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HOUSING PROVISION

AND POLICY DEVELOPMENT STRATEGIES IN THE KYRGYZ REPUBLIC AND THE REPUBLIC OF KAZAKHSTAN: LEGAL MECHANISMS IMPLEMENTATION

ESTRATEGIAS DE PROVISIÓN DE VIVIENDA Y DESARROLLO DE POLÍTICAS EN LA REPÚBLICA KIRGUISA Y LA REPÚBLICA DE KAZAJSTÁN: APLICACIÓN DE MECANISMOS JURÍDICOS

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ABSTRACT

This article explores the challenges and strategies associated with providing housing for citizens in the Kyrgyz Republic and the Republic of Kazakhstan while also examining the mechanisms underlying the sustainable reproduction of the housing stock. Emphasizing the importance of aligning housing policies with legal frameworks, this article discusses the implementation of housing policy development strategies. The study analyses existing and prospective housing programs, highlighting their role in addressing housing needs and promoting social welfare. By delving into the complexities of housing provision and policy development, this article contributes to a deeper understanding of the dynamics shaping housing strategies in these Central Asian nations.

Keywords: Legal Framework, Sustainable development, Housing programs.

RESUMEN

Este artículo explora los retos y estrategias asociados a la provisión de vivienda a los ciudadanos de la República Kirguisa y la República de Kazajstán, al tiempo que examina los mecanismos subyacentes a la reproducción sostenible del parque de viviendas. Haciendo hincapié en la importancia de alinear las políticas de vivienda con los marcos jurídicos, este artículo analiza la aplicación de las estrategias de desarrollo de la política de vivienda. El estudio analiza los programas de vivienda existentes y futuros, destacando su papel a la hora de abordar las necesidades de vivienda y promover el bienestar social. Al ahondar en las complejidades de la provisión de vivienda y el desarrollo de políticas, este artículo contribuye a una comprensión más profunda de la dinámica que da forma a las estrategias de vivienda en estas naciones de Asia Central.

Palabras clave: Marco jurídico, Desarrollo sostenible, Programas de vivienda.

INTRODUCTION

Before delving into the issues of regulating housing construction, it is essential to determine the forms of ownership in this area, namely, identifying the type of ownership and the rights of citizens to own housing. According to the Constitution of the Kyrgyz Republic, “everyone has the right to the inviolability of their home and other property owned or held by them. No one can enter the home and other property against the will of the person in whose possession they are” (President of the Kyrgyz Republic, 2021).

This principle is also reflected in the Constitution of the Republic of Kazakhstan:

The dwelling is inviolable. Deprivation of a dwelling is allowed only by a court decision. Entry into a dwelling, inspection, and search are allowed only in cases and in the manner established by law. 2. Conditions are created in the Republic of Kazakhstan to provide citizens with housing. Housing is provided to the categories of citizens specified in the law, in need of housing, for an affordable fee from state housing funds following the norms established by law. (Parliament of the Republic of Kazakhstan, 1995).

Before this norm becomes effective, citizens must acquire property rights to housing.

Private ownership in construction means that the property belongs to a specific individual or legal entity. The owner has the right to use, dispose of, and manage their property at their discretion. They are also responsible for the maintenance and service of their property.

State ownership in construction means that the property belongs to the state or its organs. The state has the right to manage and dispose of this property following legislation. State property can be used for public purposes, such as the construction of roads, schools, and hospitals.

Collective ownership in construction means that the property belongs to a group of people or an organization. Members of the collective have the right to use and manage property according to established rules and procedures. Collective ownership may be common for residential complexes, cooperatives, or other organizations.

Joint ownership in construction means that the property belongs to several individuals, each of whom has a share of the ownership right. Owners can use the property jointly and share responsibility for its maintenance and management.

Joint ownership is often encountered in multiapartment buildings or commercial properties where different real

estate units belong to different owners. Each type of ownership has its own legal and economic characteristics that need to be considered when owning and using property.

MATERIALS AND METHODS

The utilization of experience, development, and implementation of effective methods and mechanisms for housing financing and construction in all directions is the foundation for shaping a modern housing policy strategy and ensuring housing affordability for families with varying income levels.

In most foreign countries, the state actively participates in solving housing issues for its citizens. For instance, the scale of government assistance to citizens in improving their housing conditions, assessed by housing assistance budget expenditures, is approximately 0.3%.

