

*Materials of Conferences***PROPERTY COMPLEX AS A SUBJECT OF CIVIL TRAFFIC**

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The interest of Russian jurist to the problem of the enterprise as a property complex (right object) is caused by the relatively recent introduction of this concept in the Russian civil law. Meanwhile, this legal construction for decades actively developed in the German legal doctrine and is widely used in the law of foreign countries with developed market economies. How mean enterprise – an object of the German civil law, on the basis of its location and its regulation in the law of Germany, as well as differences from the control in the Russian law can be found in this article.

The concept of the enterprise as an object of law to the greatest extent was developed in the German legal doctrine and in one way or another was seen by many countries with developed market economies. Currently, the concept of enterprise in this meaning is known and Russian law (Article 132 of the Civil Code of the Russian Federation). By now, in this sense refers to individual or collective-owned merchant property complex (legal object) used for business activities (production of goods, works, services) and consists of tangible and intangible elements. The company can pass from one person to another as a matter of various transactions and on other grounds. Debts arising out of the company, a merchant is liable to the extent of his property.

The company refers to a specific object property. The company is not in the general list of immovable property under Art. 130 of the Civil Code. Enterprise as a property complex of separate dedicated art. 132 of the Civil Code, which completes the block of articles on real estate. In addition, the company recognized real estate is not because of his strong ties to the land, and by the decision of the legislator in order to spread it legal regime established for real estate. If the composition of the company will be limited to separate movable items, as well as property rights and obligations, then the company will also be considered real property. However, the attitude of the legislator to the company as a special object of the rule is shown, first, formally, the company is not mentioned in the definition of property in Article 130 of the Civil Code, as introduced in Article 132, which is located after a block of articles about real estate, secondly, parts that make it an object that is so heterogeneous that its adoption of a group of objects can be made only on the basis of its charac-

teristics as a specific property of the complex, but not based on the nature of its constituent elements, many of which, such as the rights, debts, exclusive rights to the property does not belong. Thirdly, the company is an object that falls out of the classification of immovable and movable property, as it thing, even complex, is not.

The company recognizes the property regardless of whether the composition of his immovable property belonging to the owner. This is due to the necessity of subordination deals now a special legal regime of real estate in order to ensure high reliability of such transactions, the protection of the rights of their members and third parties. However, recognizing the real estate company in the future *Grazhdanskoy* Code does not automatically submits it to all the general rules of property and sets the transactions with companies more formal and strict mode.

Practice has shown that the rule of Art. 132 of the Civil Code, according to which the enterprise as a property complex should be regarded as immovable property (real estate), was not actually implemented. Included in the company premises, buildings, structures, registered as real estate separately, and to register the company as a real property issues, what kind of property is a part of the property. For this reason, the company as a whole practically retired from the market of real estate. Therefore, it becomes necessary, in our view, to exclude from Art. 132 of the Civil Code of the recognition of the enterprise as a whole immovable.

In the State Duma introduced a draft federal law «On Amendments to the Civil Code of the Russian Federation and Certain Legislative Acts of the Russian Federation to establish as the single immovable property complex. For this purpose the article 130 of the Civil Code to read as follows»: Article 130. Immovable and movable property:

«1. To immovable property (real estate, real estate) include land, subsoil, and all that is firmly connected to the ground, that is, objects moved without disproportionate damage to their purpose, including buildings, construction in progress. To immovable things are residential and non-residential construction, built in the established order as separate objects of civil rights. Law to real estate can be attributed other property.

2. As immovable involved in circulation as a single entity, recognized a single property complex – united by a common purpose set of buildings, structures, and other similar facilities integral to physical and technological (including linear features – railways, power lines, pipelines and other) or located in a single area, if the union

of these objects in the same immovable property is reflected in the single state register of rights to real estate.

3. By air and sea vessels, inland vessels, space objects, the rules relating to real things, unless otherwise provided by law and does not follow from the nature of the objects of civil rights.

4. Things that do not relate to real estate, is movable. Registration of rights to movable property is not required, except in cases specified by law».

Chapter 14 of the Civil Code, «The acquisition of the property» to add a new Article 219:

«Ownership of the single property complex arises from the state registration of the right.

The state registration of ownership of a single property complex is permitted without prior state

registration of rights belonging to it certain immovable property. Provides for the state registration of ownership of a single property complex as a whole, without prior state registration of rights belonging to it some immovable property, which greatly accelerates the registration infrastructure».

Related amendments to the Federal Law «On State Registration of Rights to Real Estate and Transactions» and the Federal Law «On the State Real Estate Cadastre».

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