

## IMPROVING THE SYSTEM OF PROPERTY RIGHTS REGISTRATION IN THE REPUBLIC OF UZBEKISTAN

**Qizlarkhon Bakhtiyorovna Agzamova**

**ANNOTATION:** This article examines the reforms implemented in the field of civil law in the Republic of Uzbekistan, the development and enhancement of citizens' constitutional rights, and the elimination of situations leading to pressing issues. In particular, it explores the specific features of improving the system of registering property rights.

**Keywords:** order, appeal, cassation, court application, court order, proceedings, code.

Reforms in the field of civil law in the Republic of Uzbekistan aim to develop and enhance constitutional rights, assess legal situations causing pressing issues, and find their solutions.

Special attention is being paid to improving the system of registering property rights in the Republic of Uzbekistan. Based on Presidential Decree No. PQ-4270 of April 5, 2019, "Measures to Further Improve the System of State Registration of Property Rights," property ownership and other proprietary rights regarding immovable property are entered into the Registry electronically by notaries based on a cadastral passport prepared in electronic form at the request of state notary offices. The information is simultaneously recorded in the Registry, and an extract is issued.

This decree aims to actively introduce information and communication technologies in registering property rights and reduce unnecessary bureaucracy. Introducing information and communication technologies in this field should contribute to contractual stability. This necessitates creating and implementing an integrated network with all organizations involved in immovable property transactions (utility services, tax inspections, and others). Such a system must be protected against various abuses.

A relevant question arises: can a bona fide purchaser know the prior history of a property, whether there are disputes, or whether it may be declared invalid?

Real estate service companies do not guarantee the protection of bona fide purchasers' rights in such cases. These companies need to assume certain responsibilities under contracts, such as covering buyers' expenses or addressing risks through insurance. However, in practice,

bona fide purchasers cannot make any claims against such companies if a transaction is declared invalid.

Real estate companies' services are usually limited to collecting documents for notarizing the contract and facilitating agreements between clients and buyers, for which they charge a service fee. These companies do not guarantee the legality of transactions, nor do they ensure the absence of disputes or the validity of the transaction. Even if real estate companies wish to, they cannot guarantee the validity of a transaction or prevent future disputes. Consequently, bona fide purchasers may end up without the property or their funds.

To assess risks faced by bona fide purchasers, it is necessary to conduct a legal review of the seller's documents establishing rights to the transaction's object. This includes examining how property rights were obtained (inheritance, sale, etc.), as well as any existing rights and restrictions.

A.M. Ginovker notes that comprehensive verification of immovable property can prevent future problems. If prior transactions violated the rights of third parties, bona fide purchasers could face adverse consequences.

In our opinion, even such verifications do not guarantee effective protection of bona fide purchasers' rights. Buyers typically limit themselves to verifying the presence of documents confirming property rights. From a legal perspective, the property right belongs to the seller, regardless of its past. The buyer, relying on the state registration of property rights, assumes the transaction is valid and proceeds with the purchase.

Although Articles 229 and 230 of the Civil Code and the Law "On the Export and Import of Cultural Values" contain norms for protecting bona fide purchasers' rights, these provisions do not effectively guarantee their protection.

The experiences of countries like the USA, France, Sweden, and Germany show the existence of legal guarantees, procedures, and mechanisms for safeguarding the rights and interests of parties in property transactions. For instance, rules preventing the seizure of property from bona fide purchasers are stipulated in Article 187 of Georgia's Civil Code, Article 932 of Germany's Civil Code, and Article 186 of Turkmenistan's Civil Code. Russia introduced amendments and additions to its Civil Code through Law No. 430 of December 10, 2019, ensuring the protection of bona fide purchasers' rights.

Judicial practices reveal that citizens often fail to formalize property contracts in the legally required manner. Some mistakenly consider obtaining a power of attorney, housing

documents, or actual use of property as sufficient. This leads to disputes between bona fide purchasers and property owners, necessitating legal protection of rights through civil or administrative courts.

Protecting unregistered rights of bona fide purchasers is particularly urgent. Typically, bona fide purchasers possess property that formally belongs to another individual. Such possession must be honest, transparent, and continuous (Article 187 of the Civil Code). Most importantly, there must be a legal disconnection between the initial owner and the property. Usually, such property does not belong to the state since a legal connection between the state and the property always exists.

Insufficient norms in civil legislation for protecting the rights and interests of bona fide purchasers, combined with deficiencies in the property registration system, undermine confidence in the law's ability to protect such rights. Foreign investors often prefer investing in immovable property. Disputes arising despite the proper legal execution of contracts and the revocation of private property rights, even if registered, deter investors and diminish confidence in future investments.

Three primary systems for protecting the rights and interests of bona fide purchasers exist in foreign countries: compensating transaction participants for damages through insurance (USA), covering damages from a special state fund (Sweden), or compensating damages by notaries formalizing the transaction (France).

In some countries, the Torrens system is used to protect the rights of bona fide purchasers. This system involves registering property rights in a state registry and guarantees property rights to beneficiaries (right holders). Property rights are transferred not based on transaction documents but by updating the registry record with the owner's intent. The Torrens system is prevalent in common law countries.

Notably, the Torrens system is applied in Australia, New Zealand, and several Canadian provinces (British Columbia, Alberta, Saskatchewan, Manitoba, and Ontario). While registration rules and procedures vary, the legislation adheres to uniform principles.

Principles of the Torrens system:

- Indefeasibility
- Registration of rights and restrictions
- Elimination of constructive notice
- Guarantees

In conclusion, establishing principles alone is insufficient. Comprehensive doctrinal studies and comparative legal research are necessary. Practical legal doctrines on bona fide principles are essential for legal application and judicial practice. Without such doctrines or with incorrect development, legal practice is directly impacted. Therefore, it is necessary to develop detailed and thorough doctrines.

To ensure the protection of bona fide purchasers' rights and interests, amendments to certain laws of the Republic of Uzbekistan are proposed:

- Recognizing bona fide purchasers who rely on state registry information when acquiring property unless proven otherwise in court.
- Establishing the commencement of ownership rights for bona fide purchasers from the moment of open possession.
- Rejecting claims to recover property from bona fide purchasers after three years from the initial registration of ownership in the state registry.

Implementing these proposals will contribute to effectively protecting the rights and interests of bona fide purchasers and property owners within ongoing reforms.

#### References:

1. Constitution of the Republic of Uzbekistan. "People's Word" newspaper, 2023.
2. Civil Procedure Code of the Republic of Uzbekistan: Official Publication – Ministry of Justice of the Republic of Uzbekistan – Tashkent: Adolat, 2018, p. 5.
3. Presidential Decree No. PQ-4270 of April 5, 2019, "Measures to Further Improve the System of State Registration of Property Rights" // National Database of Legislative Acts, 06.04.2019, No. 07/19/4270/2890.
4. Ginovker A.M. "Problems of Protecting the Rights of Bona Fide Purchasers of Real Estate." // Property Relations in the Russian Federation, 2009, No. 6 (93), p. 32.
5. Federal Law No. 430-FZ of December 16, 2019, "On Amendments to Part One of the Civil Code of the Russian Federation" // <https://rg.ru/2019/12/19/gk-dok.html>
6. Pankova E.V. "International Experience in Protecting the Rights of Bona Fide Purchasers." // Property Relations in the Russian Federation, 2012, No. 6 (129), p. 95.
7. Bevzenko R.S. "Registration Designer, or How to Create the Perfect Registration System? (Regarding the Russian Translation of R. Torrens' Work)." Bulletin of Civil Law, No. 2, 2018, pp. 204-225.

