

RESEARCH ARTICLE

Open Access

RESTITUTION OF ILL-GOTTEN WEALTH AS A WAY TO FIGHT CORRUPTION

Yusupov Uktambay Absamadovich

Independent researcher of the Academy of Law Enforcement, Uzbekistan

Abstract

The main goal of judicial reforms implemented in Uzbekistan is to protect the rights and legal interests of subjects, to give wide privileges and freedoms to the activities of participants in economic transactions. Civil legal instruments, like other areas of law, play an important role in ensuring the protection of the rights and interests of subjects. In particular, the demands for compensation for damages and the return of unjustified wealth are distinguished by their own characteristics among civil legal instruments aimed at the protection of rights in the restoration of violated rights and protection of material interests.

KEYWORDS: Economic transactions, Civil legal instruments, activities of participants, judicial reforms, play an important role in ensuring.

INTRODUCTION

"Unreasonable wealth gain" is the illegal possession of property or other material wealth, as a result of which the civil-legal equivalence (equality) is violated, and the property of another person is unjustifiably and illegally increased in return for the decrease of one person's property. From the point of view of jurisprudence, this situation is considered a violation of the subjective civil rights of a person because it is not implemented on the basis of a law or an agreement, and as a legal fact creates a civil-legal relationship, that is, an obligation-legal relationship. In this case, the person (acquirer) who has taken over or saved property belonging to another person (victim) without the grounds established by law or the agreement must return the property to the victim. If this rule is analyzed on the basis of the construction of the obligation, the acquirer (debtor) undertakes to perform certain actions in favor of the victim (creditor), that is, to return the

property that was taken or saved without reason. It should be noted that in the doctrine of German civil law, which is based on the civil law of the Republic of Uzbekistan related to obligations arising from unjust enrichment, this norm, which is considered the basis for conditional obligations, that is, unjustified transfer of property, is called "unjust execution".

The obligation to return ill-gotten wealth and the existence of this type of legal relationship must have several conditions. First, one person must be enriched at the expense of another person. That is, an increase in the property of a person who has become rich should occur at the expense of a decrease in the property that he has become rich at his own expense. In other words, there must be a causal connection between the ill-gotten wealth and the loss of the victim's property. The absence of this condition negates the existence of obligations arising from unjust enrichment, or

means that the relationship between the enricher and the victim does not exist. For example, a supermarket seller, knowing that rare goods are on sale, collects a check for a few of such goods and pays these checks to customers at a higher price. In this case, the seller gets rich. However, in this case, the supermarket cannot demand the return of unjustified wealth against the seller. Because the seller acquired this wealth at the expense of the customers, not at the expense of the supermarket. In turn, buyers cannot come up with such a demand. After all, they agreed with the seller and bought a rare product at a high price. In this case, the relationship between the seller and the buyer is the result of the seller's illegal activity, and the transaction concluded between the seller and the buyer is considered invalid due to the fact that it was concluded for malicious purposes, and the income received by the seller in connection with the transaction is transferred to the state. Therefore, there may be cases of accidental and deliberate unjustified acquisition of property. A person who has acquired unjustified wealth at the expense of others due to illegal or actions contrary to the state's interests must transfer the unjustly acquired property to state income in cases other than those provided by law, that is, unjustified wealth obtained by concluding invalid transactions shall be transferred directly to state income.

Secondly, the enrichment of one person at the expense of another person should happen without the relevant grounds provided by law or agreement. For example, a person who has the right to receive alimony increases his property at the expense of a person who is obliged to pay alimony, but this does not constitute unjust enrichment. Because the payment of alimony is based on the law. Also, the recipient of the gift increases the amount of his property at the expense of the donor, but here too there is no unjust enrichment, since the donation is based on a contract..

The acquisition of wealth is considered unjustified if the legal basis did not exist at the beginning of this processor was not apparent as a result of it. For example, a bank mistakenly transfers money to a business entity's account that does not belong to it,

and the enrichment is unjustified at the outset, since there was no legal basis for transferring funds to the business entity's account. If the heir according to the will has spent all the property received by him in the order of inheritance, and later the will is declared invalid, and the right to the inherited property belongs to the heirs according to the law, the basis that existed at the beginning ends with the invalidation of the will in accordance with the procedure established by law.

The current Civil Code specifies that obligations arise from a contract, as a result of damage, and on other grounds specified in the Civil Code. The theory of civil law also divides obligations into two types according to the basis of arising, i.e. contractual and non-contractual obligations. Non-contractual obligations themselves are divided into obligations arising from damage and obligations arising from unjust enrichment, and obligations arising from unjust enrichment are considered as a separate institution of obligation law. However, in today's jurisprudence and law enforcement, it can be seen that the understanding and interpretation of obligations arising from unjust enrichment is insufficient. In most cases, the obligations arising from unjust enrichment are understood in a mixed state with the obligations arising from harm, and in some places, a lack of deep understanding of this type of obligations causes the inability to apply them. The different aspects of unjust enrichment from the obligations arising from harm, determining the civil legal liability for unjust enrichment is of urgent importance today.

