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producers for profit [2, p.137]. In our opinion, such an understanding is broad. The fact is that since business is understood primarily as a business activity, agribusiness can be paraphrased as "agricultural commercial activity".

In my opinion, the use of contractual methods of state support of agriculture is very promising.

First, if the legal regulation is balanced, the use of contractual methods of state support will be much less burden on the state budget.

Second, the use of contractual methods of state support is less dependent on the filling of the treasury and the amount of funds that can be allocated to support agriculture. Contractual state support will fit into the market system as organically as possible in its form and content. In essence, contractual support aims to equalize the more vulnerable legal position of the party to the contract representing the agricultural entity. Third, it leads to the formation of special institutions that will

perform agricultural functions and operate on a permanent basis. This in turn increases the efficiency and availability of such support and translates it into the sphere of economic relations.

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LAND DISPUTES: THE PRACTICE OF THE SUPREME COURT IN ECONOMIC JURISDICTION

Abstract

The article deals with the problems of modern legal science, namely the economic and legal principles of judicial protection of property rights and land use rights.

The author analyzes the current land legislation and case law of the Commercial Court of Cassation of the Supreme Court, the Grand Chamber of the Supreme Court on certain categories of land cases, including the resolution of jurisdictional problems in land disputes.

The article provides proposals for amendments to the economic procedural legislation in order to resolve jurisdictional conflicts that arise when considering land disputes.

Key words: *land dispute, economic jurisdiction, land dispute resolution, legal position, land plot, lease, property*

Problem statement. According to the case law, land disputes are common types of disputes in commercial jurisdiction. And the problem of delimitation of jurisdiction of disputes in the field of land relations is one of the most relevant in judicial practice. Such a jurisdictional problem is related to the wide range of land relations and the wide variety of land disputes that may arise from these relations.

Therefore, in order to create a stable system of judicial regulation of land relations, it is necessary to deepen the legal positions of the courts of cassation on controversial issues that arise in this area.

Along with this, the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Circulation of Agricultural Land" 2552-IX from July 1, 2021 introduces the land market in Ukraine. Undoubtedly, the introduction of the land market from July 1, 2021 will be the basis for increasing the number of land disputes, and therefore the study of the article becomes especially relevant.

Analysis of recent research and publications. The issue of protection of land rights was considered by scholars and practitioners: V. Averyanov, O. Andriyko,

D. Bakhrakh, O. Nedbaylo, V. Kurilo, A. Selivanov and others. At the same time, the case law in resolving land disputes in commercial jurisdiction has been studied insufficiently.

The aims of the article. The purpose of the article is to study land disputes that arise in commercial jurisdiction and analyze the legal positions of the Commercial Court of Cassation and the Supreme Court's Grand Chamber on land disputes to identify key positions formulated during the relevant category of cases.

Main results. The current legislation of Ukraine, in particular the Civil Code of Ukraine [1] and the Land Code of Ukraine [2] define the grounds for protection of the violated right to land.

Part 1 of Article 16 of the Civil Code of Ukraine stipulates that every person has the right to go to court to protect their personal non-property or property rights and interests [1, Art. 16].

According to paragraph 10 of part 2 of Article 16 of the Civil Code of Ukraine one of the ways to protect civil rights and interests is to declare illegal decisions,

actions or omissions of public authorities, the Autonomous Republic of Crimea or local government, their officials and officials [1, Art. 16].

According to Part 1 of Article 393 of the Civil Code of Ukraine, a legal act of a state authority, authority of the Autonomous Republic of Crimea or local government that does not comply with the law and violates the rights of the owner, at the suit of the property owner, is illegal and revoked by the court [1, Art. 16].

Part 2 of Article 152 of the Land Code of Ukraine provides that the land owner or land user may demand the elimination of any violations of his land rights, even if these violations are not related to deprivation of land ownership, and compensation for damages [2, Art. 152].

According to paragraph "d" of Part 3 of Article 152 of the Land Code of Ukraine, the protection of the rights of citizens and legal entities to land is carried out by invalidating the decisions of executive authorities or local governments [2, Art. 152].

