



RIGHTS AND OBLIGATIONS OF THE SIDES TO THE GIFT CONTRACT

Choriev Murod Shokirjonovich

Assistant Professor at the Department of "General Legal Sciences", Military-Technical Institute of the National Guard of the Republic of Uzbekistan, Tashkent, Uzbekistan

Article DOI: <https://doi.org/10.36713/epra4075>

ABSTRACT

This article discusses rights and obligations of the sides to the gift contract by the helping law sources and scientific literatures as well.

KEY WORDS: right, obligation, liability, law, side, gift contract, element, content.

INTRODUCTION

When it comes to the content of the gift agreement, special attention should be given to the gift contract. Because the real gift agreement usually does not create any compulsory legal relationship. It is necessary to consider the rights and obligations of the donor and the recipient together because the rights and obligations of the other party are compatible with the rights and obligations of the other party.

METHODS

According to Article 224 of the Civil Code of the Republic of Uzbekistan (hereinafter - the Civil Code), the owner has the right to dispose of his property at his own discretion, which in turn gives the right to donate property. The giver may use or waive this right.

In accordance with Part 1 of Article 502 of the Criminal Code of the Republic of Uzbekistan, the main obligation of the donor is to transfer the gift to the recipient. For this reason, I. Anortoev reasonably offers a wider interpretation of the gift and states: "In this case the subject of the gift may be not only the substance but the rights as well as the liberation" [1, p.224, 225]. If the gift is an item, it may be donated directly to the recipient, in a symbolic way, or by handing over title documents.

Giving a gift in the form of a property right is done by submitting documents that confirm the grounds for that right (for example, a waiver of securities without the owner's identity). In turn, relieving the donor of his or her obligation to the third

party or the third party requires the donor to take certain actions, which are often expressed in the consent of the donor's lender to transfer his debt or to fulfill the obligations of the donor.

RESULTS AND DISCUSSIONS

As mentioned above, a real gift contract usually does not create a relationship of obligation. This is why we are talking about the obligations arising from consensus donation agreements, and we will look at their basic terms.

In addition to giving the gift to the recipient, the donor may also give it to a specific person in the future. If such a gift agreement is in writing, in accordance with Paragraph 2 of Article 503 of the RU, a waiver of the gift must also be made in writing. The recipient, in turn, has the right to refuse the gift at any time (without specifying the reason) before transferring it to him in accordance with Article 503 Part 1 of the Civil Code of the Republic of Uzbekistan [2].

On this basis, I.V.Eliseev concludes that "accepting a gift is not the responsibility of the recipient" [3, p.131]. This is easy to explain because the recipient's right to refuse a gift is in line with the donor's obligation to give. The contract cannot be fulfilled until the recipient receives it. If this is the case, the donor has the right to demand from the recipient the compensation for the actual damage caused by the denial of the gift (Part 3 of Article 503 of the Civil Code).



The law also gives the donor the right to make a gift through his representative, and the representative receives that power only when the donor has given him the power of attorney. If the power of attorney and the recipient are not clearly indicated in the power of attorney, it is invalid by itself (Part 7 of Article 505 of the Civil Code). This rule is important when it comes to giving a group of donors and a number of items.

In our opinion, this rule also excludes the possibility of giving the property in the power of attorney in the case of a split (for example, 1/2, 1/3), which may invalidate it.

If the donor is a legal entity, which owns the property on the right of business or operational management, it may donate the property only with the owner's consent. In the absence of the owner's consent, the organization may present "small value gifts" in accordance with Part 1 of Article 505 of the Criminal Code of the Republic of Uzbekistan. However, the law does not clarify the concept of "customary gifts".

In our view, this provision of the law is not clear as the total property of such legal entity is the property of the proprietor. Consequently, even the removal of a small part of it requires the consent of the owner (as the right of possession, use and disposition of such property is the right of the owner). Therefore, we think it would be advisable to clearly state the amount of "small gifts" in Article 505 of the Criminal Code of the Republic of Uzbekistan, for example the value of which does not exceed fivefold.

A consensual donation agreement gives the donor the right to claim the gift from the donor to his or her property, as well as "to demand that the donor fulfill its obligations in due time" [4, p.315]. According to Article 242 of the Civil Code of the Republic of Kazakhstan, the recipient has the right to request the donor to fulfill the obligation if the time limit for performance of the obligation has not been specified or the time of the claim is set.

This right does not impose upon the beneficiary any obligation. The law also gives the donor the most important rights. He shall have the right to refuse the contract of consular donation prior to the issuance of material in the following cases:

1) If, after the conclusion of the contract, the material condition of the donor has significantly deteriorated (Part 1 of Article 506 of the CC of the Republic of Uzbekistan);

2) In case of deliberate crime of the recipient of life of the donor, his family or close relatives (Part 1 of Article 507 of the Civil Code).

In this case, the law allows the donor to unilaterally terminate the contract with the donor. However, Maseevich said there could be other

grounds for refusing to perform the giver's obligation: "Refusal of the donor to carry out the obligation may result in the loss of the item, the release of the transaction or the imposition of the promised action. This stops the obligation because of impossibility of execution"[5, p.154].

It is understood that in some cases, the performance of a gift contract may not be dependent on the will of the parties due to force majeure. This in turn excludes their culpability and misconduct.

