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PROBLEMATIC ISSUES OF LAW ENFORCEMENT IN THE PROVISION OF LAND PLOTS

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In this scientific article, the authors consider topical problematic issues related to ensuring law and order in the provision of land plots. The study is relevant, given that the sphere of land relations very often becomes the object of corruption schemes and violations of the rights of citizens and owners. The authors also noted that the existing mechanism for the provision of land often contributes to the emergence of corruption schemes and abuses, which is confirmed by statistical data and practical examples. In particular, the dual market of land rights, which allows for the simultaneous sale and lease of land, creates opportunities for speculation and illicit enrichment. The authors also paid special attention to the issues of redistribution of powers between state bodies that are responsible for managing the land fund, and how this affects the transparency and fairness of the land grant process. The analysis of the practice of applying the norms of legislation was carried out and it was noted which violations were detected. A deep and comprehensive analysis of the regulatory framework governing the procedure for granting land plots, as well as gaps and contradictions in legislation are identified. This scientific article also examines the existing mechanisms for protecting citizens' rights and offers a number of recommendations for improving legal regulation in this area. It is also proposed to strengthen the powers of the prosecutor's office, improve accounting and transparency of land grant procedures, as well as develop new standards for gardening and cottage construction. This study is funded by the Science Committee of the Ministry of Science and Higher Education of the Republic of Kazakhstan (Grant No. BR24993047).

Keywords: environmental protection, environmental law and order, land, land plot, land code, land disputes, corruption.

Introduction

The relevance of this research topic is due to the fact that this area of relations is considered one of the most vulnerable to corruption. The problems of regulatory support for land provision require special attention and analysis [1]. The National Report published by the Anti-Corruption Agency in 2019 pro-

vides data from Transparency International Kazakhstan's study "Monitoring the State of Corruption in Kazakhstan" [2], which ranks the Land Relations Department third (7%) among government agencies in terms of corruption, after public hospitals and clinics, and the police, according to the population, and first (20.4%) according to entrepreneurs. Among the most common corruption schemes in local executive bodies, in addition to patronage and lobbying for affiliated entrepreneurs in public procurement, abuse of official power, and embezzlement of budget funds for state programs, "the issuance of land and the adoption of illegal decisions" have been identified [1].

The largest number of complaints regarding the protection of entrepreneurs' rights (13% of the total) in 2019 were filed in the area of land relations [3]. The most significant and systemic issues in this area are also highlighted, such as "regarding the procedure and timeframe for registering land plots for auctions; compliance with paragraph 6-1 of Article 48 of the Land Code of the Republic of Kazakhstan; and posting information about available land plots on the internet for businesses" [4].

The provision of land plots is regulated by the Land Code, as well as by several laws and regulations, including the Law "On State Registration of Rights to Immovable Property", the Law "On Architectural, Urban Planning and Construction Activities in the Republic of Kazakhstan" [5], and more than 12 by-laws of a general nature, as well as more than 10 special regulations that regulate the provision of specific categories of land plots.

The complexity of the legal regulation of land provision in the Republic of Kazakhstan can be attributed to several factors:

First, there is an artificially created process for the transfer of state-owned land plots to individuals and legal entities. Unlike in other countries such as Russia, Ukraine, and Belarus, Kazakhstan has two separate markets for land rights and correspondingly two ways to grant rights to land plots.

The first is related to the transfer of land from state ownership to private ownership through the sale of the land plot in one lump sum or in installments. The second is related to the sale of rights to use the land on a paid basis.

In the first case, land plots are sold, ownership of which is officially registered. In the second, there is a hidden purchase and sale of land under the guise of transferring use rights to the land. This creates opportunities for speculation in land, which has happened with agricultural land [6].

The President of Kazakhstan drew attention to this issue, stating that many people who receive free land leases from the government keep the land for future use without actually working on it. He referred to these people as "Latifundists," who act like a "dog in the manger" and do not allow others to use the land that they do not use themselves.