Therefore, the preconditions for judicial protection of the right of ownership or the right to use a land plot are the presence of a right of ownership or use of a land plot confirmed by proper and admissible evidence, as well as the fact of violation, non-recognition or contestation of this right.

Thus, in order to ensure the unity of judicial practice regarding the protection of the violated right of a person to use a land plot, there are a number of legal positions of the Supreme Court within the Commercial Court of Cassation. One such category of cases is a dispute over the transfer of the right to lease a land plot to a person who has become the owner of immovable property located on the leased land plot.

After all, according to the third part of Article 334 of the Civil Code of Ukraine, the right of ownership of property under a contract subject to notarization arises from the acquirer from the moment of such certificate or from the moment of entry into force of a court decision recognizing a notarized contract valid. Rights to immovable property, which are subject to state registration, arise from the date of such registration in accordance with the law [1, Art. 334].

Part one of Article 377 of the Civil Code of Ukraine stipulates that a person who has acquired the right of ownership of a residential building (except an apartment building), building or structure, transfers ownership, the right to use the land on which they are located, without changing its purpose in the amount and on the terms established for the previous landowner (land user) [1, Art. 377].

According to the first part of Article 120 of the Civil Code of Ukraine in case of acquisition of ownership of a house, building or structure owned or used by another person, the right of ownership, the right to use the land on which these objects are located is terminated. To a person who has acquired the right of ownership of a house, building or structure located on a land plot owned by another person, the right of ownership of the land plot or its part, on which they are located, passes without changing its purpose [2, Art. 120].

Pursuant to the provisions of Part 3 of Article 7 of the Law of Ukraine "On Land Lease", a person who has

transferred ownership of a dwelling house, building or structure located on a leased land plot also transfers the lease right to this land plot. The contract, which provides for the acquisition of ownership of a house, building or structure, terminates the lease of land in part lease by the previous tenant of the land on which such a house, building or structure is located [3, Art. 7].

Thus, the analysis of the provisions of the above rules indicates that the transfer of ownership of immovable property on the leased land, the right to lease the land on which the property is located passes to the new owner of the property, under the same conditions which were the previous owner.

From the moment of acquisition of ownership of real estate, a person who became the new owner of such property, simultaneously acquires the right to lease the land on which the property is located in connection with the termination of ownership and, accordingly, termination of the previous landowner the area on which this property is located, in accordance with part two of Article 120 of the Civil Code of Ukraine. That is, a person who has acquired ownership of this property actually becomes a tenant of the land on which it is located in the same amount and on the same terms as the previous owner. In this case, the Lease Agreement of this land plot in relation to its previous user (previous real estate owner) is terminated by the relevant agreement, on the basis of which the new owner acquired ownership of the property located on this land plot, so the Agreement is not subject to termination. This legal conclusion was reached by the Commercial Court of Cassation in case №908/27/18 of 15 January 2019. [4]

At the same time, part 1 of Article 93 and Article 125 of the Land Code of Ukraine stipulate that the right to lease a land plot is a term-based term paid possession and use of a land plot necessary for a lessee to conduct business and other activities. The right to lease land arises from the moment of state registration of this right. Land users are also required to pay rent on time (paragraph "c" of part 1 of Article 96 of this Code) [2, Art. 93, 96, 125].

Acquisition by another person of ownership of a house, building or structure located on a land plot is the basis for termination of the right to use the land plot from the previous land user (paragraph "e" of part 1 of Article 141 of the Land Code of Ukraine) [2, Art. 141].

Therefore, according to the content of these provisions, the emergence of ownership of a house, building, structure is not a basis for the emergence of the right to lease the land on which they are located and which was not leased to the previous owner. The right to lease land arises on the basis of the relevant agreement from the moment of state registration of this right. However, given the provisions of Part 2 of Article 120 of the Civil Code of Ukraine, it is not considered an offense for the owner of a house, building, construction to have a registered lease of land that has another owner and on which this real estate is located. Such a legal position is set out in the decision of the Commercial Court of Cassation in case №922 / 595/18 of January 29, 2019 [5].

In addition, according to case law, there are a large number of lawsuits to recover from the owners of

immovable property unpaid rent for the use of land on which the property is located, without proper registration of the relevant right.