The formulation of housing policy and the development of housing methodology are crucial parts of state policy in both economically developed and developing countries. The methods of implementation, government participation forms, scale, and mechanisms of financial support for citizens depend on numerous factors, including the following:

- The country's level of economic development.
- The standard of living and housing provision for the population.
- The condition of the country's housing stock.
- The scale of development of mortgage housing loans.
- Conditions for providing mortgage housing loans.
- The state of the housing construction sector.
- Legislative peculiarities regulating the housing sphere.

The experience of foreign countries demonstrates some common approaches to prioritizing state housing policy. When developing a housing policy strategy, its objectives are defined, and areas of the housing market requiring government intervention are identified: increasing citizens' housing provision, creating normal living conditions in areas of permanent residence, enhancing housing affordability, and stimulating economic growth through the housing sector.

Thus, housing relationships can be categorized into the following groups:

- Rental relationships based on a lease agreement.
- “Communal relationships,” involving housing and communal services for citizens.

- Housing relationships arise in the management, operation, maintenance, and repair of rented housing.
- Relationships related to the use of service residential premises, dormitories, and specialized residential buildings.
- Relationships arising from the construction and ownership acquisition of a residential house.

Housing relationships in the provision of citizens with residential premises.

RESULTS AND DISCUSSION

The outcome of ensuring housing for the citizens of the Republic of Kazakhstan and the Kyrgyz Republic will be the implementation and adoption of measures to introduce normative legal acts aimed at creating a housing market, forming a broad social layer of homeowners, and overcoming the negative consequences of equalization in providing citizens with housing.

It should be noted that the majority of housing was built 20-30 years ago and requires serious restoration, and many buildings do not meet modern standards of urban planning and healthy living. In civil legal relations, participants act as equal subjects, independent of each other. They determine their rights and responsibilities, which must comply with the law and be within its framework. In administrative legal relations, power and subordination relationships develop between participants, as one of the parties is the authorized body of the state, placing the parties in an unequal position (Sedugin, 1998).

To fully implement housing provisions for citizens, it is necessary to adhere to a set of housing law principles. The principles of law are fundamental principles and crucial provisions of legal regulation of social relations: the constitutional principle of the inviolability of housing is paramount; the principle of inadmissibility of deprivation of housing is of exceptional importance for the realization of stable, secure rights to housing; the principle of accessibility of rental housing for citizens expresses that citizens can exercise their right to housing in various ways; and the principle of inviolability of property owner—***“No one can be deprived of their property except by a court decision. The compulsory elimination of property for state needs in exceptional cases provided by law can be carried out only with equivalent compensation”***(Parliament of the Republic of Kazakhstan, 1995); the principle of targeted use of the housing fund means that residential premises are intended exclusively for the residences of citizens. Industrial production is not allowed in residential buildings. The owner is allowed to place enterprises, organizations, and institutions in his residential premises only after converting

such premises into nonresidential premises; the principle of freedom to choose a place of residence according to the Constitution of the Republic of Kazakhstan means that:

Everyone who is lawfully present in the territory of the Republic of Kazakhstan has the right to freely move through its territory and to freely choose a place of residence, except as provided by law. 2. Everyone has the right to leave the Republic. Citizens of the Republic have the right to return to the Republic without hindrance. (Parliament of the Republic of Kazakhstan, 1995).

No one can be forced to live in a specific territory or locality.

The sources of housing law are laws, government resolutions, and other regulatory legal acts regulating housing relations:

The most fundamental of these are constitutional provisions on the right to housing, serving as the legal basis for the development and improvement of housing legislation and the entire system of housing relations.

Second, in importance is the Law of the Republic of Kazakhstan titled “On Housing Relations” (Parliament of the Republic of Kazakhstan, 1997); this law reflects the legal regulation of various housing and related social relations, which must be specified in the norms and acts of land, civil, administrative, and other legislation. The law established the classification of the housing fund, with private housing funds being listed first, indicating its growing role in the development of the housing sector.

In a certain sequence, the law includes norms regulating housing relations: providing citizens with housing and its use; managing the housing fund; operating the housing fund; creating a housing cooperative (HC) and housing construction cooperative (HCC); granting citizens the right to preferential and nonpreferential provision of housing; and ensuring the violation of housing legislation.

Third, in importance is the Civil Code of the Republic of Kazakhstan, which contains the most important norms related to the exercise of rights to residential premises, according to which the owner owns, uses, and disposes of his residential premises following its purpose.

The second part of the Civil Code of the Republic of Kazakhstan includes chapter 30 “Rental of Housing,” dedicated to the general regulation of housing rental. At the same time, Article 602 specifies that the conditions for providing housing, the rights and obligations of parties, and grounds for amendment and termination of the housing rental agreement in state housing fund houses

are established by housing legislation (Parliament of the Republic of Kazakhstan, 1999).