It is time to start taking action against unused agricultural land, as it is our shared resource and should belong to those who use it. The government and parliament should propose suitable mechanisms to address this issue.

Second, historically determined redistribution of power between government agencies led to the Land Code of the Kazakh Soviet Socialist Republic dated November 16, 1990 [7]. As a rule, councils of people's deputies were granted the right to allocate land plots and transfer land to other categories within their competence. Only if necessary, they could transfer these powers to their executive committees regarding the seizure and allocation of land.

In connection with the transformation of the Republic of Kazakhstan into a presidential republic, these powers were subsequently transferred to local executive bodies, represented by akimat.

Third, changes in land legislation. A historical and legal analysis of the regulations on the provision of land plots and rights to them, as well as the transfer of land to other categories, has shown that over time, numerous changes and additions have been made to the Decree of the President of Kazakhstan "On Land", dated December 22, 1995, and the Law of Kazakhstan "On Land", dated January 24, 2001, and the Land Code of Kazakhstan, dated June 20, 2003. These changes have strengthened the position of akimats (local government bodies) on these issues, and have led to the emergence of semi-legal and "gray" schemes for the redistribution of land.

If, in accordance with the Land Code of the Kazakh Soviet Socialist Republic dated November 16, 1990, the right to grant and transfer land belonged to the jurisdiction of Councils of People's Deputies, then, according to the Decree "On Land", Law "On Land" and Land Code, this right has been transferred

to local executive bodies. Regarding a number of especially valuable lands that were not previously transferred to other land categories, amendments were made to the Land Code to allow this. This right has been granted to akimats, which previously belonged exclusively to the government of the Republic of Kazakhstan.

For example, in accordance with the Law “On Amendments and Additions to Certain Legislative Acts of the Republic of Kazakhstan on Specially Protected Natural Territories” dated 01.12.08, No. 94-IV [8], it has become possible to transfer lands of specially protected natural areas to another land category for the purposes of tourism.

As a result, there are 253 owners of land plots within the boundaries of the Ile-Alatau State Natural Park (hereafter referred to as “Ile-Alatau GNPP”); 123 long-term users of these land plots (with leases for 49 years) and 8 short-term users (with leases of 5 years) [9].

In most cases, land plots were transferred illegally. As a result, in 2009, criminal cases were opened against the former Director General of the Ile-Alatau State Natural Park, Abai Begimbetov, and the former Akims (mayors) of Talgar and Enbekshikazakh districts, Kenzhebek Omarbayev and Kerimtai Abdrakhmanov. Begimbetov had illegally transferred 225 plots of land with an area of more than 400 hectare. The damage caused to the state by all the defendants amounted to approximately four billion tenge [10].

The methodology

Within the framework of this study, a comprehensive analysis of the regulatory framework governing the provision of land plots in the Republic of Kazakhstan and abroad was carried out. The theoretical basis of the research is the works of Kazakhstani and foreign scientists on human rights, published data on the activities of authorized state bodies of the Republic of Kazakhstan, regional and non-governmental organizations in the field of human and civil rights protection, as well as annual reviews of the human rights situation in the Republic of Kazakhstan. The analysis of changes in legislation concerning land rights, their provision and transfer of land to other categories has been carried out. Specific cases of violations in the field of land relations identified by the Prosecutor's office and other authorized bodies were considered. Statistical data on the number of inspections, complaints and violations related to the provision of land plots have been studied. Using the forecasting methodology, recommendations were developed to improve legislation and law enforcement practice in the field of land relations.

Results and discussion

Next, we will discuss the problems of law enforcement in relation to some issues of land provision. Main violations of land legislation are committed by local executive bodies, which exercise the rights of the state as the main landowner, as well as land allocation commissions. This indicates a lack of control and oversight by the relevant authorities and the prosecutor's office, due to various circumstances.