Thus, in accordance with paragraph 2 of the second part of Article 22 of the Civil Code of Ukraine, losses are income that a person could actually receive in normal circumstances, if his right was not violated (lost profits) [1, Art. 22].

Part one of Article 1166 of the Civil Code of Ukraine establishes that damage caused to the property of a natural or legal person is reimbursed in full by the person who caused it [1, Art. 1166].

In accordance with paragraph "d" of the first part of Article 156 of the Land Code of Ukraine, landowners are compensated for losses caused by non-receipt of income during the temporary non-use of land [2, Art. 152].

Therefore, according to the content of the above-mentioned norms of the current legislation, compensation for damage is a liability for violation of the rights of the land owner.

However, in accordance with Article 206 of the Land Code of Ukraine, land use in Ukraine is paid. The object of payment for land is a land plot. Payment for land is made in accordance with the law [2, Art. 206].

Payment for land is a national tax, which is collected in the form of land tax and rent for land plots of state and communal property (subparagraph 14.1.147 of paragraph 14.1 of Article 14 of the Tax Code of Ukraine) [6, Art. 14].

Land tax is a mandatory payment levied on owners of land and land shares (units), as well as permanent land users, and rent for land plots of state and communal property - a mandatory payment that the tenant makes to the landlord for the use of land. (sub-items 14.1.72, 14.1.136 of item 14.1 of Article 14 of the Tax Code of Ukraine) [6, Art. 14].

According to the provisions of Chapters 82 and 83 of the Civil Code of Ukraine for tort obligations arising from property damage, is characterized, in particular, a decrease in the victim's property, and for conditional - an increase in property of the purchaser without sufficient legal grounds. The guilt of the person who caused the damage is a mandatory element of liability in tortious obligations. Instead, for conditional obligations, wine does not matter, but the fact of illegal acquisition (preservation) of property by one person at the expense of another is important [1, Art. 1172].

According to paragraph 3 of the first part of Article 13 of the Law of Ukraine "On Land Valuation" normative monetary valuation of land is carried out in the case of determining the amount of rent for land, in particular, communal property [7, Art. thirteen].

In addition, according to paragraph 1 of paragraph 289.1 of the Tax Code of Ukraine to determine the amount of rent used normative monetary valuation of land [6, Art. 289].

Data on the normative monetary valuation of a separate land plot are issued as an extract from the technical documentation on the normative monetary valuation of a land plot (part two of Article 20 of the Law of Ukraine "On Land Valuation") [7, Art. 20].

In view of these instructions, the Commercial Court of Cassation in its decision of 14 February 2019 in the case № 922/1019/18 concluded that the determination of the amount of rent for land is based on the normative monetary assessment, including the recovery of unreasonably saved funds in the amount of rent [8].

Therefore, in the presence of a dispute over the recovery of the amount of rent as unreasonably saved funds, the specified amount of funds is determined according to the normative monetary assessment.

Another problem that arises when considering land disputes in courts is jurisdictional conflicts, which also concern land disputes that arise in commercial litigation. We believe that determining the correct jurisdiction of any dispute is important.

The European Court of Human Rights (ECtHR), in its judgment of 29 April 1988 in *Belilos v. Switzerland*, pointed out that everyone has the right to a court established by law, ie the relevant body must have the power to decide belonging to its competence, based on the principle of the rule of law [10].

After analyzing the legal conclusions of the Grand Chamber of the Supreme Court, we can conclude that there are a large number of land disputes with jurisdictional conflicts concerning the invalidation or revocation of decisions of public authorities and local governments.

Thus, in accordance with Part 6 of Article 302 of the Commercial Procedural Code of Ukraine, the case is subject to the Grand Chamber of the Supreme Court, when the party appeals against the court decision on the grounds of violation of substantive or subjective jurisdiction, unless:

1) the party to the case who is appealing the court decision, participated in the consideration of the case in the courts of first or appellate instance and did not allege a violation of the rules of substantive or subjective jurisdiction;

2) the party appealing the judgment did not substantiate the court's violation of the rules of substantive or subjective jurisdiction by the presence of court decisions of the Supreme Court in the panel of judges (chamber, joint chamber) of another court of cassation in a case with similar grounds and subject matter similar legal relations;

3) The Grand Chamber of the Supreme Court has already set out in its decision an opinion on the issue of substantive or subjective jurisdiction of the dispute in such legal relations [9, Art. 302].