It follows that the list of reasons for refusing to comply with the consular donation contract is not yet complete. For this reason, we believe that the list of grounds for the donor's refusal to fulfill his obligations under a consular donation contract should be shown on a much larger scale. This is because such conditions should not give the donor the right to demand from the donor the reimbursement of damages caused by his or her fault in the future.

The law also gives the donor the opportunity to request an emergency, change or cancellation of the gift agreement in the event of a serious change in circumstances. A significant change in circumstances where the parties can foresee the situation in advance, may not conclude the contract at all, or conclude it with significantly different conditions (Part 2 of Article 383 of the Civil Code). If an agreement cannot be reached, interested parties may apply to the court (Art. 383 Part 3 of the Civil Code).

At the death of the donor, his obligations are transferred to the heirs of the consortium, unless otherwise provided by the consular donation agreement. This, in turn, gives the beneficiary the right to demand from the heirs of the promising donor, unless otherwise provided by the contract. However, this provision does not apply to the donation agreement (Art. 511 Part 8 of the Civil Code).

Contrary to this rule, in the interests of the proprietor (beneficiary), the heirs at the death of the beneficiary are required by the donor to fulfill the obligation under the donation agreement, unless otherwise provided by the contract will not be entitled to. That is, the law gives the parties the right to decide what to do about it.

In the case of a charitable agreement which has specific features, it should be noted that in accordance with Article 511, Part 3 of the Civil Code, the donor has the right to receive donated property without the permission of state authorities or higher organizations [6, p.249]. This right exists only in this type of gift agreement.

Although commitments on the part of the beneficiary are not uncommon for a simple gift, they always exist in a donation agreement. This seriously limits the recipient's rights. After all, its main

obligation is to use property for designated purposes (Art. 511, Part 3 of the Civil Code). This is explained by the fact that the number of donors has increased significantly and citizens have become involved as givers.

Donations may also be for the benefit of the whole community, for a particular organization or institution, enterprise, or for a limited number of individuals (for example, nursing homes, a community of people with disabilities or a group of individuals with a particular profession, etc.). Citizens should use the donated property for the purposes stated by the donor (Part 4 of Article 511 of the Civil Code). The law treats the donated property as a simple gift to a citizen if the beneficiary has no purpose. Conversely, if the donor is an organization, it may “make” the donation a condition that the property is used for a specific purpose. If this is not the case, legal entities should use the property in accordance with its function (Art. 511, Clause 4 of the Civil Code). However, this use, in this context, should align with the goals of the organization, according to A.L. Makovsky [8].

CONCLUSION

Indeed, the purpose of disposing of such property may not correspond to the goals of the legal entity's activities as set out in the constituent documents (for example, the special legal capacity of the legal entity as defined in Article 41 of the Civil Code). In this case, the recipient cannot fulfill his obligation to the donor, that is, the purposeful use of the property, because the activity is illegal (or may not have a license).

In this case, the law gives the beneficiary the right to change the “purpose” of the donated property, but only with the consent of the beneficiary, and in the event of his death, by the decision of the court (Article 6). If the beneficiary is a legal person, the recipient must maintain a separate list of all operations related to the use of the donated property (Part 3 of Article 511 of the Civil Code). We believe that such a measure is necessary to prevent and prevent such a donor's use of the donated property for any other purpose.

REFERENCES

1. *Comments to the second part of the Civil Code of the Republic of Uzbekistan. Volume II. Book 2. Hoji-Akbar Rahmankulov is under the general editorship. Responsible Editor: I. Anortoev. -T.: “World of Economics and Law”. 1998. -p. 224–225.*
2. *This Article provides that the concession of such a contract shall be in writing and, if necessary, in the state registration, which means that the recipient shall refuse to accept it.*
3. *Civil law: Textbook. Part 2 / Ed. A.P. Sereeva, Yu.K. Tolstoy. -M.: TEIS, 1997. -131 b.*
4. *Makovsky A.L. Donation (chapter 32) // Civil Code of the Russian Federation. Part Two: Text, Commentary, Alphabetical Index / Ed. O.M. Kozyr, A.L. Makovsky, S.A. Khokhlova. -M., 1996. -316 p.*
5. *Commentary to the Civil Code of the Russian Federation, part two (itemized) / Ed. O.N.Sadikova. -M.: Infra-M.: NORMA, 1996. -154 p.*
6. *Comments to the second part of the Civil Code of the Republic of Uzbekistan. Volume II. Book 2. Hoji-Akbar Rahmankulov is under the general editorship. Responsible Editor: I. Anortoev. -T.: “World of Economics and Law”. 1998. -p. 249.*
7. *Comments to the second part of the Civil Code of the Republic of Uzbekistan. Volume II. Book 2. Hoji-Akbar Rahmankulov is under the general editorship. Responsible Editor: I. Anortoev. -T.: “World of Economics and Law”. 1998. -p. 245.*
7. *Makovsky A.L. Donation (chapter 32) // Civil Code of the Russian Federation. Part Two: Text, Commentary, Alphabetical Index / Ed. O.M. Kozyr, A.L. Makovsky, S.A. Khokhlova. -M., 1996. -316 p.*