The current structure of the regulatory authorities in land relations does not support the proper, objective, and impartial implementation of controls. The main body responsible for this area is the Committee on Land Management under the Ministry of Agriculture of the Republic of Kazakhstan, which has a small staff.

Land inspections are carried out by controlling bodies under the local executive bodies. Thus, control in the land law sphere is exercised by two structures, leading to duplication of functions. Additionally, it should be noted that the subordination of land inspections to local executive bodies whose criteria for evaluating activities include a stable environment can lead to conflicts of interest and a decrease in the effectiveness of land inspections.

Thus, according to the data from the akimats, compared to the indicators of 2013, the number of inspections carried out by local executive bodies in the field of land use and protection has decreased by 2.6 times in 2019. The fixability of violations has also decreased by 4.5 times. In addition, random inspections of businesses have been reduced, and in 2017 they were only conducted in four regions.

At the same time, there has been an increase in the number of complaints and appeals regarding land issues against the actions of local executive bodies. For example, in 2018, the Ministry of Agriculture of the Republic of Kazakhstan received 1,613 applications, while in 2019, this number increased to 3,614 [11].

The checks conducted by the prosecutor's office have revealed an inadequate level of control over unused agricultural land. In 2018, the office discovered 9.6 million hectares, whereas according to data provided by regional authorities, only 2.2 million hectares were reported as unused as of July 1, 2019.

The situation is similar with commercial land plots. According to the prosecutor's office, there are 39.7 thousand hectares of unused land. However, according to local executive bodies, the figure is 16.8 thousand hectares [8].

Due to certain circumstances, the prosecutor's oversight in the area of land relations has been limited. The Law "On the Prosecutor's Office" [12] has narrowed the scope of general oversight, and inspections can only be conducted in exceptional cases. The institution of prescription has been abolished, but it was the prosecutors' oversight that led to real results.

Thus, statistical indicators on the results of the work of the prosecutor's office in this area (see Table 1) demonstrate the effectiveness of their activities.

The study and analysis of the work of the prosecutor's office in the field of land relations has shown that every year, they consistently record legal violations, make representations, and challenge illegal legal acts.

The decrease in indicators, in our opinion, was caused by changes in legislation and a reduction in the number of inspections, especially in 2017 after the adoption of the new Law of the Republic of Kazakhstan "On the Prosecutor's Office" [12]. The number of inspections decreased by five times compared to 2013, as did the number of detected offenses, submissions, and protested acts.

Table 1. Statistical data on the work of prosecutors in overseeing compliance with land legislation.

| Information about the work carried out | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | Total |
|--|-------|-------|------|------|------|--------|------|------|--------|
| Inspections have been carried out | 675 | 702 | 748 | 538 | 128 | 199 | 135 | 171 | 3269 |
| Violations have been revealed | 18235 | 16340 | 9812 | 4703 | 1640 | 2430 | 1724 | 2139 | 57023 |
| Legal acts have been protested | 864 | 614 | 563 | 496 | 144 | 88 | 75 | 94 | 2938 |
| A submission has been made | 1009 | 1075 | 1047 | 1144 | 529 | 692 | 511 | 529 | 6536 |
| Rights reserved (number of persons) | 501 | 1885 | 1392 | 72 | 782 | 316583 | 732 | 811 | 322758 |
| The number of persons brought to disciplinary responsibility | 580 | 751 | 590 | 674 | 321 | 651 | 417 | 478 | 4162 |
| The number of persons brought to administrative responsibility | 483 | 342 | 420 | 505 | 179 | 146 | 84 | 62 | 2221 |
| The number of persons brought to financial responsibility | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Criminal cases have been initiated/ Pre-trial investigations have been launched | 14 | 18 | 27 | 22 | 8 | 28 | 4 | 2 | 123 |

After the President's criticism and instructions to all state bodies to audit the land and restore order in this area in 2018, the number of protected citizens increased to 316,583, which is 631 more than the previous year. Additionally, there were 39,612 more violators brought to disciplinary or criminal responsibility.

