

FINDING A CITIZEN AS MISSING AND DECLARING THEM AS DEAD.

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Abstract: In the process of studying this article, the grounds and deadlines for declaring a citizen missing, as well as issues related to declaring a citizen dead, are systematically studied, and their mainly property-related problems are analyzed, and suggestions and recommendations are made.

Keywords: Citizen, Civil Code, legal capacity, missing, deceased. alimony, property

The legal capacity of a citizen is completely terminated as a result of his death. However, in order to eliminate the uncertainties arising from legal relations, a citizen who is one of the participants in this legal relationship may, for some reason, have left his place of permanent residence for a long time, in which case it is impossible to determine his place of permanent residence, in such cases he may be declared missing. „In civil law, in general, and in other areas of law, the institution of declaring a citizen missing has great practical importance. This institution guarantees the personal and property rights of relatives of a missing citizen and other interested persons [I.B. Zokirov, Civil Law, Part 1, Tashkent 2006/p. 93]"There are such events in life that sometimes a citizen does not come to his place of permanent residence for a long time. He does not give any information about where he is. When all efforts to determine the whereabouts of a citizen are unsuccessful, it is naturally impossible to determine whether he is alive or dead. In such cases, the fact that a citizen has been missing for a long time should not affect his legal relations. Usually, such a citizen has property in the place where he lived, this person may be a debtor or creditor in some obligation, as well as the owner of rights and obligations. For example, due to the fact that people are related to him, such as being in marriage, having parental rights, a citizen's long-term disappearance should not last long, because our government cannot tolerate such instability of civil legal relations. The interests of the close relatives of the missing persons, their creditors, and also their own, require the elimination of such uncertainty.

"Part 1 of Article 33 of the Civil Code provides general rules for declaring a citizen missing. According to it, if there is no information about the whereabouts of a citizen at his place of residence for a year, the court, upon the application of interested persons, may declare this citizen missing. Declaring a citizen missing does not cancel his civil rights. On the contrary, it is required to take necessary measures to protect the rights of a citizen who has been declared missing [R.Dzh.RUZIYEV, V.R.TOPILDIYEV, Publishing and Press House named after Cholpon. Tashkent—2011/87-p.]". So it is clear that if there is no information about the whereabouts of a citizen for a year, the citizen is declared missing upon the application of the interested person. One of the main problems that arise in this case is the issues related to the property of the citizen who has been declared missing, that is, it is natural that problems arise regarding the use and disposal of his property and the like.

In this case, if the property of a citizen who has been declared missing needs to be managed permanently, this property is transferred to a person who will be managed on the basis of a trust

management agreement concluded with a guardianship and trusteeship body (Chapter 49 of the Code of Criminal Procedure) in accordance with a court decision, and the family of the missing person who is supposed to be supported by the law is provided with this property, in addition, his debts on taxes and other obligations are paid (Article 34 of the Code of Criminal Procedure).

There is also an exception to the above cases in our legislation, and if in the following cases a citizen has not been found for more than a year, but he has committed a crime and is absconding in connection with the collection of alimony, in such cases he is not declared missing. If a citizen who has been declared missing returns or his whereabouts are determined, the court shall cancel the decision to declare him missing. Property management is terminated based on a court decision. (Article 35 of the Criminal Code)

The main rule on declaring a citizen dead is detailed in Article 36 of the Civil Code. It states that "If there is no information about the whereabouts of a citizen at his place of residence for three years, provided that he went missing in circumstances that give reason to assume that he was in imminent danger of death or died in a specific accident, and if there is no information about his whereabouts for six months, the court may declare him dead upon the application of interested persons. A military serviceman or other citizen who went missing in connection with military operations may be declared dead by the court no later than two years after the end of military operations.

"The day of the court's decision to declare a citizen dead shall be considered the day of the death of the citizen declared dead. In the event of a missing citizen being declared dead in circumstances where death is imminent or there is reason to assume that he died as a result of a specific accident, the court may consider the date of his presumed death to be the date of the death of this citizen. Declaring a citizen dead shall entail the consequences that his death may entail in terms of the rights and obligations of such a citizen [CIVIL CODE OF THE REPUBLIC OF UZBEKISTAN 01 03 1997. Article 36.],,.

If a citizen declared dead is alive, all his legal relations will continue in practice. If the citizen returns or his place of residence is determined, the decision to declare him dead will be canceled by the court, and in practice his legal relations will be restored and he will enter into social relations. After the decision to declare a citizen dead is canceled, the citizen will have the right to claim through the court from any person to whom his property has passed within three years (according to the requirements of Article 150 of the Criminal Code). Another problematic situation is that if after the citizen was declared dead, his property was sold by his heirs to a third party and they received, say, half of the established amount, and half remained, in this case the right to claim the remaining amount will pass to the person who returned. "If it is proven that persons who acquired the property of a citizen declared deceased on the basis of transactions providing for the payment of compensation, knowing that the citizen declared deceased was alive, are obliged to return the property to the citizen. If it is not possible to return the property in its original state, its value shall be paid [I.B. Zokirov, Civil Law, Part 1, Tashkent 2006/p. 96],,

If the property of a person declared dead has been sold to the state on the basis of inheritance rights, the proceeds from the sale of the property shall be returned to him after the decision to declare the citizen dead is revoked. (Article 37 of the Civil Code).



In conclusion, we all know that today there are many problematic situations related to declaring a citizen missing or otherwise dead. The main issue that causes this is the rights of a citizen related to property, or rather, obligations related to material values.

References:

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