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LEGAL PROBLEMS OF RETURN OF SQUATTED LAND PLOTS

One of the kinds of negative consequences of unauthorized occupation of land is its return to those whose rights are violated. Thus, Art. 212 of the Land Code of Ukraine includes three relatively independent parts which, firstly, highlight the binding nature of the event, determine recipients of returned squatted land and emphasize that the return is carried out without reimbursement of expenses incurred by the illegal use of such land; secondly, the law binds return of squatted land with appropriate condition of such plots – “usable condition” and an obligation of offenders (individuals or companies) to bring the relevant plots in condition suitable for use at their own expenses. In this case, the usability is determined by the purpose of the land, its compliance with the projects of land tenure and condition of land before unauthorized occupation; thirdly, provide mandatory legal procedure for the return.

To be logically consistent, return of illegally occupied land can be seen as a commitment of offender to unilaterally return the land to which he has no rights. However, to call a legal return of land restitution is hardly correct even conditionally. Doubtful is attribution of return of squatted land to “land law” responsibility, the existence of which is also debatable.

We know that the person, who committed the unauthorized occupation of

land, did not have and could not have right to land. However, in relation to this person incurred the additional duty established by law to return plot of land in good condition to a person whose rights have been violated. Most likely return of land is one of the elements of remedy. The fact that under the law the return of illegally occupied land is carried out by the court decision indicates that the issue is a specific state legal sanction provided by land legislation, the implementation of which is carried out in due course.

It seems that in determining the legal nature of the return of illegally occupied land it is expedient to consider primarily the fact that the offender, who illegally occupied land, did not and could not have the rights to it. That is why the law deals with return of illegally occupied land, not the termination of ownership or right to use it.

Since by law illegally occupied land plots are returned to their owners or land users, this means the actual restoration of violated rights of land owners or land users. The list of rights of land owners and land users in general form is enshrined in Art. 90 and Art. 95 of the Land Code of Ukraine. The given regulations provide that violated rights of land owners and land users are restored in the manner prescribed by law. Such a procedure is established by Art. 212 of the Land Code of Ukraine. Restoration

of violated land rights is a complex and multifaceted process. It includes not only the restoration of property rights of owner, but also recovery of land as an object of ownership or right to use, and finally restoration of the previous relations that existed before the unauthorized occupation of land.

Return of illegally occupied land to its owner or the user is actually legal consequence in the form of sanctions applied to violators of public order. Return of illegally occupied land must be preceded by its release, for example, from illegally built houses, buildings and facilities, other property and bringing in usable condition. Fact and time of return of illegally

occupied land must always be recorded, for example, in act accordingly drawn up with the participation of the land owner or user. This moment is associated with reimbursement of violated rights of person. Thus, the return of illegally occupied land can be considered as one of the specific measures to eliminate violations of land legislation.

Based on the above, we can conclude that the return of illegally occupied land can be seen as a natural compensation for wrongly acquired illegal use of land. In the case of use of land without title documents should talk about the compensation of such rights under p. 2, Art. 1213 of the Civil Code of Ukraine.