

Civil Law Problems of Complex Things

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ABSTRACT

This article is devoted to the analysis of the essence and concept of the complex thing as an object of civil law, its types and differences from other objects. The article also discusses the division of things into simple and complex types and studies the experience of foreign countries in identifying complex things. Examples of judicial precedents for identifying practical problems are given and analyzed.

The existence of civil-law relations is associated with certain goods, which are of interest to their participants. Goods are the object and means of satisfying human needs, and efforts aimed at obtaining such goods are the basis for the creation of civil-law relations by their participants. In civil law, these goods are considered as the object of civil legal relations.

In the classical period, the concept of things was considered in a broad sense in Roman law. This concept included objects not only as material objects of the external world, but also legal relations. Roman law had tangible goods and intangible goods. Usufruct and obligations are examples of intangible goods [1].

The Romans also mention that there were goods open to everyone - sunlight, currents, water, wind. But they were not objects in the legal sense. Nor should we forget that in Roman law there were objects (public objects) - roads, squares, ports, navigable rivers) regulated not by private law (*res publica*) but by public law.

The most common things of civil law are things (including money, currency values and securities) and rights to things. In addition, Article 81 of the Civil Code of the Republic of Uzbekistan (hereinafter Civil Code) mentions three more independent types of things of civil law - works and services, results of intellectual activity, as well as intangible assets.

Things are considered one of the main things of civil law, and they, in turn, are divided into several types. Usually, the civil legislation of any country divides them into simple and complex. In the civil legislation of Uzbekistan, complex things are allocated as a separate object of legal regulation. Article 91 of the Family Code contains provisions that clarify this notion. According to it, complex things is considered as a complex things, if different objects form a single whole (heterogeneous), which allows to use them according to the function defined by the essence of the combination. In the theory of law, the essence of the concept of complex thing is a

qualitatively new entity, which will henceforth exist as a single object of law - a set of independent independent things, united in a complex things (subject).

Usually there are no problems with the description of simple things. Simple things are simply organic combinations of elements, while complex things have different combinations of objects and elements - mechanical, functional, legal. And in general, what is the point of combining different things into one whole? We are talking about achieving some kind of synergy to achieve a certain practical result, because one simple thing cannot achieve this result. But what happens when ordinary things come together (combine) into new things? Will they lose their independent meaning or continue to exist as ordinary things?

Indeed, when different objects are combined, they form a new object of law and create a certain contradiction in their future use for their intended purpose. In this case, the structural elements (objects) do not lose their functional purpose.

They can fully satisfy human needs (cars, real estate, collections) only in their unity.

Complex things are different objects connected to each other in such a way that they can be used for a common purpose. Article 91 of the SC, in addition to defining the above concept, is the dispositive rule applicable in contractual relations - "the consequence of a transaction made in relation to a complex thing, unless otherwise provided by the terms of the transaction, applies to all objects included in it." cites the rule that This means that the parties may provide for the exclusion of certain clauses from the "complex thing" considered to be the subject matter of the contract. For example, when selling a tractor used in agriculture, the parties may exclude its wheel as an exception.

There are different approaches to the classification of complex things in the civil doctrine of the countries of the Romano-Germanic legal family. In particular, N. N. Averchenko comes to the conclusion that complex things are divided into composite and collective complex things [2]. According to him, the criterion of classification of complex things is determined by the ratio of physical and functional connection. A composite complex thing consists of a set of physically and functionally connected components, and functionally and legally connected components form a composite complex thing.

Moreover, a similar view was expressed by E.A. We see it in the scientific views of Mazur. In his opinion, collective and composite things are a complex things of civil rights [4].

At the same time, if the functional connection is coordinated in a collective complex subject, then the united various objects form a simple collective complex subject (for example, a collection of teapots, a collection of paintings, a collection of works, a technological (production) line, etc.). If the functional connection is subordinated, then these objects are subdivided into main and auxiliary types (a violin and its bow, a cell phone and a charger (in modern economic relations, a charger is used as a main object), a car and its alarm, etc.). Similar thoughts Y.G. Mudrov and N.N. Ego are also quoted by Dalbaeva [3]. In particular, they note that the essence of the concept of a complex thing is qualitatively integrated into a complex of neoplasms (complex thing), which henceforth will exist as a single object of law.

Given that a complex thing by its legal nature is a material good, it can be called a commodity, which has property attributes. D. S. According to Shipilova, such objects have the form of goods and are considered as objects of the material world (objects of property rights) [5].

It should be noted that legislation does not sufficiently define and regulate composite complex things.

N. N. Averchenko expresses common features of complex things with other objects of civil rights, highlights involuntariness and discreteness. Also as their generality with other objects they have materiality and possibility of ownership, and as special properties (the author says that



they are peculiar only to complex things) distinguishes plurality and integrity [2].

However, the problem of independence of objects included in a complex thing is the most acute both in the theory of law and in the practice of application of law in modern civil-law transactions (since the issue of appropriateness of independence of constituent parts of an object has been the cause of disputes since the times of the Roman law)

We mentioned above: the recognition by the legislator of the autonomy of objects at the time of merging into a complex thing (part 2 of article 91 of the CC) creates a problematic situation. The situation of two absolute rights in respect of one thing - if the right of one person has arisen in respect of the merged object and the right of another person has arisen in respect of the entire merged object (that is, the named object). In this situation two rights are defined for the object in question. Continuing the interpretation of part two of the article, "extends to all the things included in the contract, unless otherwise provided for by the terms of the contract". The legislator recognizes the possibility of this object as an integral part of the contract and emphasizes its role as an independent object of law.

