percent of the initial price of the auction object;

⁹Uzakova G. Sh. Legal issues of using and protecting natural resources in settlements. - Tashkent: TDYU, 2021. - 35 p.

¹⁰<https://lex.uz/docs/5819662#5821058>

¹¹<https://lex.uz/docs/24703#24770>

with the exception of the cases provided for in paragraph 55 of this Regulation). HYPERLINK "javascript:scrollText(5821459)"

If in repeated auctions the initial price of the object has decreased by two thousand times the BHM, the auction step will be carried out in the order specified in the second paragraph of this paragraph.

According to the rules of the auction, the participant who offers the highest price is considered the winner of the auction. Based on the procedure and conditions of the auction, a contract is concluded with the winner of the auction, and a document confirming that the plot of land has been transferred to him in the privatization procedure is issued. In this case, after the end of the auction for the following relevant lot, the information about the time of the end of the auction and its results will be formed and published on the trading platform. Information about the results of the auction reflects the following:

- information about the lot, including its starting price;
- last and penultimate approved bids (prices on bids approved by auction participants and their confirmation time, taking into account the last and penultimate steps);
- surname, first name, patronymic or name of the legal entity of the winner of the auction.

In our opinion, the rules regarding the online auction procedure for the privatization of land plots differ from the norms stipulated in the FC due to their complexity and excessive complexity of the procedure. In addition, it can be seen that the problems of healthy competition, ensuring the "authenticity" of the participants, determining the real market value of the plot of land to be privatized have not been resolved at the legislative level. In this regard, it would be appropriate to simplify the rules for holding an electronic online auction for the privatization of non-agricultural land plots and to include in it the scope of healthy sales and the requirements for ensuring it.

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