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JURISDICTION AND VENUE OF CIVIL CASES ARISING FROM INHERITANCE RELATIONS: A NATIONAL AND FOREIGN ANALYSIS

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Abstract. *This article examines the theoretical and legal foundations of jurisdiction and venue for cases arising from inheritance-related legal matters, as well as the criteria for their determination. It analyzes the legal mechanism for distributing inheritance cases between courts and notarial bodies, the procedural nature of disputed and undisputed inheritance cases, the specific features of cases related to establishing legal facts, and issues of territorial venue. Drawing on a comparative legal analysis of the experience of foreign countries, the author substantiates a proposal to form a corps of judges specializing in the consideration of inheritance disputes to improve Uzbekistan's judicial practice.*

Keywords: *inheritance legal relations, inheritance disputes, subject-matter jurisdiction, venue, notariate, legal facts, special proceedings, judicial specialization.*

Introduction. Disputes arising from inheritance-related legal matters are considered a complex category of cases in civil court proceedings. The proper adjudication of such cases depends, first and foremost, on the correct determination of their subject-matter jurisdiction and venue. This issue is particularly significant for delineating the powers of judicial and notarial bodies, ensuring the timely protection of citizens' inheritance rights, and preventing unnecessary procedural costs.

In recent years, the growing complexity of inheritance relations, the inclusion of new types of assets in estates, and an increase in disputes among heirs have necessitated a thorough theoretical and practical study of this legal institution. Concurrently, the current legislation contains various approaches to certain issues regarding the delimitation of powers between courts and notary offices, which leads to inconsistent decisions in judicial practice.

These issues have been studied by national scholars such as M. Mamasiddikov, D.Y. Khabibullayev, Z.N. Esanova, and I.M. Salimova, as well as by foreign scholars including K.V. Grinberg, P.S. Nikityuk, T.V. Salomatova, and other researchers. However, their scholarly works have not comprehensively covered the criteria for determining the jurisdiction of inheritance cases or the issues of delineating the powers of judicial and notarial bodies. The purpose of this article is to analyze the theoretical and practical foundations for determining the subject-matter jurisdiction and venue of civil cases arising from inheritance-related legal matters, to conduct a comparative study of foreign experience, and to develop scholarly proposals for improving the current legislation.

Materials and Methods. This study analyzed the Civil Code, the Code of Civil Procedure of the Republic of Uzbekistan, the Law "On Notaries," resolutions of the Plenum

of the Supreme Court, and other normative-legal acts governing inheritance relations. Additionally, the legislation and academic literature on inheritance relations from the Russian Federation, Germany, England, Japan, and other countries were examined from a comparative-legal perspective.

The research employed formal-legal, comparative-legal, systematic analysis, logical analysis, historical-legal, and generalization of academic sources methods, as well as the analysis of judicial practice. These methods enabled a scholarly assessment of the criteria for determining the relevance and jurisdiction of inheritance cases and facilitated the development of the author's proposals.

Obtained Results. The jurisdiction of civil cases is a procedural institution that determines which government body, official, or non-governmental entity (such as arbitration, arbitration courts, or a mediator) is authorized to resolve matters pertaining to civil law relations. In legal literature, various approaches exist regarding the classification and legal nature of the types of jurisdiction. Specifically, in the academic works of national procedural scholars M. Mamasiddikov, Z. Esanova, D. Khabibullayev, I. Salimova, and other authors, jurisdiction is interpreted as "the delimitation of authority for the consideration and resolution of disputes by courts and other bodies." These definitions express the narrow sense of jurisdiction and serve to further facilitate its practical application [1, pp 32; 2, pp 15-17; 3, pp 56-68; 4, pp 29-30; 5, pp 49].

Jurisdiction is a broader concept than justiciability. In jurisdiction, not only the court but also all state authorities and administrative bodies, enterprises, institutions, organizations, non-governmental non-profit organizations, and citizens' self-governing bodies participate in resolving disputes according to their competence. Justiciability, on the other hand, determines that disputes belong to the judicial bodies and that a court should be petitioned based on the type of dispute, the composition of the subjects, the residential address of individuals and the location of legal entities participating as parties, and the location of the subject of the dispute among the tiers of the court system. [6, p 323].