The law does not specify specific types of transactions, i.e. it can be any transaction, whether it is a lease agreement or a contract of sale. In practice, there are already cases where the cooling system of the building is the property of one person, but the building as a whole belongs to another person. In this case, the owner of the building has to lease the cooling system from the other party. Such a situation in civil law creates a risk of at least complicating the process of a civil law transaction, and in many cases even terminating it altogether.

If we turn to the legislation of foreign countries, we can see that many researchers have tried to solve the problems of intra-legal regulation of complex things, studying the law of countries such as Switzerland, the Netherlands, Germany.

The doctrine of the countries of the old continent is similar to the complex thing in the law of the CIS countries (the composition consists of parts and constitutes the main object itself). Composite objects show not the intensity necessary to consider it as a single object, but the distinction between several interrelated objects (complex of bowls, library, etc.). The main criterion for differentiation is the intensity of the connection between objects. The second important criterion for the definition of the main object is its appearance in civil circulation, according to the perception of the relevant circles it should be considered as an object referred to by common usage (ch. 5, art. 14 of the Dutch Civil Code) [6].

According to article 642 of the Swiss Civil Code, the criterion for defining a composite object is the possibility of separating it from the main object without destroying or damaging it, apart from its perception by the public [7].

A composite object is an object that forms an economic unit, but its constituent parts do not lose their essence (substance) and can be independent.

Therefore the Swiss Civil Code in some of its norms excludes the possibility of each collective part to act as the object of separate rights, taking into account the intensity of the relationship between them, emphasizes the independence of individual articles (art. 642, 644).

A different approach is established in the German legislation, according to Article 93 of the German Civil Code, the constituent parts of the main asset are divided into tangible and intangible. The criterion of materiality consists in the impossibility of separating its components without destroying the basic material. At the same time, directly in accordance with the provisions of the law, important constituent parts cannot be the subject of independent rights [8].

The most important aspect is that the legislation of European countries recognizes the possibility of individual constituent parts of a complex thing to be the object of independent rights and regulates in detail a number of important issues. In particular, the allocation of constituent parts

of a complex thing and the legal significance of this independent object, as well as the emergence of ownership rights to a new object upon termination of the connection of several objects into a single (complex) object. Regulates issues on the legal consequences of the inclusion of a constituent part into a single complex thing on the basis of the emergence of ownership rights to the complex thing, which is formed as a result of joining of two or more objects and serves as components of a new complex thing.

So, let us continue the analysis of collective complex things together with the review of the legal regulation of complex (actually composite) objects in the norms of civil law of our country. Collective objects are a kind of complex things, consisting of separate objects, each of which has its autonomous functionality and is associated with one common collective name. This could be an enterprise, a photo collection, a library, etc. For example, an enterprise as a complex thing includes a property complex and a complex of different types of transport, machinery and materials as a type of complex material, although they are not connected mechanically, but due to functional connection. A modern production line is equipped with equipment, which has a special economic value only in unity, even if there is no mechanical connection of individual machines. It is known that the components of the complex can not only be clearly defined, i.e. stand on one base, be mechanically connected or have no clear joints and be located at a certain distance from each other. Because they can only work together according to their status.

The conclusion about the presence or absence of a functional relationship between the elements of the totality is obvious, because it is based on the traditional understanding of things. Many products were originally designed as obligatory parts of complex things (parts of an aircraft engine, components of a computer hard drive). They may circulate as independent objects (goods) in civil circulation, but at the stage of use (consumption) they always interact with each other only as a "complex, totality", for, as Aristotle said, "some (necessary) not For some things the reason for their necessity is another good, and for others there is no such reason, but due to them other goods necessarily exist [9].

In a number of cases, the regulation of the general purpose of the constituent parts is unclear and needs procedural proof when resolving disputes. A practical example is the famous "Gambrinus case." "Gambrinus" is a brewery in Izhevsk, which for some time was renting production facilities together with the "Trust Capital" management company. The buildings there were intended for special equipment, but the property and the equipment were owned by different persons, but then the owner of the premises (the management company) asked to terminate the partnership with the owner of the equipment, but it was not possible to do so without damage to the premises, because the equipment was installed in a non-disassembled condition. The Presidium of the Supreme Arbitration Court of the Russian Federation decided, based on doctrinal principles, that in this situation actually take place the right of common ownership [10].

This situation has created the need to strengthen the possibility of a part of an enterprise as an independent legal object, and in 2013 a new object was introduced in the Civil Code of the RF - a single property complex [11]. In general, from part 2 of article 85 of the CC it is known that an enterprise or its part can be the object of sale, pledge, lease and other transactions related to the definition, change and liquidation of property rights.

So, based on general ideas about the meaning of the concept of "object of civil rights", we can highlight the following signs of a complex thing:

- ✓ if free in civil law relations, they may be freely alienated or transferred from one person to another by inheritance, gift, or transfer of other rights;
- ✓ may be restricted in circulation;
- ✓ may be inseparable from a physical or legal person;

- ✓ may have value, i.e. be the object of satisfying the needs, desires, interests of a social subject (an individual in society, a group of people).

Based on the above, as a conclusion we can say the following:

reviewing the possibility of finding the constituent parts of a complex thing as an independent object of law while being part of a complex thing;

determination of the basis for the emergence of ownership rights to a newly formed complex thing;

to consider the consequences of the legal significance of an independent object.

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