

AN IN-DEPTH ANALYSIS OF THE HOUSING SERVICE MANAGEMENT IN REPUBLIC OF MOLDOVA

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Summary. *After the mass privatization of the public rental housing fund, personal property in apartment buildings has become the predominant type of possession in urban areas. As a result, the issue of establishing a legislative framework for the functioning of owners' associations arose. Due to the lack of experience, insufficiency of organization skills and especially insufficiency of financial resources the organization and efficient operation of condominiums is a slow and difficult process. During last ten or fifteen years, the apartment buildings, in Chisinau and other Moldovan towns, are managed by one of the following associations: Housing Construction Cooperatives (HCC), Associations of Owners of Privatized Dwellings (AOPD), Condominium Co-owners Associations (CCA) and Municipal Housing Service Companies (MHSC). Because of the clash between these forms of administration we have a damaged housing service, obsolete engineering networks, minimal infrastructural assets and traditional management methods.*

Keywords: *property, privatization, housing service, cooperatives, condominium*

Introduction

Until 1993, the housing fund was, with few exceptions, the exclusive property of the state. Starting with the year 1996-1997, with the application of the provisions of the Law on the privatization of the housing fund no. 1324-XII of 10.03.1993, the state housing fund is transferred to private property. The application of the provisions of this law has led to essential changes in the structure of home ownership. If in 1991 the state housing fund constituted over 89% of the total, nowadays the ownership of the state and the administrative-territorial units remained less than 2% of the housing fund. In the transition process, only the form of ownership changed, and the central and local authorities did not ensure changes in the maintenance of common areas, a large part of the common areas in residential buildings remained registered as public property, and their management remained in responsibility of local authorities and municipal enterprises, which required considerable resources, both financial and administrative.

The provisions of the privatization law established the basic principles and conditions of the privatization of the housing fund. The purpose of the law was to realize the rights of citizens to freely choose their way of meeting housing needs, ensuring the integrity of the housing fund, creating premises for the formation of the housing market and creative workshops located in the rooms unsuitable for living in dwelling houses (in basements, on technical floors in built-in rooms and annexes).

Housing Construction Cooperatives

Housing Construction Cooperatives (HCC) of Moldavian Soviet Socialist Republic is the oldest form of administration of residential buildings and have been active in the legal norms on the territory of the Republic of Moldova for a period of 35 years.

The housing fund in the MSSR consisted of houses and residential buildings, which belonged to the state, and houses and residential buildings, which belonged to housing Construction Cooperatives. The living quarters in the houses of the HCC were available to the citizens for indefinite use. The governing bodies of the Cooperatives in accordance with their statutes administered the fund of Housing Construction Cooperatives. Every citizen who needed

improved living conditions had the right to join the Housing Cooperative and receive an apartment in that Cooperative. The manner of organization and activity of housing construction cooperatives was established by the legislation of the USSR, by the Model Statute of the Cooperative and by other legislation of the MSSR [1]. The state provided HCC with assistance in exploring and repairing houses but the expenses for the operation and repair of the houses belonging to the Cooperatives were financed from the means of the Cooperatives. In accordance with CODE no. 2718 of 03.06.1983, the following provisions were established: Providing citizens with living quarters in the houses of the Cooperatives; Ensuring that the housing stock is maintained in good condition; The way of registering the citizens, who want to become members of a Cooperative; The organization and activity of HCC, etc.

The main goal of HCC was to build homes and not to buy them, so on 1 February 2016 based on the Decision of the Government of the Republic of Moldova no. 36, in accordance with paragraph (2) of Article 59 of Law no. 75 of April 30, 2015 on housing, the Decision of the Soviet of Ministers of the MSSR no. 338 of October 8, 1984 "On the approval of the Model Statute of the cooperative in the MSSR" has been repealed. Thus, the HCC in its activity can no longer apply the provisions of the abrogated decision.

Proceeding from this fact and, at the same time, in accordance with the provisions of art. 17 paragraph (4) of the Condominium Law in the housing fund no. 913-XIV of March 30, 2000, the Housing Construction Cooperative, which manages the block of flats, is to be reorganized into an association of condominium co-owners, with its subsequent registration and the registration of condominium [2].

Associations of Owners of Privatized Dwellings

After the mass privatization of the public housing fund, personal property in apartment buildings became the predominant type of possession in urban areas of the Republic of Moldova. In most of these urban localities, the legal bases have been created for the establishment of Associations of Owners of Privatized Dwellings (AOPD). The citizens of the Republic of Moldova had the right to purchase or be transferred free of charge in private property, especially the dwellings in which they lived and which belonged to the state and public fund, over which the state declared their property right, regardless of whether the units were included in the privatization lists or not [3].

