УДК 347.65/.68

POLAND'S INHERITANCE LAW

СПАДКОВЕ ПРАВО ПОЛЬЩІ

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In the event of death, not all individual rights and duties pass to the heirs, but the whole of their complex. The heir cannot accept only a part of the rights, but from others. If the heir has taken some specific right, he is automatically considered to be accepted and all other rights and obligations of the deceased, including those that he was not previously aware of. Therefore, inheritance is a general or universal succession.
Key words: inheritance, event of death, Civil Code, hereditary right, registration of the inheritance, family property.

У разі смерті не всі особисті права та обов'язки передаються спадкоємцям. Спадкоємець не може прийняти лише частину прав, він приймає і обов'язки. Якщо спадкоємець має право спадкування, спадщина автоматично вважається прийнятою, і всі інші права та обов'язки померлого, в тому числі ті, про які раніше він не знав. Тому спадщина є загальною або універсальною.
Ключові слова: спадщина, подія смерті, цивільний кодекс, спадкове право, реєстрація спадщини, сімейне майно.

В случае смерти не все личные права и обязанности передаются наследникам. Наследник не может принять лишь часть прав, он принимает и обязанности. Если наследник имеет право наследования, наследство автоматически считается принятым и все другие права и обязанности умершего, в том числе те, о которых раньше не знал. Поэтому наследование бывает общим или универсальным.
Ключевые слова: наследство, событие смерти, гражданский кодекс, наследственное право, регистрация наследия, семейное имущество.

Introduction. Under inheritance understands the transfer of property and some personal non-property rights and obligations of the deceased citizen (testator) to other persons (heirs) in the established order. Inheritance arises both in the case of the death of a citizen, and in the event of recognition by judicial order of his deceased.

Death ceases only those relationships that are conditioned by the personal qualities of the deceased. This applies, first of all, to personal non-property rights and duties. They, as a rule, cannot be separated from a particular person and transferred to someone else. An example can serve as a citizen under an employment contract, the author – on a publishing and scenario contracts, duties of an alimony nature, on compensation for harm, etc.

In the event of death, not all individual rights and duties pass to the heirs, but the whole of their complex. The heir cannot accept only a part of the rights, but from others. If the heir has taken some specific right, he is automatically considered to be accepted and all other rights and obligations of the deceased, including those that he was not previously aware of. Therefore, inheritance is a general or universal succession.

Universal hereditary succession is deprived, since rights and obligations pass from one person to another without the participation of a third entity.

Inheritance law (or the right of inheritance) use in two senses: objective and subjective. In the objective sense, this is a set of norms regulating the process of transferring the rights and duties of the deceased citizen to other persons. In this capacity, inheritance law becomes a legal institution. In the subjective sense – this is a measure of the possible behavior of a particular person, i.e. The heir as an authorized person has the right to accept the inheritance or to refuse it. All third parties should not interfere with it.

Content. The value of inheritance law is determined by its close connection with the right of ownership of citizens. On the one hand, imposing it is possible to exercise the right to dispose of their property, and on the other – is one of the grounds for the emergence of ownership.

Another our neighbor is Poland, and many Western Ukrainians have relatives there.

The basic laws governing inheritance in Poland are the Civil Code of the Polish People's Republic, the Civil Procedure Code of the Polish People's Republic and the Law on Private International Law.

According to the Polish law, within six months from the moment when the heir became aware that he has the right to receive an inheritance, he must make a declaration of acceptance of the inheritance or a refusal to accept it. If during the specified period the heir did not make such a statement, it is considered unconditional acceptance (with responsibility for debts). In cases where the minor is the heir or if the declaration has not been submitted within six months, it is considered that the inheritance is accepted, but with the limitation of the value of assets (without liability for debts) [1, p. 30].