Relations relating to obligations arising from unjust enrichment are regulated by the current FC on general grounds. In other legal documents aimed at protecting civil rights, there are no provisions on obligations arising from unjust enrichment.

The main aspect that should be paid attention to by the courts in applying the obligations arising from the acquisition of basic wealth and protecting the property rights of the victim is to distinguish the differences between the acquisition of unjustified wealth from other types of illegal activities and the fact that cases of intent and carelessness, which are forms of guilt, are not relevant for the obligations

arising from the acquisition of unjustified wealth.

Today, the fact that a number of opportunities have been given to the development of private ownership in Uzbekistan, the participation of the private sector in almost all aspects of the economy is expanding, in some places there are difficulties in ensuring the effectiveness of the full protection of the civil rights of individuals, in particular, in protecting the property rights of civil law subjects based on the application of obligations arising from the acquisition of unjustified wealth. is bringing From this point of view, failure to correctly and clearly apply the norms regarding the return of ill-gotten wealth in the property relations between persons operating together shows the existence of problems in the protection of the rights of the victims.

Many articles have been published on the issue of liabilities arising from unjust enrichment, some of which we will consider. In particular, "Обязательства вследствие неосновательного обогащения" by E.L. Nevzgodina In his article, various options for unjustified saving and acquisition of property, the scope of their possible manifestations in relation to civil and family law, and the importance of these obligations in the application of the law are considered. The signs of these obligations are discussed. According to the author, obligations arising from unjust enrichment are also called conditional obligations (from the Latin condition indebiti - to return what was lost by mistake). Also, the article provides many examples from the judicial practice of unjust enrichment. For example, unjustified saving of property with the obligation to return it occurs in the case of illegal arbitrary connection to electricity, heat energy, gas, making paid phone calls from another's phone without his permission. In addition, the article extensively analyzes the two types of unjust enrichment, saving and acquiring.

"О некоторых проблемах института кондикции в гражданском праве" published by Yu.A. Svirin The article examines the basis of the conditional claim and its differences from other civil legal claims. According to the author, the purpose of conditional demand is to return property that was unjustifiably removed from the victim's

possession. The restitution function of the conditional demand is manifested in the return of the subjects of rights to their original state along with the application of some additional sanctions to the acquirer. Typically, a conditional claim is a backup measure for the restoration of violated civil rights, which is applied when it is not possible to apply a vindication or negative claim against him.

"Субъекты и предмет обязательств из неосновательного обогащения" published by D. A. Ablaev The subject and subjects of obligations arising from unjustified wealth acquisition are analyzed in the article. As parties to the legal relationship arising from the fact of unjustified wealth acquisition, the acquirer is a person who has acquired or saved property on grounds not provided for by the law, another legal document or agreement, and the victim is a person whose property has been unjustifiably taken by another person. The subject of this legal relationship is the ill-gotten wealth itself.

"Актуальные проблемы неосновательного обогащения в контрактной системе в сфере закупок" published by E.V. Gubina and I.V. Tordaryan In his article published on the subject, the legal aspects of obligations arising from unjust enrichment in relation to public procurement are analyzed. In doing so, the authors focus on the creation of an obligation to acquire unjustified wealth as a result of genuine and non-genuine transactions in the field of public procurement.

However, it is difficult to agree with the opinion of the authors on this issue, because the obligations arising from unjust enrichment are non-contractual obligations, and this does not apply to contractual obligations.

It is known that obligations were considered one of the unique and great institutions of civil law. Also, obligations play an important role in ensuring civil treatment. Therefore, contracts, which are a special type of obligations, act as the main driving force in the system of economic relations and become important as a unique legal tool in determining the rights and obligations of civil law subjects and in their implementation. Along with contracts, there are types of obligations whose main purpose is to prevent violations of the rights and freedoms of

subjects, while also performing the task of restoring these rights. Such obligations are generally called "non-contractual obligations". On the other hand, there are types of obligations arising out of the contract, such as obligations arising from unilateral actions, obligations arising from damage, and obligations arising from unjustified increase.

REFERENCES

1. Невзгодина Е.Л. Обязательства вследствие неосновательного обогащения // Вестник Омского университета. Серия «Право». 2018. – № 4 (57). – С. 86–91.
2. Свириин Ю.А. О некоторых проблемах института кондикции в гражданском праве // Современное право. 2015. – №5 – С. 50-54.
3. Аблаев Д. А. Субъекты и предмет обязательств из неосновательного обогащения // Молодой ученый. — 2017. — №6. — С. 317-319.
4. Губина Е. В., Тордия И. В. Актуальные проблемы неосновательного обогащения в контрактной системе в сфере закупок // Таврический научный обозреватель. – № 12 (17). — декабрь 2016, часть 2. – С. 29-34.//www.tavr.science