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В сборнике представлены статьи студентов, магистрантов, аспирантов, молодых ученых, в том числе в соавторстве с преподавателями, по итогам проведения «Евразийского молодежного юридического форума 18–19 мая 2017 г.», в которых авторы выявляют наиболее актуальные и дискуссионные проблемы материального и процессуального права в государственно-правовой, гражданско-правовой, уголовно-правовой и международно-правовой сфере и предлагают пути их решения.

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CORRECTION OF ERRORS IN THE UNIFIED STATE PUBLIC REGISTER AS A WAY TO PROTECT PROPERTY RIGHTS

In the process of state registration of property rights, mistakes are often made. These errors can appear by a variety of reasons and they can be committed by different persons at various stages of state registration. They also have a different legal bearing and, consequently — a different procedure for eliminating.

The procedure to correct errors correction which may be found in the Unified State Register of Real Estate (hereinafter — USRRE), in its most general form, is set forth in Art. 61 FL "On state registration of real estate" [1]. The law distinguishes between clerical errors and registry ones.

An error in writing or a typing one, grammatical or arithmetical error, any similar error committed by the registration authority during the state cadastral registration and (or) state registration of rights and resulting in inconsistency of information contained in the USRRE, or information contained in the documents according to which information entered the USRRE, is considered to be a clerical error.

An error which is repeated in the USRRE but firstly appeared in the demarcation plan, technical plan, territorial map or survey act, the error firstly made by the person who completed the cadastral work, or an error contained in the documents sent or submitted to the registration authority by other persons and (or) bodies in the process of information interaction, as well as in any other way, is a registry error.

Some factors that could cause an error are listed in a letter of the Ministry of Economic Development of the Russian Federation [2]:

- a clerical error (error in writing, misprint, grammatical or arithmetical error, or a similar error);
- an error made by a cadastral engineer while performing cadastral work (cadastral error in the statement);
- an error committed by a person who carried out land management work on the previously registered land plot. This list of mistakes was compiled by the Ministry for the State Cadastre of Real Estate, which existed separately from the USRRE. Since, nowadays the

State Cadastre of Real Estate has become an integral part of the USRRE, the above list of errors can be recognized for the USRRE. Legal literature offers a more detailed qualification of the errors contained in the USRRE [3, p. 17]. They are classified:

- 1) by the source of occurrence:
 - technical errors in measurements, that is, errors that arise due to "poor-quality equipment", violation of the principles of metrological control, erroneous parameters of the coordinate system, rounding off in calculations and counting;
 - errors that arise in the process of the accounting and public authorities activity, — the failure of the base; errors of database conversion; technical errors which were not previously identified and subsequently led to cadastral errors; XML errors, resulting in a recovery with an intersection; availability of declarative sites; mistakes of state authorities or local self-government, incorrectly prepared schemes of location (draft boundaries) of the land plot, on the basis of which cadastral work was carried out;
 - subjective mistakes, that is mistakes of the interpretation of the boundary by the owner, surveyor and subcontractors, interpretation of the fence axis, related to the identification of stakeholders, provision of false information, inefficiency of a cadastral engineer;
 - 2) at the stage of land boundary survey:
 - at the time of surveying a neighboring land plot;
 - at the time of registration of the fundamental construction project on the land plot;
 - in case of removal of points in kind;
 - at the time of privatization and "cutting" of the land plot;
 - in the process of complex cadastral work;
 - 3) by the order of elimination:
 - in accordance to the procedure established by law (extrajudicial procedure);
 - on the basis of a court decision (judicial procedure).
- In some cases, you can determine the type of error in the following way:
- 1) making a contract for the performance of cadastral work (surveying);
 - 2) the departure of surveyors to the terrain and the location of borders;
 - 3) analysis of the measurement of the site by a cadastral engineer and identification of the intersection; 4) applying to the cadastral registration body and the land management data collection fund to obtain an archival land management and cadastral statement; 5) analysis of coordinates in the

specified documents and determination of the type of error: clerical or registry one.

The law provides extrajudicial and judicial procedures for correcting mistakes. Extra-judicial order can be initiated by the state registrar himself or by any person concerned. The technical error correction time is 3 days, the registry error is 5 days. The main feature of the extrajudicial order of error correction is that it is possible only if the correction does not entail appearance, transfer, termination of the registered right to the real estate object.

The judicial procedure for correcting a technical and a registry error is implemented when there are reasons to believe that correction of a technical error in the records and a registry error may harm or violate the legitimate interests of the right holders or third parties who relied on the corresponding entries contained in the USRRE. The registration authority of rights is also entitled to apply to the court with a request to rectify a technical error in the records and the registry error.

The question arises: is the correction of a mistake in the USRRE a particular way to protect the right of ownership of real estate or is it just a special case of other traditionally used legal remedies? The answer may be based on the debatable issues of land plots, the information about which is very often distorted in the USRRE.

The Land Code of the Russian Federation [4] establishes the following ways of protecting the right to a land plot and the procedure for considering land disputes:

- recognition of the right to a land plot;
- restoration of the situation that existed before the violation of law;
- suppression of actions that violate the right to a land plot or cause a threat to its violation;
- invalidation of the act of the executive body of the state or the act of the local government;
- compensation of losses or performance of obligations in kind.

None of the mentioned above methods of protection may include the actions to correct the error in the USRRE. Correction of an error is an independent way of protecting the right of real estate ownership.

Reference list

1. On the state registration of real estate: the federal law of 13.07.2015 № 218-FL (as amended on 03.07.2016) (as amended and supplemented)

entered into force on 02.01.2017) // legal reference system ConsultantPlus — (date 03.05.2017).

2. On the elimination of inconsistencies in the location of the boundaries of land: a letter of the Ministry of Economic Development of the Russian Federation of March 27, 2009 N 4448-IM/D23 // legal reference system ConsultantPlus — (date 03.05.2017).

3. Antropov, D. V. Features of identification and elimination of cadastral errors in the information of the real estate cadastre / D. V. Antropov, D. I. Skachkova // Property relations in the Russian Federation. № 1. 2016. P. 15–20.

4. The Land Code of the Russian Federation: the federal law of 25.10.2001 № 136-FL (as amended and supplemented, effective as of 01.01.2017) // legal reference system ConsultantPlus — (date 03.05.2017).