Inheritance by law. If a person dies without leaving a will, inheritance is carried out in accordance with the provisions of the Civil Code of the Polish People's

Republic. Heirs by law are persons who were with the deceased in close relationship. The heirs of the first stage are children, a spouse. And in this case the share from the hereditary mass of the testator should be not less than ¼.

Inheritance by will. Research centers of public opinion show that only a few Poles (several percent) make a will. But in the case of a will, you should pay attention to some nuances.

Relatives of the deceased have the right to receive a share in the inheritance, depending on the content of the will. The main rule of inheritance law in Poland is freedom in drafting a will. The right to a part of the hereditary mass arises in the case of drafting a will and indicating in it persons who do not belong to the family of the testator [2, p. 49].

The children of the testator (in the case of their death – grandchildren, great-grandchildren (descendants), spouse, parents of the testator, but only if the testator does not have descendants, are entitled to receive part of the hereditary mass, regardless of the content of the will.

Children, spouses and parents of the testator, who would have inherited automatically under the law, are entitled to half of that part of the inheritance to which they would have been entitled in accordance with the law. However, if the recipient is a person unable to support himself (due to disability) or a minor, he is entitled to two thirds of this part.

Taxation. In Poland, the tax may vary depending on the degree of kinship of the persons participating in the transfer of inheritance rights. For heirs of the first stage it is 3–7%, the second – 7–12%, and for all others – 12–20% [3, p. 115].

The hereditary right of some European countries is undergoing a transformation, moreover, the rules governing the issue of inheritance can vary greatly even among neighboring states.

According to the Polish law, the period of acceptance of the inheritance is 6 months from the day when the heir has learned that he is such. If the heir did not have time to report his rights during this period, he has the opportunity to restore the inheritance period through the court, but the basis for this is exclusively valid reasons (for example, a serious illness).

The circle of heirs includes all relatives in a straight line and up to the sixth degree of kinship on the side. The procedure for calling for inheritance is established by law. According to Art. 931 of the Civil Code of Poland, first of all the property is received by children and spouse, and in the absence of those – their descendants of children.

Parents of the testator can get their share if there are no descending relatives. If the deceased has only ascending relatives of distant degrees (second, third, etc.), then they are called to inherit. Next followed by brothers and sisters. If none of the listed is left, the property is inherited by relatives on the lateral line up to the sixth degree of kinship inclusive.

A spouse may inherit at least ¼ of the hereditary mass in the presence of children. He is the only heir only if there are no descending, ascending relatives of the deceased, his brothers and sisters [1, p. 108].

In the absence of all blood relatives of the testator, the property is recognized as a fugitive and transferred to the state. According to the Civil Code of Poland, the inheritance in this case passes to the commune (administrative-territorial unit within the state) at the last residence of the testator. Only when it is impossible to establish this place in Poland or if the testator lived in another country, the property is sent to the State Treasury.

Sufficiently detailed and detailed legal regulation received questions related to inheritance. As a result, hereditary law was separated into an independent legal institution.

In Polish-Lithuanian law, inheritance differed according to the law, the will and on the basis of custom. The law enshrined a general provision according to which children became heirs of their parents' property. True, in Poland, at first the right to inheritance for women was limited only to movable property. Real estate, especially land, passed only to sons. Each of them received an equal share, but since the XIV century. Gentry estates, if there were no sons, were inherited by daughters.

Lithuanian statutes recognized children, brothers, sisters, parents and other blood relatives as heirs by law. The inheritance of paternal and maternal property was different. For example, the Lithuanian Statute of 1588 provided that "inheritance, immovable property, jewelry and property movable only to sons and relatives in arms will pass." So, parental property, including bought, was transferred to the "patrimony" only to sons, and to daughters – mainly only a dowry from the fourth part of any property of the parental and bought [5, p. 98].

As for the maternity property, as immovable in the form of estates, and movable, including cash, gold, silver, clothing and ornaments, horses, wagons, carpets, etc. then all this was distributed in equal parts among the children – both sons and daughters.

