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INVALID DEEDS

Adoption of the Constitution of Ukraine has led to a new stage in the development of Ukrainian society towards the creation of a sovereign, independent, democratic, social and legal state.

The possibility of free implementation by subjects of civil relations of their rights, enshrined by law, must be consistent with the need not to violate the rights, freedoms and legitimate interests of other persons. According to this, the law simultaneously provides for certain limitations in the conduct of any economic activity. Thus, for the validity of civil law deeds it is necessary that they clearly correspond to the requirements specified in the law, in case of non-compliance, there are grounds for their invalidation.

The Civil Code of Ukraine gives enough attention to the deeds, including the invalid deeds, as well as the consequences that they may cause. At the same time, a significant number of issues remain unresolved. This is confirmed by the imperfection of certain legal norms regulating the relations related to the implementation of such deeds, namely: definition of the grounds for invalidity of the deeds, their consequences, the responsibility of the parties, etc.

According to Art. 11 of the Civil Code of Ukraine one of the grounds for the emergence of civil rights and obligations are contracts and other deeds. Deed is lawful, that is, not prohibited by law, willful action of the subject of

civil legal relations, aimed at establishing, changing or termination of civil rights and obligations.

Invalidity of the deed is conditioned by the presence of defects in its elements:

- defects (illegality) of the content of the deed
- defects (non-compliance) of the form;
- defects of the subject structure;
- defects of will i.e. inconsistency of will.

If the deed corresponds to all the requirements of the law, as well as the requirements put forward by its participants, the question of its legality and invalidity does not arise. It simply causes to legal consequences, that is, certain rights and obligations. If the deed does not meet these requirements in full or partly, then its validity is questioned.

The general rule of insignificance of an agreement is formulated in this way. The deed is considered null and void, if its nullity is directly established by law (Part 2 of Article 215 of the Civil Code of Ukraine). Since the invalidity of such deeds is determined directly in the legal norm, they are considered invalid from the moment of their conclusion, regardless of the filing of the claim and the court's decision i.e. "stillborn". In this case, the recognition of such transaction as invalid by the court is not required.

As practice shows, the parties often perform partially or completely the terms of an invalid deed, for example, transfer the property, perform certain work, render services, pay for it. The commission of such actions on a null and void legal action or its invalidation which was declared by the court, has no legal basis, and thus becomes a sign of unlawfulness.

The application of the assigned legal consequences confirms the fact of the return of the parties to the original state that took place before the commission of the invalid action. In civilian science and judicial practice, the use of such effects is referred to as a two-way restitution.

Another side of the consequences of the invalidity of treaties is that restitution can only be applied when the property transferred under the deed remains in its side. As soon as this property passed over to a third person, we are speaking not about restitution (as a consequence of the invalidity of the deed), but about the vindication of property.

All invalid acts, regardless of the peculiarities of their particular form, have one feature in common - they are contrary to legal norms. The Civil Code of Ukraine always stands in defence of a decent and fair party to the deed and contributes to the realization of its property interests. In accordance with the

provisions of Part 1 of Article 216 of the Civil Code of Ukraine invalid acts do not create legal consequences, except those related to its invalidity.

During the writing of the work it was found that the invalid legal act is - the actions of individuals and legal entities who, although aimed at establishing, changing or terminating civil rights and obligations, but do not create these consequences because of the inconsistency of actions taken to the requirements of the law. That is, invalid acts can not cause the legal consequences, the offensive of which the parties want, but it can cause consequences, the offensive of which the parties did not foresee and did not want.

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