The maintenance and repair of privatized housing in privatized buildings is carried out by the means of their owners, strictly respecting the rules of operation of housing, maintenance of buildings and land next to them, rules and regulations for the operation of interior engineering systems. The owners of privatized dwellings participate in the common expenses of maintenance of the common places, of the lands near the building, of current and capital repair of the building, of the internal engineering systems. The share of expenses is determined according to the occupied living area and the number of people living on it.

Associations of Owners of Privatized Dwellings can be established according to the territorial principle, if the blocks of flats are constructively connected to the same route of water supply, heat and electricity and the number of apartments in them does not exceed 500 as well as in the blocks of flats unfinished. The construction and operation of these Associations is regulated by the Statute of the association of owners of privatized homes with the organizational-legal form of consumer cooperation [4].

The Local Public Administration authorities of the respective Administrative-Territorial Units exercise the control over the establishment and functioning of the Associations. The Association operates under the Law on the privatization of the housing fund no. 1324-XII of March 10, 1993 and other normative acts that regulate the property relations on the dwellings, their maintenance, exploitation and servicing.

Municipal Housing Service Companies

Over 80% of citizens living in Chisinau live in apartment buildings. Although over 98% of the apartments are already privately owned, the housing fund management system continues to operate in a way that is inconsistent with the principles of a market economy and good governance. Thus, over 60% of the apartment buildings, in which most of the apartments are privately owned, continue to be managed by the MHSC based on prices set by political decision. At the same time, apartment owners are practically excluded from the decision-making process regarding the management and maintenance of their common property [5].

Municipal Housing Service Companies are guided in particular by the tariff for housing services established by the Chisinau Municipal Council. However, in conditions of excessive politicization, the size of this tariff never corresponded to real needs, even after the increases operated in 2007, the size of the tariff is not sufficient to fully cover current expenditures, not to mention repairs.

The basic tasks of the MHSC are: the management, the current and capital repair of the residential space of the municipality, in order to only benefit. The MHSC determines, in common agreement, with the General Directorate for Communal Housing and Planning the program of household activity, as well as the development perspectives, which are approved at the City Hall meetings.

Condominium Co-owners Associations

Condominium - totality of real estate consisting of a plot of land with one or more buildings in which there are: units that are subject to exclusive ownership (housing), rooms with a destination other than housing, are privately owned, and the rest are undivided common property that are intended to meet living requirements. The Condominium Co-Owners Association (CCA) is a private, often non-profit organization. Individual owners of residential/non-residential units automatically become members of the CCA when they buy a unit in the condominium. Ownership of a unit and membership in the CCA are inextricably linked. When an owner sells his apartment/room, he transfers to the new owner his membership in the CCA, which cannot refuse the membership [3].

The main obligation of a Condominium Co-owners Association is to protect and increase the value of the property. From this point of view, coordinating an association is similar to running a business. As in any profitable business, the association needs an organizational structure, with clearly defined rights and obligations for each level.

When the condominium is well organized and CCA works efficiently, this form of ownership has a number of advantages for the owner of an apartment. The Association may have administrative staff and employees who perform the activity of maintenance and servicing of the residential block/blocks. Each unit owner in the condominium owns a share of the common property. The Association can negotiate and conclude contracts directly with the communal service providers. The owners decide the priority of the execution of the works in order to improve the situation in the building, specifies the conditions and names the people who do it. Condominium Co-owners Association holds the technical documents of the building (technical book, technical expertise, documents of transmission of the housing block in the management of the association, etc.). Also, the members of the CCA have control over the financial situation. [5]

Law no. 913 of 30.03.2000 regarding the condominium, regulates the activity of the CCA. At the same time, the Condominium Act regulates that the AOPD or, as the case may be, the HCC, which is activating in the residential building, is to be reorganized into the CCA [2].

Conclusions

The creation of housing service management started as a need to improve housing fund management, but the experience of the operation of these institutions indicates that their activity requires to be much improved through interventions such as: specific policies, changes of legal and regulatory framework, strengthening institutional, management investment attraction and marketing. The legislative-normative framework that regulates the management of the housing sector was developed in a short period of time, which conditioned the leakage of some gaps and shortcomings in regulating the issues related to: the property right of the associations on land and other immovable and movable property, pledge of property in condominium, relations with Local Public Administration and service providers, ways of financing maintenance, repair and arrangement of the common space and the related territories, attestation administrators etc.

Thus, the state of the housing fund in the Republic of Moldova continues to worsen, risking to degrade substantial. The deficient management of the apartment buildings indirectly contributes to the generation of huge losses, related to the delivery of communal services, maintenance and repair of buildings. A situation of blocking of the responsibilities regarding the management and maintenance of the housing fund has been created. The municipal administration continues to exercise some improper functions of housing management, and the owners of the apartments are reluctant to assume responsibilities for maintaining the own patrimony.

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