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FEATURES OF THE PROVISION OF LAND PLOTS FOR CONSTRUCTION IN RUSSIA

Bogdan Ershov¹, Vitaly Fedyanin²

¹Doctor of Historical Sciences, Professor, Voronezh State Technical University, Voronezh, Russia,
E-mail: bogdan.ershov@yandex.ru

²Doctor of Technical Sciences, Professor, Ivanovo fire and rescue Academy of the state fire service of
Emercom of the Russian Federation, Voronezh, Russia,
E-mail: fedyanin.50@mail.ru

Abstract

Ensuring the protection and rational use of land is one of the most important functions of the state. The Constitution of the Russian Federation proclaimed that land and other natural resources are protected in the Russian Federation as the basis of the life and activities of the peoples living in the corresponding territory (Article 9 of the Constitution of the Russian Federation)

The earth is an irreplaceable and priceless natural resource, on which the life and well-being of all mankind largely depends. At the same time, it is an object of property rights subject to civil circulation.

The consumption of natural resources is always associated with public and private interests. The solution of state tasks must be consistent with the public interests of the population, as well as with the private rights of citizens and legal entities, which are implemented in the development of land plots. This article covers some aspects of this topic.

Keywords: land, construction, person, society, border.

I. INTRODUCTION

The private interests of developers represent the achievement of maximum monetary profit. Public and private interests may not always coincide. The balance between public and private interests is achieved through the legal regulation of institutions such as territorial planning and urban planning zoning, state environmental expertise, public hearings, and tenders.

The harmonization of the interests of developers and the interests of the population is ensured by the state by regulating relations regarding the provision of land plots for construction, and subsequently establishing norms restricting the use of a land plot as a special object of rights. Currently, there is a tendency to reduce the two ways of providing land plots for construction with preliminary agreement on the location of the facility and without it.



Thus, the provision of land plots for housing construction subject to urban planning zoning, the conclusion of a concession agreement and the development of built-up territories, the construction of real estate at the expense of budgetary funds are carried out at auction.

The transition from an individually selective method of granting rights to land plots to urban planning zoning and competitive procedures is of great practical importance and requires research and legal assessment from the point of view of taking into account public and private interests.

New forms of granting land plots for construction have been introduced into land legislation: complex development for housing construction, involving the creation of infrastructure on land allocated for construction, in order to organize living space, as well as development of territories, in particular, the combination of private capital and land and property resources of municipalities to solve the problem of resettlement of residents from dilapidated housing. These legal structures are necessary for the development of settlements, but the mechanisms for implementing the proposed forms require study and refinement.

II. RESEARCH METHODS AND RESULTS

The study was carried out on the basis of modern general scientific methods of cognition - the method of synthesis, system analysis and analogy, as well as special scientific methods - technical and legal analysis, comparative legal, historical, logical methods. The authors adhered to the requirements of the reliability, completeness and objectivity of the study of scientific and legislative acts and practice materials. The work was carried out at the intersection of sciences: general theory of law, theory of civil law, theory of land law using appropriate theoretical sources.

In a broad sense, the concept of "provision of land plots" is used to characterize legal relations for the disposal of land plots by any rightholders, regardless of their form of ownership.

The subjects of legal property relations are the owners of the land, the life-long inherited property - the owners, the use - the land users, the lease - the tenants and lessors. All subjects of land legal relations are divided into two groups: individuals and legal entities. In relation to individuals in Russian legislation in general and in land legislation in particular, the concept of "citizen" is used, which in most, but not in all cases, acts as a synonym for the concept of "individual". A legal entity - a collective entity or an organization that possesses separate property, can, on its own behalf, acquire property and personal non-property rights, bear obligations, be a plaintiff and defendant in court.

Individual land use is understood as the use by citizens of the land plots provided to them on their own for gardening, truck farming, summer cottages and subsidiary farming, individual housing and garage construction, and the use of a land plot as an official land plot.

For the purposes of individual land use, land plots are provided at the request of interested citizens on the basis of private ownership or lease, including with the right of subsequent redemption. Privatization of lands previously granted to citizens on the basis of the right of permanent use or life-long inherited possession is allowed. Such privatization is carried out free of charge only once.