The most common issues in the area of land relations include:

The first. Non-compliance with the procedure for providing land plots, violation of the rules for extending lease rights.

An audit conducted by the prosecutor's office in the first and second quarters of 2018 revealed that in the period 2015-2017, 2,221 plots for individual housing were provided in the republic in violation of the procedure and without consideration of priority [13].

In 2018, 320 cases of illegal and unlawful extension of lease contracts for land plots to individuals who had not fulfilled their obligations to develop the plots were revealed in the republic [13].

Second, the provision of land plots to legal entities without the bidding process and without payment for changing the intended use.

According to the results of the audit mentioned above, it was found that during this reporting period, 2,276 plots were provided without the bidding process.

For example, based on a purchase and sale agreement dated May 6, 2005, Parity 2003 LLP acquired from Kapanov Zh. a residential adobe house for 10,996,000 tenge, with a total usable area of 98.3 m² and two outbuildings (an entrance hall and a barn), located at the address: Astana, Almaty district, International Street, house 111. The total land area is 0.0564 hectare (cadastral number 21-318-031-445).

On May 28, 2014, Paritet 2003 LLP transferred ownership of this land plot to the right of private ownership. Based on a letter from the Department of Land Relations dated June 3, 2014 (No. 197-05/1500), the Justice Department placed the site on special registration as abandoned. By the decision of the Almaty District Court dated August 20, 2014, the requirement of the Land Relations Department to recognize the land plot as municipal property has been satisfied.

Further, by the decision of the Akimat of the city dated January 12, 2015, No. 197-26, the specified site was given to Paritet 2003 LLP for carrying out survey, survey work, and parking design.

During the visit to the address, it was found that the plot of land is located under the Rahat residential complex.

In this case, the site was granted without bidding and payment of amounts to the budget for changing the intended use in the amount of 6,219,199 KZT.

These facts are not isolated. During a random check conducted by the prosecutor's office in Nursultan, 43 such facts were found. All this has led to a shortage in the city's budget of approximately 800 million tenge.

Third. Illegal allocation of land by local authorities to citizens for commercial construction.

In 2016, 11 plots of land were identified in the Burnaby district of the Akmola region and allocated for construction without a detailed planning project that had been agreed upon and approved [14].

Fourth. Improper registration of citizens who are registered and waiting to receive plots of land for individual housing construction.

In 2018, prosecutors in the city of Uralsk revealed that more than 500 citizens had not been put on the waiting list, including 389 in the Atyrau region and 6 in Aktobe [15].

In the Bayzak district of the Zhambyl region, 2,289 citizens had been unreasonably added to a special register without the approval of the land commission.

In Aktobe and Atyrau regions, people who had previously received land had been illegally added to approved waiting lists [15].

In Almaty, there had been no special registration of accepted applications from citizens. Contrary to the requirements and in violation of the Law "On Access to Information", official internet resources of the Akimats of the West Kazakhstan, Kyzylorda, and Aktobe regions had not published information about applicants included in and waiting for land. Since the process of land allocation is two-sided, it is possible to identify problems caused by land recipients [15].

Fifth. Obtaining land for sale. The practice shows that the main purpose of obtaining land is to make a profit from reselling it or developing it in the future. Therefore, undeveloped land is resold, pledged to banks, or left waiting for "better times" to develop. For instance, in Almaty, out of 1,671 unused land plots (4,500 hectares), approximately 1,000 (1,500 hectare) are pledged or owned by credit institutions. This leads to the fact that land is not used efficiently, which violates Article 65 of the Land Code.

Sixth, the acquisition of land plots with a pre-planned, deliberate change in their intended purpose, or the use of provided land plots for other purposes, often leads to negative consequences.

This is especially true in cities of national importance. It affects not only unauthorized seizure of land, but also cases where land is received from the state with a simplified procedure, but is intended for different purposes.

