I would also like to pay attention to the balance of pledge of rights under a Bank Deposit contract and collateral rights of obligation (article 358.1 – 358.8 civil code). By their legal nature, these types of mortgages are exactly the same – pledge of rights of obligation, but the security of Bank deposits is a special kind of pledge of the law of obligations in the nature of performance of contractual duties.

When considering these types of collateral can also be some difficulties with the qualification of mortgage relations.

So, the parties may conclude a contract on pledge of rights of the Bank Deposit in the absence of the pledgor collateral account Bank in relation to the existing Deposit account.

The courts should not classify such contracts as non-concluded. In this case it is the ordinary pledge of rights of obligation. The security of Bank deposits with the use of the collateral account is a mechanism for enhanced protection of the rights of the mortgagee, who is using the collateral account gets the opportunity;

- to ensure the necessary amount of cash (the Bank may refuse to perform operations contrary to the terms of the agreement under pain of joint and several liability to the pledgee);
- has access to information on transactions;
- have the right to request cash on the basis of a court decision, the Executive inscription of the notary or of the agreement and other safeguards.

At the moment, noted above questions there is no detailed judicial practice. In this paper we would like to draw attention to risks which may arise in law enforcement practice.

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To the question of the nature of the hereditary substitution in the Russian Federation

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Abstract

This article addresses the issue of the status of hereditary substitution in the Russian Federation. The features of this institution are revealed.

Keywords: substitution, assignment of the heir, substitute, inheritance, testament.

The Russian legislation provides a wide range of possibilities which the testator can use, at the indication of the will on the further disposal of property. By virtue of the principle of freedom of will, which is provided by the inheritance law of the Russian Federation, the testator may include in wills various orders provided for by the rules of the civil code on inheritance. One of these is the institution of hereditary substitution.

The testator has the right to appoint an heir at his discretion and also to specify another person in the will, if the heir appointed by him in the will or the heir by law for one reason or another will not inherit. This legal construction is called the sub-appointment of the heir, or hereditary substitution [1], which is prescribed in the Article 1121, paragraph 2 of the Civil Code of the Russian Federation [2].

Kirillov A. A. in his work mentions that the sub-appointment of heirs is the main type of special orders of the testator in modern inheritance law-the result of the development of legal norms by Roman lawyers [3]. Palshkova A. M., for example, considers the essence of this definition as: "direct succession by the reserve heir of the inheritance [4]".

Inheritance by way of substitution is possible only when the established conditions, that is, legal facts. A sub-designated heir is a conditional heir, since his rights depend on the occurrence of certain conditions.

Legal relations at hereditary succession in the development pass three stages. At the first stage, the right of the main heir is not realized and passes to another heir. After that there is a right of the appointed successor at which the right to acceptance or refusal of inheritance. And at the last stage, the acceptance of the inheritance itself develops into the right to inheritance [5].

Quite controversial is the fact that the Civil Code does not determine the allowable number of sub-appointed heirs, which causes controversy among civilists. For example, A.V. Sutyagin puts forward the opinion that "the testator can appoint any number of alternate heirs, depriving certain heirs of entry, thus, there is no transfer of hereditary property to receivers by law [6]".

Another point of view is held by Guev A. N., who believes that the testator can not appoint an heir for a substitute [7]. In any case, there is no direct prohibition in the legislation.

Also, the law does not say which category of subjects can act as a substitute. In this regard, it can be concluded that it can be both a natural person and a legal entity, as well as a state and an international organization.

It should be noted that the legislation of the Russian Federation does not establish the possibility of so-called fideicommissary substitution, which may be provided for in other countries. The essence of it lies in the fact that the main heir is obliged to preserve the inherited property in order that it after his death passed to another person specified in the same will.

The possibility of appointing an heir directly follows from the principle of freedom of will.

The inheritance passes to an additional successor in the case of:

1. In the absence of a sub-designated heir, the property may pass to the person in favor of whom the refusal was made;
2. The death of the successor who did not have time to accept the property after the inheritance was opened (in the absence of an additional successor, inheritance is carried out by hereditary transmission);
3. If the principal heir died before the inheritance was opened (if there is no sub-designated successor, relatives are called to inherit by submission);
4. Death of the main successor at the same time with the testator (in the absence of sub-appointment, the inheritance will pass to other successors of the testator);
5. Non-acceptance by the main successor of the property due to various reasons (if there is no sub-designated heir, the property will be received by other successors of the testator);
6. Confessions of an unworthy successor to the court and his removal from the succession.

In the event that these circumstances occur with the designated heir, the property will be transferred to the rightful heirs. However, in law there is no limit on definite heir to the

substitute. Therefore, the testator can appoint an unlimited number of persons, thereby having the opportunity to limit a particular person in obtaining hereditary property.

Also, the testator has the opportunity to appoint an heir for each specific reason or grounds. This provides for the principle of freedom of will. As well as the indication by the testator of only some grounds for substitution assumes that in other cases the legal order will be applied.

If a successor is appointed (hereditary substitution), then legal inheritance, hereditary transmission, inheritance in the event of the death of the commoners-are canceled.

It should be noted cases where the designated heir can not inherit the property of the testator. It is worth noting that this list is closed.

An additional (sub-appointed) successor, or substitute, does not inherit the property of the deceased in cases:

1. Transfer of property to the legal (direct) successor;
2. Death additional persons;
3. Loss of the right of inheritance by the appointed successor.

In practice, there are many disputes in the application of the institution of substitution. In this regard, the appeal definition of the Sverdlovsk Regional Court is interesting. The essence of this court case was that after the death of the testator, the will with the substitution was not taken into account and certificates were issued for heirs only by law, in connection with which the right of substitution was violated. Subsequently, this right was restored [8].

Thus, it can be said that the testator by his will can regulate the circle and number of his successors, changing or supplementing the list of legal heirs. The substitution allows to include in the most developed way those persons whom the testator wishes to see in a circle of the successors. However, do not forget that the will is burdened with the right to a mandatory share for some categories of heirs.

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Legal entities' tort capacity

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Abstract

This article is about the concept and specifics of a legal entity. In addition, the article represents an attempt to identify and analyze different points of view on the signs of tort in order to provide a detailed definition of its legal components.

Keywords: tort capacity, responsibility, legal personality, legal capacity, legal entity.