In accordance with parts 1.2 of Article 45 of the Law of Ukraine "On the Judiciary and the Status of Judges", the Grand Chamber of the Supreme Court is a permanent collegial body of the Supreme Court, which consists of twenty-one judges of the Supreme Court. Grand Chamber of the Supreme Court:

1) in cases specified by law, reviews court decisions in cassation in order to ensure uniform application of the law by courts;

2) acts as a court of appellate instance in cases considered by the Supreme Court as a court of first instance;

3) analyzes judicial statistics and studies judicial practice, generalizes judicial practice;

4) exercises other powers defined by law [11, Art. 45].

We consider that it is necessary to analyze several legal positions of the Grand Chamber of the Supreme Court concerning land disputes with jurisdictional conflicts in terms of invalidation or cancellation of decisions of public authorities and local governments.

Thus, Article 12 of the Land Code of Ukraine stipulates that the powers of city councils in the field of land relations on the territory of settlements include: disposal of lands of territorial communities; transfer of communal land plots to the ownership of citizens and legal entities in accordance with this Code; granting land plots for use from communal lands in accordance with this Code; withdrawal of land plots from communal lands in accordance with this Code; purchase of land plots for public needs of the respective territorial communities of cities; organization of land management; resolution of other issues in the field of land relations in accordance with the law [2, Art. 12].

Part one of Article 122 of the Land Code of Ukraine stipulates that village, settlement, city councils transfer land plots to the ownership or use of communal lands of the respective territorial communities for all needs [2, Art. 122].

According to the rules of the first part of Article 123 of the Land Code of Ukraine, the provision of communal land plots for use is carried out, in particular, by local governments on the basis of land management projects for allotment of land plots in cases provided by law or on the basis of technical land management documentation. (on the ground). Thus development of such documentation is carried out on the basis of the permission given by local government body, according to the powers provided by article 122 of this Code [2, Art. 123].

A person interested in obtaining a land plot from state or communal lands under a land management project for its allocation shall apply for a permit for its development to the relevant executive body or local self-government body, which in accordance with the powers specified in Article 122 of this Code, transfer ownership or use of such land (part two of article 123 of the Civil Code of Ukraine) [2, Art. 123].

The relevant executive body or local government within their powers within a month considers the application and gives permission to develop a land management project for the allocation of land or provides a reasoned refusal to grant it (part three of Article 123 of the Civil Code of Ukraine) [2, Art. 123].

Within two weeks from the date of receipt of the land management project for allotment of land, and in case of mandatory state examination of land management documentation in accordance with the law - after receiving a positive conclusion of such examination, the relevant executive authority or local government decides to provide land in use (part six of Article 123 of the Civil Code of Ukraine) [2, Art. 123].

Granting a land plot registered in the State Land Cadastre in accordance with the Law of Ukraine "On the State Land Cadastre", the ownership of which is

registered in the State Register of Real Property Rights, without changing its boundaries and purpose is carried out without land management documentation (part one of Article 123 of the Civil Code of Ukraine) [2, Art. 123].

Provision of land for use in other cases is carried out on the basis of technical documentation on land management to establish the boundaries of the land in kind (on the ground). The development of such documentation is carried out on the basis of a permit issued, in particular, by an executive body or local government body in accordance with the powers specified in Article 122 of this Code, except when a person interested in obtaining land for use acquires the right to order such documentation. without granting such permission (paragraphs 3-5 of the first part of Article 123 of the Civil Code of Ukraine) [2, Art. 123].

According to paragraph 12 of Article 186 of the Civil Code of Ukraine technical documentation on land management for the division and consolidation of land is agreed: if the division, association of land is carried out by its user - the owner of land, and for land of state or communal property - the authorities, the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, local self-government bodies authorized to dispose of land plots in accordance with the powers specified in Article 122 of this Code; in case of division, association of the land plot, which is in pledge, - by the pledgee; in case of division, association by the owner of the land plot in use - by the land user. Technical documentation on land management for the division and consolidation of land is approved by the customer [2, Art. 186].