Citizens acquire land plots for gardening purposes, where they build residential structures (houses and cottages) with capital investment. These suburban areas attract people primarily because of their

market price, which is often lower than the price of land intended for individual residential construction. Despite the lack of infrastructure (hospitals, schools, kindergartens, etc.) on these sites, people are not discouraged and ask for the development of appropriate infrastructure in unplanned settlements later. However, seizing such land due to improper use can be difficult as owners often object to the proposed compensation payments and the demolition of existing buildings, leading to protests.

The situation is also complicated by the lack of necessary state standards in the field of architecture and urban planning that regulate the requirements for organizing the territories of horticultural associations. As a result, there are no clear requirements for buildings built in suburban areas, such as the area, number of floors, location, and so on.

In the same way, citizens acquire land for personal subsidiary farming, but this land is not used for its intended purpose as residential buildings are constructed on it.

The queue for land for personal subsidiary farming has not been formed and is maintained, and the process of providing it is not transparent. As a result, the amount of land allocated for personal farming significantly exceeds the number of plots for housing construction in the following regions: Almaty (9,330 LPH, 2,245 IHS), Zhambyl (2,574 LPH, 906 IHS), Akmola (2,371 LPH, 906), and South Kazakhstan (4,211 LPH, 3,986 housing and communal services) [15].

Next, we will analyze the foreign experience in providing land plots. In other countries, the policy for granting land differs depending on its category. A stricter regime has been set for agricultural lands, which are considered the most fertile and productive.

Firstly, in many developed countries, such lands remain in state ownership, and rental land use is common. For example, in Canada, only 9.8% of land is privately owned, while the rest is owned by the state. In the USA, over 40% of agricultural land is rented, and in EU countries such as Belgium, Germany, France, Luxembourg, Sweden, the Netherlands, Portugal, the United Kingdom, Denmark, Greece, Spain, Italy, Austria, Finland and Ireland, over 30% of land is also rented [16]. There is a long-term trend towards an increase in the proportion of leased land, while the proportion of land directly owned by farmers is decreasing [1].

This is due to the high cost of agricultural land. For example, in Germany, the cost of land today is around 20-25 thousand euros per hectare, making it unprofitable to buy it for agricultural production, as the price of the produced products will not be competitive in foreign markets. This explains why most land is leased and the land market turnover in the country is low, at only 1%. In the USA, agricultural land is even more expensive, at 45 thousand dollars per hectare. These factors contribute to the popularity of renting over buying [18].

At the same time, in some countries, such as Sweden, for example, 2.4% of agricultural land is owned by the government, while the rest is privately owned. In other countries, like Australia, Japan, Ireland, Denmark, and Italy, owner-farmers cultivate up to 81-95% of agricultural land.

Secondly, such land plots are usually provided to direct agricultural producers. In order to rent or purchase the land, the tenant must have education in the agricultural sector, reside in the area as a local resident, have professional experience, work experience ranging from 3 to 5 years, and have the necessary financial resources to operate and maintain the leased land.

In some countries, a special education diploma is required for certain types of land use. Additionally, minimum lease terms of more than three years are established to ensure that the land is used for its intended purpose and to prevent the resale of the land plots.

For example, in Ireland, the minimum lease term for land is three years, while in Spain it ranges from six to fifteen years. In the Netherlands, the minimum rental period is either six or twelve years, and in Luxembourg it ranges from six to eight years.

In Portugal, tenants who hire employees must enter into leases for a period of seven to ten years. Additionally, there are rules that require the farmer to reside on the land, such as in Denmark.

Thirdly, the state actively prevents the formation of large latifundias, the concentration of large areas of land in one hands, which is achieved by setting a maximum size for land plots. For example, in Denmark, there is a law that sets a restriction according to which the size of a farm cannot exceed 150 hectare.