Chapter 5 of the Civil Procedure Code of the Republic of Uzbekistan is titled "Jurisdiction and Venue," and these two concepts represent two separate, independent procedural institutions.

Jurisdiction defines the judicial and non-judicial forms of resolving matters concerning the protection of the rights and interests of individuals and legal entities. This is because there are currently a number of state bodies and organizations authorized to protect the violated or disputed subjective rights of individuals and legal entities, as well as their interests protected by law. The jurisdiction of cases plays a key role in delineating their respective powers.

The question of court jurisdiction over inheritance matters arises primarily from the need to clearly delineate the powers between notarial and judicial bodies. This is because inheritance-related legal relationships typically manifest as the subject of notarial proceedings at a stage where no dispute exists.

In accordance with Article 23 of the Law of the Republic of Uzbekistan "On Notaries," notaries perform the following actions related to the regulation of inheritance legal relations:

- approves wills;
- issues certificates of inheritance rights;
- takes measures to protect inherited property;

- acts as a mediator.

Legal literature lists the main and additional criteria for determining jurisdiction. In particular, if the main criteria for determining jurisdiction are recognized as the nature of the case, the type of legal relationship, the sphere in which the dispute arose and the subjective composition of the parties, the presence of a contract and agreement between the parties, the disputability or non-disputability of the right are evaluated as additional criteria [2, pp 54].

In scientific literature concerning the criteria for determining jurisdiction, there is no single approach; national procedural scholars have put forward various theoretical views on this matter.

Specifically, according to the opinion of Z.N. Esanova, the jurisdiction of cases is determined based on the criterion of whether a dispute exists between the parties. If the jurisdiction of a case is determined by the absence of a dispute, this is referred to as the general criteria for jurisdiction, and such claims are often resolved by bodies authorized to settle the matter pre-judicially (Civil Registry Offices, mahalla committees, notaries, khokimiyats, and other bodies).

If jurisdiction is determined by the existence of a dispute between the parties, this is called a special criterion of jurisdiction, and such claims are resolved through the court[7, pp 66].

D.Y. Khabibullayev asserts that the subject of the dispute serves as the main criterion for determining jurisdiction. In his opinion, it is precisely the subject of the dispute that determines whether a case belongs to a court or another body[8, pp 78]. However, a critical perspective on this approach was put forth by I.M. Salimova. Taking into account the difference between disputed and undisputed claims, she argues that the concept of the "subject of the dispute" is insufficient for determining jurisdiction, and that it is more appropriate to define it through "the substance of the claim being made[2, pp 55]. I.M. Salimova's position should be supported. This is because the criterion "content of the claim" is of particular importance in the consideration of disputes. In particular, depending on the merits of the claim, it is determined whether the case will be considered in court or notarized, as well as whether it will be resolved through claims or separate proceedings. This is a decisive factor in the correct definition of affiliation.

Although the scientific sources of the aforementioned scholars cover the general concept and criteria of jurisdiction, the scientific views on the jurisdiction of inheritance cases deserve special attention. In particular, some foreign scientists put forward unique approaches to determining the relevance of works in this category.

In particular, G.V. Greenberg, describing the jurisdiction of inheritance cases, evaluates them as a specific, special type of case and notes that the resolution of inheritance issues, as a rule, falls within the competence of notary bodies, and such cases are considered by judicial bodies only in the event of a dispute over the right[9, pp 22]. R.A. Arupov also explains that the judicial protection of inheritance rights is necessitated by the existence of a dispute related to a rights violation. Thus, most scholars recognize the presence or absence of a dispute over a right as the main criterion for determining the jurisdiction of inheritance cases.

A dispute over the right to inheritance is an integral part of the legal relationship that arises

from the opening of an estate. It manifests as a disagreement between parties concerning the exercise of their rights and obligations within this relationship.