The other provisions of the Civil Code of the Republic of Kazakhstan are applied when not provided otherwise by housing legislation.

Fourth, in importance are resolutions of the Government of the Republic of Kazakhstan; legal acts of local representative and executive bodies; and ministries and departments that have certain powers in regulating housing relations and do not contradict the legislation of the Republic of Kazakhstan.

The property owner's right to construct housing in the Kyrgyz Republic is based on the use of one's property in construction at their discretion, with the authority to sell, lease, or transfer ownership of their property within the framework of the Housing Code (Article 17 of the Housing Code of the Kyrgyz Republic, hereinafter referred to as the Housing Code KR) (Jogorku Kenesh of the Kyrgyz Republic, 2013). The owner has the right to generate income from the use of their property in construction, such as through renting or selling. The owner is entitled to protect their property in construction from unlawful actions by third parties.

The owner is obligated to ensure the preservation of the property by paying taxes and fees, adhering to usage rules, and addressing defects and hazards. These are the fundamental rights and responsibilities of the property owner in construction, regulating relationships between owners and providing legal protection for each participant in the construction process.

Property ownership in construction is not unconditional and may be restricted by various factors. Let us consider the main limitations and reservations that may exist in property ownership in construction:

Governmental restrictions: The state has the right to impose restrictions on the use and disposal of property in construction in the interest of society. This may include limitations in changing the purpose of a land plot, requirements for preserving the historical or cultural value of an object, and restrictions on construction in environmentally sensitive areas.

Municipal restrictions: Municipalities can also impose restrictions on the use and disposal of property during construction. This may include architectural style and building appearance requirements, restrictions on height or volume of construction, and parking requirements.

Neighbor restrictions: Neighbors may have rights to certain restrictions regarding property in construction. For

example, they may have the right to access common areas or prevent construction that could negatively impact their property or comfort.

Legislative Reservations: Legislation may establish specific reservations about property ownership in construction. For instance, in some cases, the state may have the right to acquire property during construction under certain conditions or for public projects.

It is important to note that restrictions and reservations in property ownership in construction may vary depending on the location and specific conditions. Therefore, before commencing construction, it is necessary to familiarize oneself with relevant laws and regulations and consult with a lawyer or real estate specialist.

Property protection during construction is a crucial aspect of construction that provides legal protection and the ability of property owners to freely dispose of their assets. The following are some key aspects of property protection in construction:

Property Registration: Registering property ownership is a fundamental aspect of property protection, as it establishes legal ownership of the property and protects it from unlawful appropriation or disputes.

Contracts with Contractors: When constructing real estate, it is essential to enter into contracts with contractors, suppliers, and other parties to protect one's interests and ensure that work is carried out according to agreements. Contracts should be legally sound and include all necessary conditions and timelines.

Compliance with Building Standards: Compliance with building norms and rules is a crucial aspect of property protection during construction. Construction must adhere to established norms and requirements to ensure the safety and quality of the built structure. Violating building norms and rules can lead to problems with property protection and the emergence of disputes.

In case of the violation of property rights during construction, the owner has the right to seek legal recourse to protect his or her interests. Legal proceedings can help restore violated rights and obtain compensation for damage. It is important to seek assistance from a qualified lawyer for professional help in legal proceedings.

Overall, property protection during construction requires individuals to adhere to legal norms, enter into contracts, comply with building standards, and be prepared to resort to legal action in case of rights violations. These measures help ensure legal protection and the preservation of property during construction.

According to Article 15 of the Housing Code of the Kyrgyz Republic, citizens, as well as legal entities, have the right to own residential premises. The number of residential premises owned by citizens and legal entities is not limited. Local self-government bodies have the right to own residential premises under municipal ownership and provide them to citizens following the provisions of this code and other regulatory legal acts. State bodies possess, use, and dispose of residential premises owned by the state following the conditions and procedures established by legislation. State bodies provide residential premises to citizens of the Kyrgyz Republic in the manner prescribed by this Code and other regulatory legal acts.

Acquiring a personal home, according to surveys, is one of the most prioritized life goals for many citizens. However, not everyone has the means (economic stability) to outright purchase through full payment. For this segment of the population, the state must recognize the need to provide housing, but it is essential to first acknowledge citizens in need of improved living conditions. Housing construction plays a crucial role in the implementation of a complex set of socioeconomic development measures.