According to paragraph 14 of the above article, technical documentation on land management to establish (restore) the boundaries of land in kind (on the ground) is not subject to approval and approval: the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea to the powers specified in Article 122 of this Code, if the land is in state or communal ownership; the owner of the land, if the land is privately owned [2, Art. 186].

Thus, according to the provisions of the above legislation, the association of land is the process of creating a land as a single object of existing land, which are already objects of civil law.

According to paragraph 1 of the second part of Article 17 of the Code of Administrative Procedure of Ukraine, the jurisdiction of administrative courts extends to disputes of individuals or legal entities with the subject of authority to appeal its decisions (regulations or legal acts of individual action), actions or omissions. Used in this procedural rule, the term "subject of power" means a public authority, local government, their official or official, another entity in the exercise of their administrative functions on the basis of law, including the performance of delegated powers (paragraph 7 of the first part of Article 3 of Article 17 of the Code of Administrative Procedure of Ukraine) [12, Art. 17].

Thus, in the decision of June 19, 2018 in case № 922/2383/16 the Grand Chamber of the Supreme Court noted that in determining the jurisdiction of the dispute, the courts must determine whether the dispute is private or public law; whether the dispute arose from the relations regulated by the norms of civil law, whether these relations are connected with the exercise by the parties of civil or other property rights to land plots on the basis of equality; whether there is a dispute regarding the appeal of decisions, actions or omissions of the subject of power in the implementation of its management functions in the field of land relations [13].

In the above-mentioned ruling, the Supreme Court's Grand Fee came to the following conclusion: "Based on the circumstances of the case established by the courts of previous instances, the disputed legal relationship between Atmos LLC and Kharkiv City Council -1 of the Civil Code of Ukraine and provided for use, within their design and provision for use as a single object. In these legal relations, the Kharkiv City Council performs the functions of the owner of land plots, who exercises his will to change the qualitative and quantitative characteristics of its objects and transfer the right to them to other entities, in the presence of their respective counter-will. Given the above, the disputed legal relationship is private law, and the conclusion of the Supreme Economic Court of Ukraine on their public law nature in the case under consideration is erroneous [13].

Based on the legal opinion in the case № 922/2383/16 made by the Grand Chamber of the Supreme Court, it can be argued that land disputes to appeal the decisions of local government belong to the economic jurisdiction, if the relevant contested decision the subject of power performs the functions of land owner plots.

Also, we consider it necessary to analyze some legal positions of the courts of cassation on land disputes involving farms and their founders.

According to the first part of Article 1 of the Law of Ukraine "On Farming" farming is a form of entrepreneurial activity of citizens who have expressed a desire to produce marketable agricultural products, process them and sell them for profit on land owned and / or used , including for rent, for farming, commodity agricultural production, personal farming, in accordance with the law [14, Art. 1].

According to the first part of Article 7 of the Law of Ukraine "On Farming" the provision of land of state and communal ownership in the ownership or use for farming is carried out in the manner prescribed by the Land Code of Ukraine [14, Art. 7].

The farm is subject to state registration in the manner prescribed by law for state registration of legal entities and natural persons - entrepreneurs, provided the acquisition of a citizen of Ukraine or several citizens of Ukraine who have expressed a desire to create a farm, ownership or use of land (Article 8 of the Law of Ukraine "About farming ") [14, Art. 8].

Thus, a citizen has the right to establish a farm after the registration of the right of use or ownership of land with a purpose for farming.

Examining the courts' compliance with the rules of procedural law on subjective jurisdiction, the Grand Chamber of the Supreme Court in its decision of 20 June 2018 case № 317/2520/15-П drew attention to the fact that the defendant was leased under orders № 1697 and № 174 for farming, the land was actually transferred to him for use by his farm "SWAM". That is, the land tenant was replaced: the rights and obligations of the tenant under the land lease agreement were transferred to the farm, and therefore the parties to the dispute are legal entities. According to Articles 1, 5, 7, 8 and 12 of the Law of Ukraine "On Farming" after concluding a lease of land for farming and state registration of such a farm, the duties of the lessee of this land are performed by the farm, not the citizen, to which it was provided [15].

