



## The concept of real estate in civil law, its state registration and cancellation of state registration

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**Abstract:** In this article, a general understanding of real estate objects, their signs, theories of scientists about it, the correct application of norms related to real estate objects in civil law, the representation of real estate objects in foreign legislation, the sequence of state registration of real estate, cancellation of state registration and opinions about real estate are widely expressed.

**Key words:** Real estate, movable property, real estate signs, real estate objects, state registration of real estate, cancellation of state registration

If we look at the current Civil Code of the Republic of Uzbekistan, we can see that property is divided into two large groups: movable and immovable property (Part 1 of Article 83 of the Civil Code).[1]

Experts say that the legal significance of such a division is related to the establishment of a different legal regime for immovable and movable property in the following main areas:

a) alienation and purchase of immovable properties, subject to the necessity of registration of real estate transactions (Articles 111, 185 of the Civil Code), shall be carried out without exception in the conditions of open disclosure for the acquaintance of third parties. Transfer of state registration of transactions related to movable property is carried out only in cases specified by law;

b) different procedures for acquiring ownership rights to ownerless movable and immovable objects are provided (Article 191 of the Civil Code);

c) mortgage can be applied only to real estate (Article 265 of the Civil Code);

d) Inheritance of immovable property and its legal procedure is determined according to the legal norms in force in the place where they exist, movable property in this regard (in the case of inheritance) is determined according to the legal norms in force in the last place of permanent residence of the heir.[2]

A movable object is an object that retains its properties after being moved from one place to another and can be used for its own purpose.

Immovable objects usually exist permanently in one place and have their own characteristics and special characteristics. For this reason, it is not included in the category of objects determined by physical symptoms, but in the category of objects determined by private symptoms. A special feature of such a thing is its integral connection with the earth (naturally connected objects with the earth, for example, springs, mines, rivers, etc.; objects connected with the earth created by human labor, for example, buildings and structures, wells, gardens, enterprises and other items).

Immovable objects have such characteristics as the inability to move them from one place to another, the inability to use them for their intended purpose, change in shape, and the transfer of rights to real estate from the state register.[3]

A unique approach can be seen in the interpretation of the concept of real estate in the French Civil Code. For example, according to Article 517 of the French Civil Code, property can be immovable property by its nature or designation or subject matter.[4]

In the legal literature, there are opinions about the existence of several theories of identification of signs of immovable property in the science of civil law.[5]

The first theory (K.P. Pobedonostsev) recognized real estate as things firmly connected with



the land.[6]

The second concept (G.F. Shershenevich) is that the rights of the owner of the building arise from the legal relationship of the plot of land on which it is located. Based on this situation, temporary constructions and constructions on a plot of land belonging to another person cannot be recognized as real estate.[7]

According to representatives of the third theory (V.B. Elyashevich), an object built on another's plot of land is considered a movable object from the point of view of the right of obligation, and an object built on this plot of land is considered an immovable object according to the property right.[8]

According to Article 11 of the Law of the Republic of Uzbekistan "On State Registration of Real Estate Rights" adopted on November 11, 2022, the sequence of state registration of rights to real estate is strengthened. According to it, the state registration of rights to buildings, constructions, as well as unfinished objects will not be carried out before the state registration of the rights to the land plot on which this real estate is located.

State registration of the rights to a part of the building (apartments, rooms) is not carried out before the state registration of the right to the building in which they are located.

The state registration of the right to the entire enterprise as a property complex shall not be carried out until the state registration of the right to the land plots, buildings and structures included in this enterprise.

In accordance with Article 11 of the Law of the Republic of Uzbekistan "On State Registration of Rights to Real Estate" adopted on November 11, 2022, state registration of rights to real estate is the state registration of rights to real estate. may be canceled by the Commission for the settlement of disputes before the court (hereinafter referred to as the Commission) or by the decision of the court.[9]

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