According to Article 39 of the Housing Code of the Kyrgyz Republic, citizens in need of improved living conditions are recognized as follows:

1. Those with living space per family member below the level were determined by the decision of the relevant authorized state body or local self-government representative, taking into account housing adequacy in the respective locality.
2. Residents in dwellings that do not meet established sanitary and technical requirements.
3. Individuals without property ownership, with a family member or close relative living with them, lacking residential space and residing in the territory of the administrative-territorial unit for at least three years in cities of republican subordination and other areas for at least one year.
4. Individuals without ownership of a land plot previously granted for individual housing construction in the settlement where they reside.
5. Residents of communal apartments with family members suffer from severe forms of certain chronic diseases, preventing cohabitation in one apartment.
6. Residents in dormitories, excluding seasonal and temporary workers, as well as citizens settling for educational purposes.
7. Individuals who have not engaged in civil legal actions in the last five years aimed at worsening their

housing conditions, such as alienating owned residential spaces.

In addition to the need for housing improvement, there are socially vulnerable segments of the population that require special attention regarding the distribution of state-owned property. This includes the provision of mortgage financing under favorable conditions by state authorities and local self-government bodies. Article 69 of the Housing Code of the Kyrgyz Republic identifies individuals in need of social support as follows: citizens (adults and children) with limited health capabilities; orphans and children left without parental care; elderly individuals living alone; citizens suffering from incurable diseases and those with AIDS, the list of which is determined by the government; and individuals without a fixed place of residence.

The state's socioeconomic policy comprises a set of interconnected measures implemented by authorities in legislative, administrative, and economic spheres. These measures are executed with the most effective use of available resources to address developmental disparities within the state, meet the essential needs of the population, and enhance overall well-being.

The challenges faced by the construction industry in Kyrgyzstan and Kazakhstan are similar and significantly impact the socioeconomic development of republics concerning housing provision for the population. The successful operation of the CON sector is crucial for economic stabilization. Achieving the necessary housing construction volumes is possible only through the application of industrial methods such as large-panel house construction (LPHC), permanent formwork structures, and prefabricated frame construction. The use of industrial construction methods can reduce housing costs and construction timelines (Nagaspaeva, 2005; Viljoen, 2019; Kulundu & Muller, 2020; Fasii et al., 2021).

In this regard, discussions in the housing sector should focus on the following directions:

Actively leveraging the experience of countries with developed market economies, where significant expertise in solving housing problems has accumulated. Examples include Turkey, Belarus, Russia, Germany, the United Arab Emirates, and others. Some of these countries are already assisting in this area. For instance, to stimulate construction, certain foreign firms benefit from conditions such as exemptions from value-added taxes (VATs) for construction companies, the free provision of land plots, fixed construction material costs, fixed construction company margins (not exceeding 5%), and equity construction through state construction companies.

Housing construction can be developed through population funds by housing and construction cooperatives and equity construction.

State participation in housing construction through providing preferential loans to the population.

The banking sector is actively involved in stimulating affordable housing construction projects, particularly in implementing projects related to the production of innovative building materials, allowing a significant reduction in housing construction costs.

Establishing market mechanisms for renting and refinancing loans in the housing rental market. Private companies are expected to build rental housing under the following conditions: free provision of land plots and a return on investment of 10% per annum.

Implementing new technologies in the construction industry and the production of building materials.

Housing policy is closely linked to government support, involving overseeing construction financed by state funds (planning, tendering, control, and acceptance); licensing, regulation, and approval of construction standards; providing land plots to developers; offering mechanisms and financial instruments to citizens with low incomes; designing, constructing, and selling small-sized economy-class housing; providing mortgage housing loans at rates below market rates through special funds; providing state insurance of credit risk in mortgage housing loans; providing benefits to vulnerable groups such as large families and single parents; providing state insurance of credit risk in mortgage housing loans (mortgage insurance); and ensuring the benefit of tenants, primarily in terms of industrial heat supply and energy modernization of housing, reducing instances of deception in housing rental.

CONCLUSIONS

In conclusion, property construction is an essential concept that defines the rights and responsibilities of the owner of a property. Various types of properties exist in construction, each with its own characteristics and limitations. The owner has the right to dispose of their property; however, certain restrictions and reservations may be imposed on ownership. It is important to protect one's property during construction to ensure its preservation and inviolability. Understanding the essence of the property and its specifics in construction will help individuals navigate this field successfully.

Residential construction is characterized by a growing trend. Over the last decade, residential construction has seen a significant increase in the volume of newly

introduced housing units, with individual housing construction playing a crucial role. However, the growth rate of this market has not stabilized.

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