Most types of individual land use are associated with agriculture, therefore, for individual purposes, land plots are allocated mainly from the category of agricultural land. For individual housing construction, respectively, land plots from the category of settlement lands may be provided.

Individual land use presupposes the right of citizens to erect residential buildings and economic facilities on the provided land plots necessary for servicing the land plot and personal purposes, using the land plot for recreation, growing agricultural products, and keeping livestock. Construction is carried out in accordance with established technical standards and building codes. In accordance with the norms of civil law, the user of the land plot acquires the ownership of the erected buildings and crops grown.

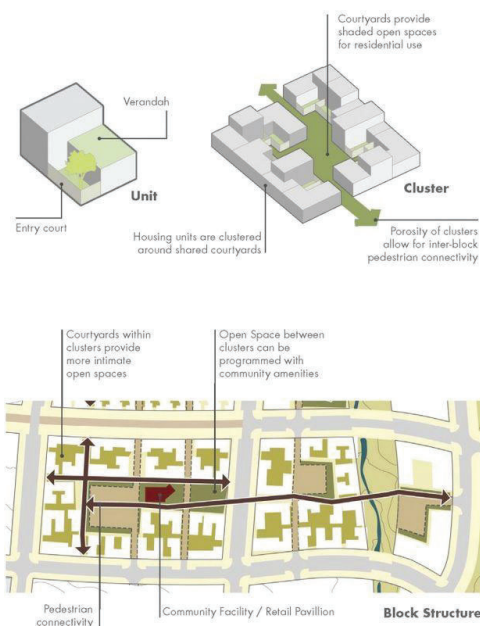


For gardening, horticulture and dacha farming, land plots are allocated to citizens in accordance with zoning schemes and average district norms. The presence of a citizen of a land plot used for the same purposes is the basis for refusing to provide another land plot if this leads to an excess of the limit norms. Refusal may also follow if a citizen has made a transaction to alienate a previously provided free land plot.

Subsistence farming means the use of land for growing crops and keeping livestock. The main category of users is made up of rural residents, who are allocated land plots near the house. The possibility of obtaining a land plot by residents of cities is not excluded, provided that there are free areas for this.

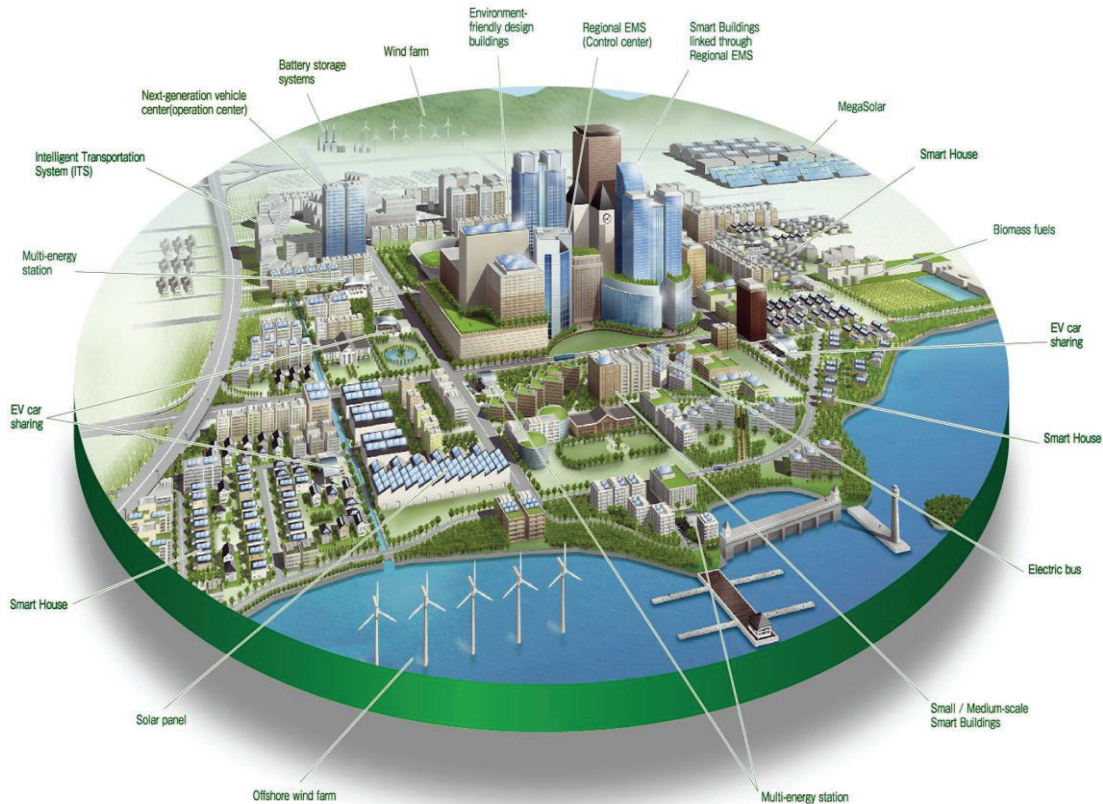
Individual housing construction presupposes the use of the allotted land plot mainly as a spatial basis, although farming is not prohibited. The erected residential buildings are intended for permanent residence. Land plots are allocated both within settlements and on other lands.

