

JUDICIAL PRACTICE ABOUT ALLOCATION AND DISPOSITION OF PROPERTY SHARES (SHARE) OF FORMER PCB

O.I. HOROSHEVSKA, *postgraduate student,*
National University of Life and Environmental Sciences of Ukraine

The article is devoted to the analysis of the judicial practice about allocation and disposition of property shares (share) of former PCB. Classification is made of judicial decisions on the merits of claims, connected with the property shares of the PCB.

PCB, property share, judicial practice.

Following the privatization of industrial enterprises in Ukraine began the process of reorganization in agriculture, during which collective agricultural enterprises (hereinafter - CAE) in the reorganized entities other legal forms. Also in the process of restructuring their CAE members were able to get out of the CAE with his property and land share and organize own production in some form or could realize their property shares under civil agreements. But in the process of sharing and the right to share between the owners of property shares and other subjects there are various arguments which in most cases are resolved in court.

The reorganization of collective agricultural enterprises and exercising the right to property share is important and quite complex and not fully regulated by law. In many respects, these issues are regulated by the relevant normatively-legal acts. Moreover, the main question on the order of the right to property share collective agricultural enterprises are regulated by agrarian law, and not all judges are familiar with this branch of law and know how to navigate it. In addition, analysis of judicial practice,

courts do not always properly understand the nature and content of the property unit and order the right to share. Therefore, to help the judges to come well prepared summarize court practices on matters that are the subject of this study. This generalization must contain answers to the most problematic and most emerging issue of the right to property share. This may be a generalization from individual judge (judges) or Plenum Supreme Court of Ukraine for Civil and Criminal Cases. But while this is not, and so even a small attempt to analyze and summarize something jurisprudence on the issue of the right to property share collective agricultural enterprises can be very useful and timely.

The purpose of this article is to analyze court decisions on claims about the allocation and disposal of property share (part) former collective farms and classifying claims for property (shares) and accordingly judgments on these claims. It should be noted that the study of judicial practice on cases on the allocation and disposal of property share (part) former CAE hardly covered in modern Ukrainian legal literature.

The novelty of this article in an attempt to reflect the complex analysis published in the Unified State Register of judgments practice of judicial proceedings on the allocation and disposal of property share (part) former CAE. Scientific significance of the paper is to identify the main problematic issues of theoretical models reorganization CAE, which was put in the foundation of agrarian reform, and trying to find ways to improve the protection of the rights of owners of property shares and other subjects of agrarian relations by means of generalization of judicial practice.

Based on the research and summarize court practices can make some conclusions.

1. Unified State Register of judgments contains a huge number of court decisions on the allocation and disposal of property share (part) former collective agricultural enterprises, which indicates a very active role

of the courts in resolving disputes that arise during the implementation of the right to property share CAE.

2. All the disputes concerning property shares CAE can be reduced to the following groups of actions: a) the recognition of ownership of property share and unit for recovery of property or its value; b) the recognition of civil agreements with property shares and property, which was selected on account of property shares, valid; c) an increase in the size of the property unit; d) recognizing the right of ownership of property by inheritance share.

3. The right of members of the Committee to request the allocation of property unit corresponds to the right of the company to resolve the issue and structure property unit, its value, its mode of settlement.

4. Definition of allocation of property unit CAE member that goes with it, the structure and value share within the jurisdiction of the CAE government authority, acting in accordance with the charter company and approved it acts.

5. Quite a number of the abolition of the courts of first instance courts of appeal and cassation shows that there are certain difficulties in judges in disputes about property shares CAE. This is, probably, the unification of the merits property unit, its legal nature and order of its formation and excretion in the process of restructuring CAE.

6. To unify the judicial practice and minimizing the miscarriages of justice in disputes about property shares CAE would be useful to prepare a synthesis of judicial practice or from individual judge (judges), or (which is more appropriate) as a Resolution of the Supreme Court of Ukraine for civil and criminal cases.