Fourth, it is unacceptable to reduce land plots to such small sizes that they become unprofitable and unsuitable for agricultural production. For this reason, in some countries, regulations have been

introduced to prevent the fragmentation of inherited land, and a system of indivisible plots has been implemented.

Fifth, there may be restrictions on the rights of foreigners to purchase land. In some localities, the requirements for providing land plots are less strict. In many countries, these lands are state-owned.

In Helsinki, more than 60% of the urban area is owned by the municipality. Due to a large and significant budget deficit, the city authorities have the option to sell land plots [19].

In Switzerland, most land is leased from local authorities and only 18% of urban land is privately owned. This is due to a legislative quota limit of two thousand plots per year [20].

For many countries, leasing land plots is economically beneficial, as it provides a stable source of income for their city budgets.

The lease terms for land can vary depending on its intended use. For example, in Finland:

- The lease term for housing construction is 60 years.
- The term for industrial facilities and warehouses is 30 years.
- Commercial construction has a term that can range from 30 to 60 years, depending on the specific project.

The rent is based on the estimated value of the property.

Based on the above, we can conclude that there is no “dual market” system in developed foreign countries [21]. Instead, the state provides land plots either through sale or lease, with the latter not implying an independent transfer of ownership rights to the plot.

Suggestions and recommendations.

In conclusion, based on the above, in order to improve the process of providing land plots and to reduce corruption risks, we propose the following:

First, we believe that transferring territorial land inspections to the jurisdiction of the Land Management Committee of the Ministry of Agriculture would ensure their independence and objectivity in decision-making.

Second, strengthen the powers of the Prosecutor's Office in terms of protecting citizens' land rights (by revising the current order of the Prosecutor General No. 60, dated 05/02/2018) and oblige prosecutors to perform quarterly analyses in the area of land relations and respond promptly to emerging issues.

The third, the Committee on Land Management and the “Government for Citizens” State Corporation, have been asked to increase their efforts to establish a register of waiting lists for land plots intended for individual housing construction in order to maintain proper records of individuals on the queue for these plots.

Fourth, to initiate with the Committee on Construction, Housing, and Communal Services of the Ministry of Industry and Infrastructure Development the issue of developing standards for suburban construction. In addition, to develop standards for gardening and personal subsidiary farming before the committee.

Fifth, to increase the effectiveness of information and educational work with the public (through media and individual outreach) on the topics of targeted land use and responsibility for land legislation violations. As part of the analysis, several proposals have also been made to improve the regulatory framework for the allocation of land plots.

First, it is proposed to introduce mandatory coordination with local representative bodies in the decision-making process for the allocation of land plots as public lands within the territory of settlements, as well as for exclusion from the list of public lands due to a change in their designated purpose, which is carried out by the local executive bodies of cities of republican and regional significance. This measure will help to eliminate corruption risks and ensure more objective and collegial decision-making.

To do this, we propose the following changes and additions to Article 2 of the CC:

1. We suggest removing the word “districts” from Article 2, “Categorization of Lands, Their Transfer from One Category to Another”, thereby narrowing the list of entities authorized to transfer land between categories due to a change in its intended use. This would help reduce corruption risks.

2. Paragraph 2-1 of Part 2 of Article 16, “Competence of the Local Executive Body of the Region, City of Republican Significance, Capital”, should be rephrased as follows:

“2-1) Assignment of land plots to public lands within the boundaries of settlements, and also exclusion from the list of public lands due to a change in their designated use, in agreement with the representative bodies of local authorities.”

3. Paragraph 2-1 of Part 1 of Article 18, “Competence of the Local Executive Body of the City of Regional Significance”, should be rephrased as follows:

“2-1) Assignment of land plots to public lands within the boundaries of settlements, as well as removal from the list of public lands due to a change in their designated use, in coordination with the local representative bodies.”

