

Regulation of Trust Management of Property

Topildiev Bakhromjon Rakhimjonovich,
Professor of the "Civil Law" department of Tashkent
University of Law, Doctor of Legal Sciences



Abstract

A Property Trust Management Agreement is a legally binding document that outlines the terms and conditions governing the relationship between a property owner (trustor) and a designated trustee responsible for managing and overseeing the trust property. This agreement typically covers various aspects, including property maintenance, leasing, financial management, and the distribution of income or proceeds. It serves as a crucial tool in establishing clear guidelines and responsibilities to ensure the effective and transparent management of trust assets.

Keywords: Property Trust Management Agreement, Trustor, Trustee, Property Management, Financial Management, Trust Assets, Conflict Resolution, Duration of Agreement, Confidentiality, Responsibilities and Duties.

Introduction

One of the main goals of the reforms implemented in our country is to create new economic relations based on the laws of the market economy and to create a legislative base aimed at their consistent legal regulation.

To date, a number of new economic and legal mechanisms have been created in our republic in harmony with the laws of the market, which are aimed at developing entrepreneurship in the country, protecting the rights and freedoms of citizens, and legally guaranteeing the implementation of the rights of subjects. This situation was especially related to the introduction of economic and legal relations in our republic, which should be implemented in the conditions of developed market relations. In this regard, the Civil Code of the Republic of Uzbekistan introduced a number of new contracts specific to the conditions of developed market relations. This ensured the introduction of new legal constructions aimed at economic development, protection of investors' rights and support of entrepreneurship. One of such contractual and legal constructions is the property trust agreement.

The institution of reliable property management is one of the new civil-legal relations that have started to be implemented in our country based on the laws of market relations. The essence of this legal institution is determined primarily by protecting the interests of owners and expanding the possibility of realizing their property rights. After all, through the reliable management of the property, the owner exercises his property rights without being alienated from his property and benefits from it.

It is known that the movement of property in civil circulation is carried out through contracts in the conditions of market relations. In the movement of property in the civil process, along with

sale, lease, pledge, deposit, which are considered traditional civil-legal contracts, new contracts are also implemented in the conditions of market relations. Such contracts can include rent, concession, lease, property trust, complex business license (franchising) and others.

Each of these contracts is of particular importance in civil transactions, and covers aspects such as the civil transaction of property, which is considered the main object of civil-legal relations, and the rights and obligations of the participants of this transaction regarding the movement of property. Among these contracts, the property trust management contract has a special place. Property trust management is a relatively new contract in the civil law of the Republic of Uzbekistan. After all, in 1963, although during the former Union, cases similar to property trust management relations¹ were regulated by civil law, due to the absence of private ownership and the formation of a class of large owners, property trust management relations did not exist, and there was no need for a contract establishing these relations.

The widespread attention to private ownership and the formation of a class of private owners led to the creation of the property trust management contract, as well as other civil law contracts (rent, franchising, etc.). Now, along with other civil legal contracts for property management, use and ownership (lease, loan, rent, deposit, operational management, management, etc.), trust management of property is also a requirement for civil law subjects to exercise their property rights. gave wide opportunities.

It is known that civil law as a field of law is based on such principles as subjects are given wide freedom, arbitrary interference in private affairs is not allowed, dispositive orientation², free movement of goods, services and financial funds in the territory of the Republic of Uzbekistan,³ and subjects are allowed³ to manage and use their own property. provides the right to move based on their wishes and freedoms⁴. In this sense, transfer of property to trust management also implies management of property to a third party based on the will of the owner or an authorized state body or a person represented by the owner, i.e. receiving income by using the property in commercial transactions.

In accordance with Article 849 of the FC, one party (the founder of the management) entrusts the property to the other party (the trustee) under the trust management contract for a certain period of time, and the other party transfers this property to the founder of the management or the person designated by him (the beneficiary).) undertakes to manage in their interests.

It is clear from the definition of the contract that one party (the trustee) provides the service of "management" to the other party (the founder). After all, the provision of services is also the subject of a contract as a specific object of civil law.⁵

¹ For example, missing lost citizen's property management, adult not yet, for circulation incompetent property of individuals manage and so on.

² Zakirov I. Citizenship of the right main principles about _ / / Citizenship of legislation development and problems on the subject materials of scientific and practical conference collection. - Toshkent : TDYul, 2005.-252 p. ; Mukhammadiev A.A. Market relations conditions citizenship the right principles action ekshi. Jurid.fan.nomz.diss ... Autoref. -Toshkent :2006.-11-12 p.

³ Akhmadjonov B. Goods, services and financial of funds free in action to be principle. / / Citizenship of legislation development and problems on the subject materials of scientific and practical conference collection. -Toshkent :TDYul, 2005.-265 p.

⁴ Rahmankulov H. and others. Private property of objects legal status. - Tashkent : 2007.-26-27 p.

⁵ Saidgazieva N.Sh. To the population service show in the field of consumers the right protection to do. - Tashkent : TDYul, 2005.-19 p.; Dostov U.N. Tourism service legal in order to be placed. - Toshkent : TDYul, 2004.-14 p.