In view of this, the Grand Chamber of the Supreme Court in its decision of June 20, 2018, case № 317/2520/15-тs concluded that in this case the dispute is related to the lease of land to an existing farm without leasing an additional land plot for farming to its founder and further transfer of this plot to the use of farm "SWAM". Therefore, disputes between legal entities, in particular public authorities and local governments, with duly registered farms should be considered according to the rules of commercial litigation [15].

We consider it necessary to investigate another legal opinion of the Grand Chamber of the Supreme Court in case №368 / 54/17, the subject of which is the right of lifelong inheritable ownership of land of the founder of the farm on the basis of a state act.

Thus, according to Article 84 of the Civil Code of Ukraine, all lands of Ukraine are in state ownership, except for lands of communal and private ownership [2, Art. 84].

According to Article 22 of the Land Code of Ukraine, agricultural lands are lands provided for agricultural production, agricultural research and educational activities, location of relevant production infrastructure, including infrastructure of wholesale markets for agricultural products, or intended for these purposes [2, Art. 22].

According to paragraph "a" of Part 3 of Article 22 of the Land Code of Ukraine, agricultural lands are transferred to the ownership and provided for use to citizens - for personal farming, gardening, horticulture, haymaking and cattle grazing, commercial agricultural production, farming [2, Art. 22].

Article 31 of the Land Code of Ukraine stipulates that the lands of a farm may consist of: a land plot owned by the farm as a legal entity; land plots belonging to citizens - members of the farm on the right of private property; land used by the farm on lease [2, Art. 31].

Article 23 of the Law of Ukraine "On Farming" provides that the inheritance of the farm (integral property complex or part thereof) is carried out in accordance with the law [14, Art. 23].

In addition, the Law of Ukraine "On Farming" and the Land Code of Ukraine do not contain such a definition or right as lifelong inheritable possession.

According to Part 1 of Article 92 of the Civil Code of Ukraine, the right of permanent use of land was

defined as the right to own and use land that is in state or communal ownership, without a fixed term [2, Art. 92].

According to Part 2 of Article 407 of the Civil Code of Ukraine, the right to use someone else's land for agricultural purposes (emphyteusis) may be alienated and transferred by inheritance [1, Art. 407].

According to Article 1225 of the Civil Code of Ukraine, the right of ownership of land passes to the heirs according to the general rules of inheritance [1, Art. 1225].

In addition, in accordance with Articles 6, 50 of the Civil Code of Ukraine on December 18, 1990 № 561-XII (as amended at the time of its adoption) in lifelong inheritable possession of land is given to citizens of the Ukrainian SSR for farming (farming). Citizens of the Ukrainian SSR who have expressed a desire to run a peasant (farmer) farm, based mainly on personal labor and the work of their families, are given at their request in lifelong inherited possession or lease of land, including homesteads [16, Art. 6.50].

Also, paragraph 6 of the Land Code of Ukraine stipulates that citizens and legal entities that have permanent use of land, but under this Code can not have them on such a right, must by January 1, 2008 in the prescribed manner to re-register ownership or lease on them [2, Art. 6].

The Decision of the Constitutional Court of Ukraine of 22 September 2005 №5-rp (case on permanent use of land plots) states that the Land Code of the Ukrainian SSR of 18 December 1990 regulated such a form of land ownership as lifelong inheritable possession. The Land Code of Ukraine, as amended on March 13, 1992, enshrined the right of citizens to collectively and privately own land (in particular, the right of citizens to receive land plots free of charge for agriculture, personal subsidiary farming, etc. (Article 6). This indicates that along with the introduction of private ownership of land, citizens were given the opportunity to continue to use land on the right of permanent (indefinite) use, lease, lifelong inheritance or temporary use. Thus in any case both automatic change of titles of the right to the earth, and any restriction of the right of use of the ground area in connection with non-registration of the legal title was excluded [17].

