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**SHARING HOUSING IN HOMES HOUSING COOPERATIVES**

**Summary.** In this article it is considered the features of sharing housing (dwelling) that are in houses built (housing) of the cooperative. In this article attention is paid to the sharing living quarters in houses built of the cooperative where head of this cooperative is not paid the share fully yet. Features of this exchange will be considered next.

**Key words:** houses built (housing) of the cooperative, sharing housing, the head of the cooperative, share, Model rules.

Investigation of relationships that occur in the exchange of residential premises at the time of the Soviet Union was very important, because the priority ways meet the housing problems of the citizens were free to use housing, which was state-owned. Traditional for legal terminology has been the selection of two types of contracts - Contract Mines private housing and contract employers share of state and public housing. But changing of social and economic relations in our country was the basis for scientific research institute such as sharing housing .At first , in terms of changes in the content of the constitutional right to housing satisfaction and recognition of the priority housing needs with private housing stock, the institute sharing housing in the state and municipal housing has such relevance. But it is only at first glance. The complexity of the situation is that today there is no law on the concept of types of housing assets that define rights exchange housing by persons who are not its owners, including employers who refuse to privatize housing cooperative members who have not fully share, private employers housing that is owned by public organizations, consumer cooperatives, creative unions and others. Therefore, the study of the regulation of housing exchange is very important.

Attention is drawn to the fact that some domestic jurists turned to consideration of certain issues related to the exchange of premises: E.V. Bogdanov, V.Y. Bondar, L.V.Vacilchenko, M.K. Galyantitch, U.О. Zaika, І.М. Kucherenko, С.О. Clipchenko, Т.R. Fedoceeva, E.О. Haritonov, but it is sharing housing (premises) that are in the homes of cooperatives, not received sufficient attention

Since the peculiarities of sharing housing (premises) that are in the homes of cooperatives [1, 163-174], in our opinion, it seems appropriate to take into account the fact to the right users said housing which may be based on different grounds: their private property rights housing or lease (rental) housing, or corporate housing rights of members of the cooperative

It has some specific features ,which depends on whether fully paid member of the cooperative share or not. I would like to considered in detail the exchange premises in buildings housing (housing) cooperative member who has not yet fully paid share .There are some peculiarities caused by the relationships between cooperative member and cooperative itself.

Exchange Housing (premises) that are in buildings housing co-operatives, acting Housing Code is not specifically regulated. Instead, the code contains only an indication of the possibility of such an exchange. According to the article 79 of HC "The right to exchange premises" states that the lessee has the right premises with the written consent of family members living with him, including temporarily absent, to exchange occupied space with another lessee , member of the housing co-operative, or a lessee living in another place. One more indication about this exchange is considered in the second paragraph of the first part of article 86 of HC, which is provided that the exchange of premises is not allowed , if one of the participants in the exchange is the member of housing co-operative to whom the question of exclusion from the cooperative is considered . That is, the Housing Code contained only indirect reference to the possibility of such an exchange.

The rules of premises exchange from January 31, 1986 Relations exchange of premises that are in the house of housing (housing) cooperative in details ,that are not only determined by the order of the exchange premises in houses not only the government and public housing, and also directly regulate relations of exchange premises that are in the house housing (housing) cooperative.

So the third point of this rules provides that member housing co-operative may by written consent of family members living with him, including temporarily absent, to exchange residential premises with the lessee of premises in the state house or public housing or with another member of the housing co-operative, according to acceptance of the cooperative person who instilled in connection with the exchange of the building housing cooperative. The same rule is for exchanging of premises between members of the same housing cooperative by decision of the general meeting. In the case if cooperative is against of such exchange the question will be considered in court.

Upon further analysis of exchange rules premises, we can see that the member housing cooperative or a member of his family is entitled according to the established order of these rules to exchange the part of the premises belong to him , with another lessee or other premises of member housing co-operative, who infuses as a member of the family who is staying in the room. As family members can infuse: his wife, children, parents, grandparents, grandchildren, brothers and sisters. . It should be noted that the situation of the family members of the cooperative may be different. This may be spouses who are members of joint property [2, 83-84], a family member of a cooperative member who is entitled to a share, a family member of the cooperative,who has no such right, but is on the premises no charge; family member of the cooperative, who is occupied their premises, paying a fee for the use of the cooperative, and more.

Of considerable importance is the fact that neither HC nor Exchange Rules premises in 1986 did not distinguish cases of sharing such facilities when a member of the cooperative has not paid the price of the apartment, and when he has already paid the cost of apartments in co-op. Therefore, when considering such cases should apply to interpretations of the Supreme Court of the USSR on September 18, 1987 № 9 (as amended by resolutions of 25 December 1992 and number 13 on May 25, 1998 № 15) [3 ].