The law determined the possibility of disposing of property by means of a will. The freedom of the will extended to movable property and purchased real estate, which was not part of the patrimonial property – patrimony or maternity property. At the same time, minors, monks, sons who were not separated from parents, dependent people, etc. did not have the right to bequeath the property.

Under the conditions of the feudal society, the obligations were not received significantly. Still, Polish and Lithuanian law knew different types of contracts. First, in conditions of subsistence farming, the barter agreement and the gift contract were most often used. With the development of exchange and monetary relations, the contract of sale and purchase, first of all movable property, and then immovable, is extended. Already the statutes of the Grand Duchy of Lithuania allowed "all the states of the noble people" to freely dispose of their estates in order to give them up, sell, give, change and write to the church, for debts and give them as security.

The law determined the form and procedure for concluding agreements, set the limitation period (5 or 10 years), the terms for the termination of obligations. Although many issues were resolved here on the basis of customary law. The parties had to conclude all transactions, usually in the presence of witnesses and with the performance of some symbolic acts and rites. It was accepted that the contractors interrupt hands, often exhibited maharich (refreshments).

The guarantee of the fulfillment of the obligation was provided by various means. In some cases, the agreement was affirmed. The pledge was also used. Moreover, as an outpost, lands obtained under conditions of service, as well as posts, could be transferred. Widespread in the XIV – XV centuries. Has acquired a guarantee.

In some cases, the right to adhere to a written form of the contract. This form was mandatory for a loan agreement amounting to more than "ten kopecks of money".

Even more stringent requirements of the law provide for transactions on land. In the event of the sale or donation of parental, maternal, viscose, purchased and otherwise acquired estates, the one who sells or gives them should have made a record, having sealed it with his seal and signature, and moreover it was necessary to invite three or four witnesses of noble origin with their seals. Then this record was recorded in the books of the castle court. During the session of the Zemsky court this record was transferred "from the books of Zemsky castle books". The same record was required when the owner pledged the estate, people, land or lent money [6, p. 30].

Charging the design of an inheritance abroad to an experienced lawyer who practices civil law issues in a particular country of the European Union of interest to you, you act the most rational and, ultimately, the most beneficial for yourself.

The civil and hereditary law of European countries in a number of cases requires such a deep understanding of the mechanisms for its implementation, which makes the services of a specialist attracted by you especially important and, often, irreplaceable.

Not always the heirs know that the responsible and difficult task of finding a trustworthy and, at the same time, highly qualified and experienced performer has a very simple and not requiring excessive effort.

Legacy abroad: Poland

Registration of the inheritance in Poland will happen for you in full accordance with your legitimate property interests and strictly in due time.

Legislation in Poland allows spouses to inherit at least ¼ of the inheritance left in the event of the inheritance of children in the circumstances. Absence of applicants from the composition of descending, ascending branches of kinship, as well as siblings and brothers of the testator allows the spouse to inherit all the property entirely.

We are guaranteed to ensure the successful realization of your right to inherit, which must be formalized and received by you in Poland.

Inheritance in Poland – the transfer of property, rights and related duties of the deceased person (testator) to other persons (heirs). Inheritance to date remains the most common way of transferring property after the death of the testator (deceased). It is considered to be the most "safe" way for someone who disposes of his property in favor of relatives.

Legislation of the RP provides for two options for the transfer of inheritance. This is inheritance by law and by will. As legally correct and according to the Polish legislation it is possible to receive the inheritance we will tell below:

1. Obtain an inheritance in Poland by law – with this opportunity we meet in life much more often than inheritance by will. Heirs by law are persons who are closely related to the deceased, more often those who made up one family with the testator. That is why the heirs of the first stage are children, spouse, parents.

In the presence of children, the spouse inherits at least ¼ of the hereditary mass, he can be the sole heir only if there are no descending testator, his parents, brothers and sisters, but if the spouse and blood relatives of the testator are already absent, who by law are called upon to inheritance, property is recognized as escheated.