Registration of a citizen's right of ownership to a land plot provided before the entry into force of the Land Code of the Russian Federation for running a personal subsidiary, country house, truck farming, gardening, individual garage or individual housing construction is also carried out if the information about its area contained in document on the right to a land plot, do not correspond to the data of the cadastral plan of such a plot (paragraph 4 of Article 25.2 of the Registration Law). In this case, when registering the right to a land plot, the area of which has been clarified as a result of land surveying, the "Area" column of subsection I-1 of the Unified State Register of Rights to Real Estate and Transactions with It must be completed on the basis of the information specified in line "11" The area of the "cadastral plan, and not on the basis of data on the area of the land plot specified in the document on the right to land (paragraph 31 of the Rules for maintaining the Unified State Register of Rights to Real Estate and Transactions Therewith, approved by Decree of the Government of the Russian Federation No. 219 of 18.02.1998). In accordance with paragraph 5 of Article 25.2 of the Registration Law, registration of rights must be refused if the land plot cannot be granted to private ownership in accordance with federal law (for example, land plots withdrawn from circulation - paragraph 4 of Article 27 of the Land Code Of the Russian Federation, land plots from the forest fund that are in federal ownership - Article 19 of the Forest Code of the Russian Federation, etc.).





In connection with the operation of the Law, the technical condition for land management is not applied, which provides for the suspension of land surveying in the event that the difference between the area of the land plot specified in the document on the right to land and determined during its land surveying exceeds the permissible discrepancy between the areas.



The specified technical condition for land management is not applicable when surveying land plots provided to citizens prior to the entry into force of the Land Code of the Russian Federation for maintaining personal subsidiary, summer cottage farming, gardening, gardening, individual garage or individual housing construction on the basis of ownership, life-long inherited possession or permanent (indefinite) use, or if in an act, certificate or other document establishing or certifying the right of such a citizen to this land plot, the right on which such a land plot is granted is not indicated, or it is impossible to determine the type of this right.

The absence of normative legal acts establishing the maximum minimum size of land plots (for example, urban planning regulations containing a requirement for the minimum size of land plots intended for individual garage construction) does not in itself exclude the application of the features of cadastral registration and registration of citizens rights to land plots provided for by the Law subject to other conditions determined by the Law.



A very important role in the process of allocating land plots for construction is given to the awareness of all stakeholders. The Land Code obliges local authorities of urban or rural settlements to inform the population about the possible or upcoming provision of land plots for construction. To do this, these bodies are obliged to inform land users, landowners and tenants of land plots (which are in state or municipal ownership) whose legitimate interests may be affected as a result of the possible withdrawal for state and municipal needs of the land plots in their use and ownership, respectively, in connection with provision of these land plots for construction.

For cases involving the placement of objects for public needs, it is necessary to redeem land plots that may be owned by citizens or legal entities. At the same time, the authorized authorities (state or local government) informs the owners of these land plots about their possible redemption. In this case, the procedure and conditions for providing such information can be established by federal laws, laws of the constituent entities of the Russian Federation, that is, for the most part, they should be unified.