According to the pharagrapf 10 of the plenum resolution considering the case in disputes about sharing premises in the house HCC, courts should pay attention to:

1. require forced exchange of premises has the right member of the HCC, who has not acquired ownership of the apartment, his wife or family member who owns the portion of share, if not among them agreed on the exchange. In addressing this claim should be taken into account interests that deserve attention, family members who live in residential premises, as they have the same right to use it;
2. under the rules of points 36, 40 Exemplary HCC charter member of the family shareholder has the right to exchange your living space that falls on it, also adjacent room or part of the room, and when he has no right to share in shares (when the share payment is not paid in full). b) on the basis of the rules points 36, 40 Exemplary HCC charter member of the family shareholder has the right to exchange your living space that falls on it, also adjacent room or part of the room, and when he has no right to share in shares (when the share payment is not paid in full). Exchange of floor space in the apartment cooperatives allowed only under the condition that the person with whom it is exchanged, is a close relative of a cooperative member or members of his family who were staying in the apartment (parents, children, grandfather, grandmother, brothers and sisters), they instilled as a member of the family and in the order exchange conveys premises, which it uses as a tenant or a member of HCC (also the same). Forced exchange in such cases, the legislation does not provide;
3. general membership meetings HCC (until full payment of shares) may refuse to exchange premises in the same building cooperative or admission to members of cooperatives person who comes to the cooperative in connection with the exchange of the premises and the executive committee of the local council - to issue warrants participants exchange only if under Art. 86 LCD grounds. Refusal to issue a warrant is also justified if the participants share not submitted the required documents (certificates banking institution) to make the person who joined the cooperative, mutual contribution, the board shall be the transfer of operatives who left, share a person who is his close relative (§ 40 of the statute of Exemplary HCC);
4. granting the defendant in order compulsory exchange of premises in the house HCC is possible only when the general meeting of cooperative members have agreed to accept its member cooperatives and he does not mind becoming a member of the cooperative.

Thus, it seems appropriate to begin with, to conclude concerning features determine the range of potential relationships such exchange. So according to the first part of the third paragraph of the above rules has the right to exchange member housing cooperative. However, the content of third part of the same paragraph of the Rules shows that initiated the exchange of housing can be not only a member of the cooperative, as well as one of the spouses, who have a right to some share. As for the other members of the family of a member of the cooperative, then on their right to exchange nether Housing Code nor exchange rules premises in 1986 did not contain specific instructions. In the sixth paragraph of these rules provides only a very vague indication that "the lessee (member housing cooperative) or a member of his family shall be entitled in the prescribed manner by these rules to exchange part of the living space, per his fate, with the lessee other premises or a member of the housing co-operative, who infuses as a member of the family who is staying in the room. "

The following conclusion follows from the first paragraph of the third paragraph of the Rules of premises Exchange 1986, Exchange feature of premises in buildings housing (housing) of the cooperative is that it is possible for the conditions of admission to the cooperative person who instilled in connection with Draw the building housing (housing) cooperative. Consequently, only one desire cooperative member who has not acquired ownership of an apartment, not because such a desire to be "sanctioned" other members of the cooperative will take counterparty to exchange HCC. This approach to solving this issue is confirmed in the sense of the second paragraph third of these rules where it is established that the exchange premises between members of the same housing cooperative by decision of the general meeting, but it should be emphasized that the decision general meeting of the refusal to admit to HCC members can not be arbitrary.

As explained in paragraph 10 "in" to the Supreme Court from September 18, 1987 № 9 (as amended by resolutions from 25 December 1992 and number 13 on May 25, 1998 № 13 [3]), general meeting of the HCC (until full payment of shares) may refuse to exchange premises in the same building cooperative or admission to members of cooperatives person who comes to the cooperative in connection with the exchange premises only if under Art. 86 LCD grounds. Moreover, the refusal to issue a warrant is justified if the participants share not submitted the required documents (certificates banking institution) to make the person who joined the cooperative, mutual contribution, board members of the cooperative transmission member who left, payenahromadzhennya person who is its close relative. Moreover, the refusal to issue a warrant is justified if the participants exchange not submitted the required documents (certificates banking institution) to make the person who joined the cooperative, mutual contribution, board members of the cooperative transmission member who left, share a person who is his close relative.

The latter conclusion concerning exchange of premises that are in the house of housing (housing) cooperative follows from the restrictions forced exchange. In particular, the forced exchange is not prescribed by law for cases where the rules under paragraphs 36, 40 Exemplary HCC charter member of the family shareholder, who is a close relative of a member of the cooperative or members of his family who were staying in the apartment (parents, children , grandfather, grandmother, brothers and sisters), wants to exchange living space that falls on it, also adjoining rooms or parts of rooms, if he is not entitled to share in the shares (if share fee has not been paid in full) [3] .

Moreover, even in cases when their exchange is permitted by law, in order to provide the defendant forced exchanging of premises in the building HCC is only possible when the general meeting agreed to accept its member cooperatives and he does not mind becoming a member of the cooperative.

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**Берназ-Лукавецкая Е.М. Об обмене жилых помещений в домах жилищных кооперативов**

**Аннотация.** В данной статье рассматриваются особенности регулирования обмена жилья (жилых помещений), которые находятся в домах жилищно-строительного (жилищного) кооператива. В данной статье уделено внимание обмена жилых помещений в домах жилищно-строительного (жилищного) кооператива, член которого еще не выплатил пай полностью, рассмотренны особенности такого обмена.

**Ключевые слова:** жилищно-строительный кооператива, обмен жилья, Примерный устав, член кооператива, пай.

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