From a theoretical point of view, it is possible to distinguish the following specific features of trust management relations:

1. The relationship of trust management of property is an obligation-legal relationship according to its content and essence .
2. Unlike most civil law contracts, the foundations of the relationship of trust management of property are strictly defined in FC .
3. In this relationship, three subjects are involved at the same time: the founder of the property, the trustee and the beneficiary .
4. The relationship of trust management of property includes relationships based on mutual trust between subjects. However, this relationship differs from the institution of representation and power of attorney in that the trustee performs actions aimed at trustful management of property on his own behalf, and the legal actions and transactions concluded are focused only on property management .
5. The relationship of trust management of property includes service obligations according to its purpose. After all, a unique civil-legal " management " service is performed in this .
6. Property trust management is usually not a one - time or legal relationship ending with execution, but a long -term and contractual relationship with its own complexity. First of all, when the trustee manages the property for a period agreed upon by the parties , but not exceeding five years , he is not only responsible for the obligation to transfer the profit received from the management of the property to the founder or the beneficiary , but also about what he has done in the field of property management and financial will have to submit the report. Such complexity is not found in all civil-legal relations. At the same time, some aspects of property management may not be considered a fiduciary. For example, when an enterprise is put under trust management, if all the assets belonging to the enterprise as a property complex are included in the scope of the object of trust management, this situation does not affect the labor team of the enterprise ⁶.
7. This legal relationship has a complex subject and includes two types of objects: the trustee's practical and legal actions on property management. As practical actions, the trustee owns and uses the property entrusted to him as the owner, i.e. obtains the beneficial properties of the property for the benefit of the founder or beneficiary, legal actions include concluding contracts and agreements on his own behalf regarding the management of this property. , the disposal of property is acknowledged. Of course , in this case, the trustee has the right to dispose of the property entrusted to him for trust management only in the cases stipulated in the contract.

It should be noted that although the mechanism of legal regulation of property trust management relations has been created in our country, this institution is not widely used in civil legal practice. During the period from the introduction of the institution of trust management of property into our legislation until now, it is difficult to find in practice the situation where material goods are included in civil circulation through the contract of trust management of property. First of all, this situation is explained by the fact that only the first generation of the class of large owners has been formed in the republic, and that there was not much time before private ownership began to develop, and secondly . determined by the insufficient level of legal literacy of the population.

⁶ Zharikov V.V. Predpriyatie kak obekt dogovora doveritelnogo upravleniya imushchestvom: problemy dokriny i zakonodatelstva . // Lawyer. - Moscow. 2004. - #5.-S.22.

At the same time, the insufficiency of legal norms aimed at the implementation of property trust management relations, the legal procedure for transferring certain properties to trust management, as well as the legal status of professional trustees, as well as the absence of a consistent legal mechanism for their implementation, make property trust management difficult. is one of the reasons why management is not widely used in practice.

Today, a number of legal documents are in force in Uzbekistan that regulate relations related to trust management of property. In particular, the Civil Code of the Republic of Uzbekistan, Resolution No. 215 of the Cabinet of Ministers of the Republic of Uzbekistan dated October 16, 2006 " On measures to ensure effective management of enterprises with a state share in the charter fund and accounting of state property to the necessary extent " and approved by this resolution " State-owned " Regulation on the procedure for transferring stock packages (shares) to trust management" is one of these .

Although there are legal documents aimed at regulating property trust management relationships, the adoption of a separate legal document that takes into account the specific aspects and characteristics of these relationships is important for the civil legislation of our country today. Therefore, trust management of property differs from similar civil-legal relations (assignment, representation, mediation, lease, etc.) by a number of features:

- relations of trust management of property is considered as an obligation-legal relation according to its essence;
- unlike most civil law contracts, the basis for the establishment of property trust management relations is strictly defined in FC;
- three subjects are involved in this relationship at the same time: property founder, trustee and beneficiary;
- the relationship of trust management of property includes relationships based on mutual trust between subjects. However, this relationship differs from the institution of representation and power of attorney in that the trustee performs actions aimed at trust management of property on his own behalf, and legal actions and transactions are focused only on property management;
- relations of trust management of property include service obligations according to its purpose. After all, a unique civil-legal "management" service is performed in this;
- trust management of property is usually not one-time or legal relations that end with execution, but long-term and contractual relations with specific complexity;
- this legal relationship has a complex subject and includes two types of objects: the trustee's practical and legal actions on property management.

Taking into account these circumstances, the issues of legal regulation of property trust management relations in our country today are analyzed. The author suggests that it is necessary to unify legal documents in this field by developing and adopting the law of the Republic of Uzbekistan 'On Trust Management of Property.' This proposed law should address various aspects, including the objects, subjects, and grounds for the creation of a property trust management agreement. It should also outline the procedure for transferring property to trust management, the rights and obligations of the management institution, the beneficiary, and the trust manager. Additionally, the law should define the forms of property trust management and address other pertinent issues to ensure a comprehensive and effective legal framework.

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