In turn, the law grants citizens, public organizations (associations) and bodies of territorial public self-government the right to participate in solving issues affecting the interests of the population and related to the seizure, including through redemption, of land plots for state and municipal needs and the provision of these land plots for construction.

After the specified actions have been carried out and the land plot is selected, the results of the land plot selection must be formalized by the appropriate act on the selection of the land plot for construction.

This act, in accordance with the law, must be accompanied by draft boundaries of each land plot in accordance with the possible options for their choice and approved by the local government.

In the event that the seizure of a land plot is assumed, including through its redemption, for state or municipal needs, calculations of losses of owners of land plots, land users, landowners, tenants of land plots, losses of agricultural production or losses of forestry.

III. CONCLUSION

According to the authors of the article, one of the immediate problems of urban planning zoning, which creates administrative barriers to the development of housing construction, is the excessive regulation of housing zoning, which consists in the fact that the Civil Code of the Russian Federation and the Labor Code of the Russian Federation provide for an unreasonably large list of residential zones: development zones for individual residential buildings; development zones with low-rise residential buildings; development zones with mid-rise residential buildings; building zones with multi-storey residential buildings; residential development zones of other types (Art. 35 of the Civil Code of the Russian Federation and Art. 85 of the LC RF). This leads to the creation of hidden, unjustified restrictions and prohibitions for land owners, preventing the use of land for housing.

In new Land Code quite fully and clearly formulated the general rules for the provision of land plots for construction purposes. Since this law made the procedure for granting land plots more democratic for construction purposes, for example, when providing land plots without prior approval of the location of a construction object. It is very important that the new Land Code in this case requires informing about the provision of land plots to interested parties, holding tenders (tenders, auctions).

However, not all so simple. After all, the provision of land plots without prior approval of placements is not carried out only if this object is located in an urban or rural settlement in accordance with urban planning documentation on development and land use and development rules, as well as in the case of providing a land plot to a citizen for individual housing construction or personal subsidiary farms.



The very implementation of the ideas of granting those wishing to receive land plots for the construction of various objects is still more often reduced to the fact that the interested party submitted to the authorized authority (state or municipal) an application for the provision of a land plot with preliminary approval of the location of construction objects. Further, the application undergoes appropriate approvals in various departments for the absence of obstacles to the allotment of the land plot. These most often include architectural bodies, local bodies of the State Land Committee of Russia (now Roszemkadastra), etc. That is, the entire circle of land users was determined, whose interests could be affected by this land allotment, and then all the necessary approval procedure.

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ОСОБЕННОСТИ ПРЕДОСТАВЛЕНИЯ ЗЕМЕЛЬНЫХ УЧАСТКОВ ПОД СТРОИТЕЛЬСТВО В РОССИИ

Богдан Ершов¹, Виталий Федянин²

¹Доктор исторических наук, профессор, Воронежский государственный технический университет, Воронеж, Россия, E-mail: bogdan.ershov@yandex.ru

²Доктор технических наук, профессор, Ивановская пожарно-спасательная академия государственной противопожарной службы МЧС России, Воронеж, Россия, E-mail: fedyanin.50@mail.ru

Аннотация

Обеспечение охраны и рационального использования земель является одной из важнейших функций государства. Конституция Российской Федерации провозгласила, что Земля и другие природные ресурсы охраняются в Российской Федерации как основа жизни и деятельности народов, проживающих на соответствующей территории (Статья 9 Конституции Российской Федерации).

Земля - это незаменимый и бесценный природный ресурс, от которого во многом зависит жизнь и благополучие всего человечества. В то же время он является объектом права собственности, подлежащим гражданскому обороту.

Потребление природных ресурсов всегда связано с общественными и частными интересами. Решение государственных задач должно быть согласовано с общественными интересами населения, а также с частными правами граждан и юридических лиц, которые реализуются при освоении земельных участков. В данной статье рассматриваются некоторые аспекты этой темы.

Ключевые слова: земля, строительство, человек, общество, граница.