The issue of determining the criteria for assigning a particular inheritance case to either a court or a notary for consideration is complex and controversial. According to a prevalent approach in legal scholarship, if a dispute over the right to inheritance arises after an estate has been opened by a notary, the case must then be heard by a court through a lawsuit. This approach relies on the existence of a legal dispute as the primary criterion for determining jurisdiction. In other words, when there is no dispute, inheritance matters are handled through notarial procedures; however, if a dispute arises, they fall under the jurisdiction of the court. As P.S. Nikityuk noted, when there is no dispute among individuals who consider themselves heirs regarding inheritance rights, the inherited property, or the procedure for its division, the legal aspects of the inheritance proceed normally within the framework of notarial proceedings[10, pp 211]. Thus, the powers of judicial and notarial bodies in inheritance-related matters will be demarcated.

However, it is incorrect to determine the jurisdiction of inheritance cases based solely on their contentious nature. In practice, there are also inheritance cases where no dispute over the right exists, but establishing legal facts is necessary for the exercise of those rights. Various scholarly approaches exist in legal literature regarding the legal nature and procedural characteristics of this category of cases. In particular, K.V. Greenberg asserts that a dispute over a right must be distinguished from situations where, although the subjective right has not been violated or contested by anyone, its exercise is impossible without official confirmation from a competent jurisdictional body. This approach is also highly significant in inheritance law[9, pp 125]. Additionally, T.V. Salomatova acknowledges the existence of an independent category of non-contentious inheritance matters. In her opinion, although these matters are non-contentious in nature, their consideration falls within the jurisdiction of the general courts and they should be heard in a separate proceeding[11, pp 70]. These conclusions of the authors are well-founded and correctly reflect the essence of the jurisdiction of inheritance cases. This is because, although there is no dispute over the right in inheritance legal relations, there are often cases where it is necessary to establish legal facts for the exercise of rights. Therefore, it is scientifically and practically justified to recognize such cases as a separate procedural category and to consider them in the order of separate proceedings.

In accordance with Article 295 of the Civil Procedure Code of the Republic of Uzbekistan, cases concerning the establishment of facts such as the acceptance of an inheritance, the place of opening of the inheritance, kinship relations, and a person's dependency on another, fall under the category of inheritance cases considered in special proceedings of the civil process.

Such cases are considered by the courts in accordance with the rules of Chapter 28 of the Civil Procedure Code, "Establishment of the facts having legal relevance" as, stated above, there is no dispute in these matters.

Discussion of results. Based on a generalization of the aforementioned scholarly views, the research findings indicate that cases arising from inheritance legal relations are not solely contentious in nature. They also

constitute a distinct category where, despite the absence of a dispute over a right, the establishment of legal facts is necessary to exercise those rights. Indeed, the existence of a dispute over a right cannot be recognized as the sole and absolute criterion for determining the jurisdiction of inheritance cases. Although this criterion is significant, it does not fully encompass all situations. To determine the jurisdiction of inheritance cases more precisely and comprehensively, it is necessary to apply several interrelated criteria. Such an approach allows for the consideration of the complex nature of inheritance relations and serves to reduce errors that occur in practice. Therefore, when determining the jurisdiction of inheritance cases, in addition to the existence of a dispute over a right, it is advisable to also consider criteria such as the substance of the case, its legal nature, and its procedural rules.

The issue of jurisdiction over civil cases arising from inheritance-related legal matters is also of significant importance. In general, jurisdiction over civil cases refers to the body of civil procedural law norms that determine the distribution of cases among the judicial bodies of a single system, based on the type of case and the geographical location[12, pp 23].

In the theory of civil procedural law, there are various scholarly approaches to the concept of jurisdiction. In particular, V.V. Molchanov and M.K. Treushnikov define jurisdiction as an institution that determines which specific court within the judicial system hears legal cases in the first instance. M.M. Mamasiddiqov, however, characterizes it as a set of civil procedural law norms that govern the distribution of cases among the levels of the judicial system based on their type and territory. Analysis reveals that in all these approaches, the fundamental essence of jurisdiction is concerned with identifying the court competent to hear a case, with the differences primarily manifesting in the theoretical description of this institution.