Second, to strengthen the administrative responsibility of officials for concealing information about land availability, it is recommended that Article 341 of the Administrative Code of the Republic of Kazakhstan be amended as follows:

Article 341. Obstruction of information about availability of land plots

Obstruction of information regarding the availability of land, its falsification, and unjustified denial of allocation of land -

shall result in a fine for officials of local government bodies in the amount of fifty times the monthly calculation index.

Overall, the article emphasizes the importance of strengthening control and accountability in land relations to ensure legal compliance and prevent corruption. To achieve this, it is proposed to not only reform the current regulatory framework, but also improve the enforcement of laws, strengthen public oversight, and ensure transparency in the actions of government bodies. These proposed measures aim to create a more equitable and effective system for land allocation, which should help strengthen the rule of law in this area.

The contribution of the authors

Each of the authors made an important contribution to the preparation of the publication.

Sabigul Bekisheva made a significant contribution to the writing of the article, developing the methodological basis of the study, analyzing and interpreting data, as well as providing a structured presentation of the material. Her work also included consultations on key aspects of the research and joint decision-making on the structure and content of the article. Deserves special recognition for her extensive research in the field of land law and law and order. She focuses on legal regulation and its impact on the law and order in the field of land legislation, which becomes the basis for substantiating the conclusions in the article.

Yerezhepkyzy Roza, in her part of the work, analyzes public reactions to the processes associated with the provision of land plots, strengthens the arguments of the authors, clarifying that problems with law and order in the field of land relations have not only a legal, but also a social nature. She also coordinated the work of the team of authors, conducted a critical review and editing of the text of the article, ensuring its compliance with scientific standards and coordinated work between all co-authors, interaction with the editorial board and reviewers. She was also responsible for the final editing of the article and its submission to the journal.

Imangaziev Tair Askhatovich, ensured the timely provision of all necessary materials and data, participated in the analysis, and also took an active part in writing and editing the text. In turn, focuses on the mechanisms of administrative control and responsibility, which are designed to ensure the rights and legitimate interests of citizens when providing land plots, help to make a significant contribution to the general problem and present practical recommendations.

Р. Ережепқызы PhD докторы, м.а Шымкент университетінің жаратылыстану-гуманитарлық факультеті құқық және тарих кафедрасының доценті, (Қазақстан Республикасы, Шымкент қ.); С.Д. Бекишева, з.ғ.д., профессор, Қазақстан Республикасы Бас прокуратурасының жанындағы Құқық қорғау органдары академиясының ведомствоаралық ғылыми зерттеу институтының құқық қорғау қызметі проблемаларын зерттеу мен зерттеуді үйлестіру орталығының бас ғылыми қызметкері (Қосшы қ. Қазақстан Республикасы); Бекежанов Д.Н. PhD докторы, қауымдастырылған профессор (доцент), құқықтық пәндер кафедрасының меңгерушісі, І. Жансүгіров атындағы Жетісу университеті (Талдықорған қ., Қазақстан Республикасы): Жер учаскелерін ұсыну кезінде құқықтық тәртіпті қамтамасыз етудің проблемалық мәселелері.

Бұл ғылыми мақалада авторлар жер учаскелерін ұсыну кезінде құқықтық тәртіпті қамтамасыз етуге байланысты өзекті актуалды мәселелерді қарастырады. Жер қатынастары саласы көбінесе сыбайлас жемқорлық схемалары мен азаматтардың құқықтарын бұзудың объектісіне айналатындығын ескере отырып, зерттеу өзекті болып табылады. Сондай-ақ, авторлар жер учаскелерін берудің қолданыстағы тетігі көбінесе сыбайлас жемқорлық схемалары мен теріс қылықтардың пайда болуына ықпал ететінін атап өтті бұл статистикалық мәліметтер мен практикалық мысалдармен расталады. Атап айтқанда, жер учаскелерін бір уақытта сатуға және жалға беруге мүмкіндік беретін қос жер құқығы нарығы алыпсатарлық пен заңсыз байытуға мүмкіндік береді. Сондай-ақ, авторлар жер қорын басқаруға жауапты мемлекеттік органдар арасында өкілеттіктерді қайта бөлу мәселелеріне және оның жер беру процесінің ашықтығы мен әділдігіне қалай әсер ететініне ерекше назар аударды.