The Constitutional Court of Ukraine considered that the establishment of the obligation of citizens to re-register land plots in permanent use for the right of ownership or lease right before January 1, 2008, requires regulation by a clear mechanism of exercising this right in accordance with Article 14, part 2 of Article 41 of the Constitution of Ukraine. Due to the lack of a relevant mechanism for re-registration defined by law, citizens are unable to meet the requirements of paragraph 6 of the Transitional Provisions of the Code within the prescribed period, as evidenced by the repeated extension of this period by the Verkhovna Rada of Ukraine. The basis for the emergence of the right to land is the relevant legal fact [17].

The Constitutional Court of Ukraine has declared the following provisions to be unconstitutional:

- paragraph 6 of Section X "Transitional Provisions" of the Civil Code of Ukraine on the obligation to re-register the right of permanent use of land for ownership or lease without appropriate legislative, organizational and financial support;

- paragraph 6 of the Resolution of the Verkhovna Rada of Ukraine "On Land Reform" of December 18, 1990 № 563-XII with subsequent changes in part regarding the loss of citizens, enterprises, institutions and organizations after the expiration of ownership or land use rights previously granted to them land [17].

In its judgment of 28 October 1999 in *Brumarescu v. Romania*, the ECtHR noted that one of the fundamental aspects of the rule of law was the principle of legal certainty, which required, inter alia, that their decisions should not be called into question by the courts. [18].

Also, the ECtHR in its decision of April 11, 2013 in the case of *Verentsov v. Ukraine* noted that the wording of laws is not always clear. Therefore, their interpretation and application depends on practice. And the role of court proceedings is precisely to get rid of such interpretative doubts, taking into account changes in everyday practice [19].

In accordance with Article 1218 of the Civil Code of Ukraine, the inheritance includes all rights and obligations that belonged to the testator at the time of opening the inheritance and did not cease as a result of his death, except for rights and obligations inextricably linked to the testator, in particular : 1) personal intangible rights; 2) the right to participate in associations and the right of membership in associations of citizens, unless otherwise provided by law or their constituent documents; 3) the right to compensation for damage caused by injury or other damage to health; 4) the right to alimony, pension, assistance or other payments established by law; 5) the rights and obligations of a person as a creditor or debtor, provided by Article 608 of the Civil Code of Ukraine [1, Art. 1218].

Thus according to part 2 of article 395 of the Civil Code of Ukraine the law can establish other real rights to another's property [1, Art. 395].

In addition, according to Article 396 of the Civil Code of Ukraine, a person who has a real right to another's property has the right to protection of this right, including from the owner of the property, in accordance with the provisions of Chapter 29 of this Code [1, Art. 396].

Taking into account the above rules of law, the Grand Chamber of the Supreme Court in its decision of 20 November 2019 in case №368/54/17 concluded that the right of lifelong use of land can be recognized as inherited, as the right of lifelong inherited ownership of land to those rights that can be inherited [20].

Conclusions. Based on the study, we summarize that the Commercial Court of Cassation of the Supreme Court and the Grand Chamber of the Supreme Court consider a large number of land disputes in commercial jurisdiction and introduce such legal positions that will reduce the total number of appeals to court.

We believe that forming legal positions, the courts of cassation proceed from certain general criteria

formed in the process of resolving land disputes and follow the rules according to which the court decision must finally resolve the dispute on the merits and protect the violated right or interest.

According to case law, a large number of land disputes are based on gaps in legislation and the possibility of ambiguous interpretation of legal norms. At present, it can be argued that the practice of the Court of Cassation will certainly reduce the number of new land disputes, as the legal positions of the courts of cassation in most cases solve an exclusive legal problem, ensure the development of law and form a single law enforcement practice.

In addition, it should be noted that the jurisdictional war in litigation arising from land relations can be resolved by making legislative changes to the procedural codes.

Given the above, we propose to amend the Code of Civil Procedure of Ukraine and provide that commercial courts have jurisdiction over disputes, in particular, to protect property rights or other property rights to land, appeal actions or omissions, invalidate and revoke decisions of local governments and public authorities, violating land rights.

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