

Property in Georgian Law

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Received 12-03-2022	Abstract: The paper deals with the mortgage and its importance in the Georgian reality. The urgency is determined by the fact that the institution of mortgage is quite common and popular in Georgia and other countries. Mortgages are the most important tool in a market economy. The global financial crisis of 2008 was based on the US lending policy and the wrong form of mortgage lending in the US real estate market, which is a prerequisite for understanding the importance of mortgages and not to mislead the public, to protect mortgages, and sub-mortgages.	Keywords: Mortgage, Property, Law, Georgia, Real Estate
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INTRODUCTION

A mortgage is a method of securing a claim. Its evolutionary period is quite long and varied. In Georgia, since the old Georgian law, mortgages have always had their place in the form of collateral insurance, although some difficulties in this direction were observed in the Soviet period. Modern normative aspects around mortgages in Georgia are developed and advanced like other countries to a high level and standard. These norms are constantly being modified according to the trends and the requirements set for them. The soundness and effectiveness of the mortgage institution and the norms are directly related to the well-being of the community. To prove this, we can cite the causes of the global financial crisis of 2007-2008. According to the most common view, it was caused by the wrong mortgage lending policy that emerged in the US real estate market. It is this crisis that has shown the modern world how important effective and reasonable mortgage legislation is. Consideration of world experience emphasizes the urgency of the issue and makes it biased for our research.

The Mortgage Institution in Modern Georgian Law

Under Georgian law, a mortgage is a property right that secures a claim. Its purpose is to satisfy a creditor's claim in the event of default on a loan. More specifically, Article 286 of the Civil Code of Georgia defines a mortgage as follows: "Mortgage loans are the first unsecured loans in terms of priority. As for the priority among mortgaged loans, the law here establishes the principle of order. Mortgage registration is done by the Public Registry. This information is about the registration of the right in public. According to the Georgian legislation, only the mortgage that is

registered is real, it is inadmissible to make any kind of mortgage without registration and publicity. It is publicity that makes it easier for the mortgagee to determine the sequence as well. It is also not allowed to change or violate it by any other act that is not public. From the moment of concluding the contract, the mortgage becomes a right of obligation, and from the moment of registration in the public register, it is an absolute right, ie a property right. There are two problematic issues with mortgages. The first is that it is necessary to define or define in the future the right to a specific secured claim. That is, it must be specified what amount is specified for the request. Second, the borrower should be liable for the claim only with the property encumbered by that claim and not with all of his property.

The Law of Georgia on Public Registry offers the following definition: "Immovable property - a plot of land with or without a building on it, a building (under construction, built or demolished), a building unit (under construction, built or demolished) and a linear building." Real estate will become the subject of a mortgage if a register of primary property rights is placed on it. The subject of the mortgage must have an accurate identification, as it is not allowed to combine it with other types of property. A type of real estate is a piece of land that could be the subject of a mortgage. A prerequisite is to register the primary property right. As for determining the exact scope of the property, this should be done either when the right of ownership arises or if it so happened that the area at the time of the mortgage is unspecified, then before enforcement begins. However, to avoid encumbering an unspecified area with mortgages, the legislation stipulates that both legal and technical (cadastral drawing)

documents must be included in the documents required for any real estate registration process. Land mortgages are often determined by the plants on it or the minerals in it. But these objects can not independently become objects of mortgage, they must be connected with the land. A building is also a type of real estate that becomes the subject of a mortgage after the registration of a primary right. Problematic is the case when the building is co-owned or when the owner of the building and the land on which it is located are different persons. Co-ownership generally does not require the consent of the co-owner to mortgage, and when the owner of the land and building is different, then consent is required. This rule does not apply to a building in which objects of individual ownership are legally separated. In modern times we face great difficulties in mortgaging unfinished (under construction) buildings. On the one hand, the amount of the mortgage is needed to complete the construction, however, the builder also sells the apartments which the buyers buy on the mortgage loan. When a builder becomes insolvent and the lender can take action at the time of the default, the bank that gave the loan to the individual e.g. To buy an apartment, you are left without a mortgage. In this case, it is necessary to establish a law to either restrict the mortgagor from encumbering the property under construction or selling the apartments. Under Georgian law, the right to build can be encumbered with a mortgage, but there are several shortcomings in this regard, as the construction determines the benefit that is the subject of the agreement between the parties under contract law. The problem arises when the right to build is terminated, at which time the owner should not be in danger of owning his property. Which is created by the existence of a mortgage right.

Under Georgian law, mortgages are classified as contractual and legal mortgages of private and public law. A mortgage is an institution with legal and strictly imperative norms for both private and public law. The classification is based on the origin of the mortgage right, ie it is an agreement between two persons if it is a public legal act. A necessary rule for any type of mortgage is to register for this right to arise. An owner mortgage is when a claim is transferred to a debtor. A specific situation arises when a mortgagor of an immovable item becomes the owner of that item in parallel. The emergence of this right in practice means that the right to a mortgage will be terminated. In practice, it is

better for a mortgage not to have varieties and to have only its universalized form, as this is only theoretically diversified and is still identical in practice. This benefits me from the universal principle of registration, in which case mortgage types are not referenced.

CONCLUSION

The study once again highlighted the fact that the mortgage institution is a distinctive element of commodity law in terms of its content and tools. There he went through various stages of development and transformed according to the requirements of the community. Today's global financial market is unthinkable without the institution of mortgages as the vast majority of high-limit loans are issued by banks through collateral. Real estate loans are considered to be the most liquid. The growth of similar loans in the Georgian economy was recorded at 22.3% annually in 2019 compared to the previous year.

A mortgage is a property right that secures a claim. The mortgage is associated with real estate, which is a guarantee to the lender to get the money back. Mortgages according to the classification are private and public law mortgages and legal and contractual mortgages. No matter what the nature of the mortgage, the main component for everyone is its registration, for the origin of the right.

Based on the above conclusions, it is advisable to make the following recommendations:

Georgian law distinguishes between a common mortgage and an owner's mortgage. In the case of a common mortgage, the borrower is not limited in the number of collateral items, while in the case of the owner's mortgage, the claim is transferred to the debtor. The existence of different types of mortgages is not desirable, it would be good if there would be one sophisticated and proper form of a mortgage.

It is necessary to determine or determine in the future the right to a specific secured claim. That is, it must be specified what amount is specified for the request.

The borrower should be liable for the claim only with the property encumbered by that claim and not with all of his property.

When buying real estate with a mortgage loan from a building under construction, there is a difficulty if the builder himself is encumbered with a mortgage. In such a case, if the builder becomes insolvent and the bank takes away the property, the bank that financed the client to buy the real estate will be left without the subject of the mortgage.

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