Заңнама нормаларын қолдану практикасына талдау жүргізілді және қандай бұзушылықтар анықталғаны атап өтілді. Жер учаскелерін беру тәртібін реттейтін нормативтік-құқықтық базаны терең және жан-жақты талдау, сондай-ақ заңнамадағы олқылықтар мен қайшылықтар анықталады. Бұл ғылыми мақалада азаматтардың құқықтарын қорғаудың қолданыстағы тетіктері және осы саладағы құқықтық реттеуді жетілдіру бойынша бірқатар ұсыныстар қарастырылған, сонымен қатар прокуратураның өкілеттіктерін күшейту, жер учаскелерін беру рәсімдерінің есебі мен ашықтығын жақсарту, сондай-ақ бау-бақша мен саяжай құрылысына арналған жаңа нормативтерді әзірлеу ұсынылады. Бұл зерттеуді Қазақстан Республикасы Ғылым және жоғары білім министрлігінің Ғылым комитеті қаржыландырды (Грант №BR24993047).

Түйінді сөздер: қоршаған ортаны қорғау, экологиялық құқықтық тәртіп, жер, жер учаскесі, жер кодексі, жер даулары, сыбайлас жемқорлық.

Ережепқызы Р. д.фил.н. (PhD), и.о. доцента кафедры права и истории, факультета естествознания и гуманитарных наук Шымкентский Университет (г. Шымкент, Республика Казахстан); Бекишева С.Д. д.ю.н., профессор, главный научный сотрудник центра координации исследований и изучения проблем правоохранительной деятельности Межведомственного научного исследовательского института Академии правоохранительных органов при Генеральной прокуратуре (г. Косшы, Республика Казахстан); Бекежанов Д.Н. доктор PhD, ассоциированный профессор (доцент), заведующий кафедрой правовых дисциплин, Жетысуский университет имени И. Жансугурова (г. Талдықорған, Республика Казахстан): Проблемные вопросы обеспечения правопорядка при предоставлении земельных участков.

В данной научной статье авторами рассматриваются актуальные проблемные вопросы, связанные с обеспечением правопорядка при предоставлении земельных участков. Исследование является актуальной, учитывая что сфера земельных отношений, очень часто становится объектом коррупционных схем и нарушений прав граждан и собственников. Авторы также отметили, что существующий механизм предоставления земельных участков часто способствует возникновению коррупционных схем и злоупотреблений что подтверждается статистическими данными и практическими примерами. В частности, двойной рынок прав на землю, который позволяет одновременно продавать и сдавать в аренду земельные участки, создает возможности для спекуляций и незаконного обогащения. Также авторы уделили особое внимание вопросам перераспределения полномочий между государственными органами, которые несут ответственность за управление

земельным фондом, и тому, как это влияет на прозрачность и справедливость процесса предоставления земли. Проведен анализ практики применения норм законодательства и отмечено какие выявлены нарушения. Глубокий и всесторонний анализ нормативно-правовой базы, регулирующей порядок предоставления земельных участков, а также выявляются пробелы и противоречия в законодательстве. В данной научной статье также рассмотрены существующие механизмы защиты прав граждан и предложенные ряд рекомендаций по совершенствованию правового регулирования в данной области. Также предлагается усилить полномочия прокуратуры, улучшить учет и прозрачность процедур предоставления земельных участков, а также разработать новые нормативы для садоводства и дачного строительства. Данное исследование финансируется Комитетом науки Министерства науки и высшего образования Республики Казахстан (Грант №. BR24993047).

Ключевые слова: охрана окружающей среды, экологический правопорядок, земля, земельный участок, земельный кодекс, земельные споры, коррупция.

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