The Civil Code of the Republic of Poland specifies that the inheritance in such cases passes to the commune (administrative-territorial unit within the state) at the last place of residence of the testator. Only in cases where it is impossible to establish the last residence of the testator in Poland or the testator lived in another state, the inheritance passes to the State Treasury as a legitimate heir.

Obtain an inheritance in Poland by will – to take advantage of this opportunity in the event of death only by drafting a will [1, p. 200].

According to the legislation of the Republic of Poland, the inheritance under the will can be transferred to the persons specified in the will, by a citizen who has full legal capacity at the time of his commission. It is also very important to remember that this will must be drafted personally by the testator, a testament through a representative in Poland is not allowed.

In order to receive a legacy by will, it is necessary to understand that the document of the will itself can contain orders of only one citizen. This will is a one-sided transaction that determines the rights and obligations after the death of the depositor.

Any person can gain an inheritance in Poland, since the testator has the right to bequeath the property to any person, in any way to determine the heirs' shares in the inheritance, to deprive the inheritance of one, several or all heirs by law, without indicating the reasons for such deprivation.

The fact of inheritance in Poland from several years can be assured from a notary. Avoiding, often, lengthy litigation, but this is possible only if the legal heirs do not have mutual claims to each other regarding their entry into the inheritance rights.

Family-marriage relations and inheritance in Poland are regulated by the Civil Code of the Republic. On the specifics of marriage and the procedure for divorce, you can read in the thematic articles "Conclusion of marriage in Polish law" and "Divorce in Polish". In particular, they consider in detail the cases when one of the spouses is a citizen of the Republic, and the other resides in the country on the basis of a corresponding visa to Poland.

Property relations of spouses may be regulated by law or by marriage contract. In the first case, there are universal rules for assigning spouses' property to a category and its distribution between them in case of divorce, and in the second case, the spouses independently establish such rules.

Legislation of Poland, as in many other European countries, fixes the obligation of the spouses to mutually support each other in marriage. The maintenance of both spouses is carried out at the expense of their earnings, use of their common property, and also if it is necessary to attract a personal one. If the husband and wife do not live together and do not lead a common household, the obligation is maintained only when one of the spouses needs it [6]. The law also provides for the right of the parties to demand the payment of maintenance in the event of divorce. It is possible for a spouse to claim alimony, who is not guilty of maintenance. The amount of alimony must be such that the living standard of the obligated spouse does not deteriorate excessively. The right to alimony is lost upon entering into a new marriage.

Conclusion. Consequently, inheritance and inheritance from time immemorial played a large role in the cultures of different countries and peoples. The concept of inheritance as a kind of universal posthumous succession to all the property of the deceased arose in the history of human society far from immediately.

In primitive societies, the deceased movable property belonging to the deceased was often regarded as ownerless, nobody's, subject to free seizure by anyone. The remnant of this is preserved in Roman law, which proclaimed that the concept of theft is inapplicable to the seizure of hereditary property (rei hereditariae furtum non fit): until it is accepted by the heir, it is still nobody's, and therefore possession of it is not stealing. But already in antiquity the idea arose that the relatives of the deceased should have a pre-emptive right to the property left after it.

In relation to real estate, the attitude from the very beginning was different. The most ancient right was unknown to individual ownership of land, it belonged to communities, families, families, and therefore the death of an individual householder did not mean the onset of mismanagement for the land that he used. The owner (family, clan, community) did not disappear, but only those who had the right to direct use changed.

Inheritance originally emerged only as inheritance by law. The order of inheritance, predetermined by the family system, should not have changed. The idea of the lifelong expression of the will of the owner about the order of inheritance of his property arose gradually. One of the oldest types of posthumous orders was the father's order to divide the family property between children – legal heirs. Another way of such an order was the adoption of the future heir.

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