When determining jurisdiction, the subject matter of the dispute, the composition of the parties, and their place of residence or the location of their property are taken into account. For this reason, the rules of subject-matter and territorial jurisdiction are of great importance in designating the court competent to hear the case.

Subject-matter jurisdiction refers to the distribution of authority among judicial instances based on the type of case (district, city, inter-district, regional, republic); territorial jurisdiction refers to the distribution of cases among district, city, and inter-district courts based on the address of the parties or the location of the subject of the dispute[13, pp 70].

Our civil procedural legislation does not fully encompass all the criteria for determining related jurisdiction. The criteria for related jurisdiction are only observed in adoption cases[19].

Cases arising from inheritance-related legal matters are generally heard based on the rules of territorial jurisdiction over the claims. Legal literature identifies several types of territorial jurisdiction, including general territorial jurisdiction, alternative jurisdiction (at the plaintiff's discretion), exclusive jurisdiction, contractual jurisdiction, and jurisdiction over interconnected claims[2, pp 83].

Territorial jurisdiction is a procedural institute that determines which court in a specific territory will hear a civil case. In cases arising from inheritance-related legal matters, territorial jurisdiction is determined based on the general, exclusive, and special proceeding

rules of the Civil Procedure Code of the Republic of Uzbekistan.

As a general rule, claims arising from inheritance-related legal matters are filed with the court at the defendant's place of residence. In particular, disputes such as recognizing a person as an heir, restoring the term for accepting an inheritance, or declaring a will invalid are heard by the court at the defendant's place of residence, unless otherwise provided by law.

However, if the dispute pertains to rights over immovable property that is part of the inheritance, the rules of exclusive territorial jurisdiction apply. In such cases, the statement of claim is filed with the court where the immovable property is located. Specifically, disputes concerning the recognition of ownership rights to a house, land plot, or other immovable property within the inheritance, the determination of shares, and the division of property are heard by the court where the immovable property is located.

Not all cases arising from inheritance-related legal relationships are contentious in nature. Specifically, cases concerning the establishment of legal facts necessary for the formalization of an inheritance—such as the acceptance of the inheritance, dependency, kinship, or cohabitation—are considered under a special proceeding. The territorial jurisdiction for this category of cases is generally determined by the court at the applicant's place of residence, based on the norms of the Civil Procedure Code pertaining to special proceedings.

Furthermore, although the place where the inheritance is opened holds significant legal importance for accepting the inheritance and for notarial proceedings under the Civil Code, it is not always the determining criterion for territorial jurisdiction. Therefore, when establishing territorial jurisdiction in cases arising from inheritance-related legal relationships, it is essential to first consider the procedural nature of the case (whether it is heard as a lawsuit or under a special proceeding) and the subject of the claim or application.

To gain a deeper understanding of the issues related to determining the jurisdiction of inheritance cases, it is important to analyze how this institution is regulated in the legislation and judicial practices of foreign countries. International experience reveals that there are various approaches to determining jurisdiction in inheritance matters, primarily based on the division of authority between judicial and notarial bodies.

In the Russian Federation, inheritance matters are, as a rule, handled through notarial procedures, and the formalization of inheritance rights falls within the authority of a notary. However, in the event of a dispute over rights among heirs, such cases are considered by courts of general jurisdiction in a lawsuit procedure, in accordance with the norms of Chapter 3 of the Civil Procedure Code of the Russian Federation[14].

In some foreign countries, however, the authority to resolve non-contentious jurisdictional matters in inheritance cases is vested not in notaries, but in judicial bodies. This approach is particularly characteristic of the legal systems in England, Germany, Bulgaria, Brazil, Greece, Egypt, Iran, Norway, and Japan[15, pp 24]. However, even in these states, judicial powers are not distributed uniformly. For instance, in Germany, while courts of general civil jurisdiction—the Amtsgerichte or Landgerichte—hear inheritance disputes based on the value of the

claim, non-contentious matters are resolved by specialized inheritance courts, the Nachlassgerichte[16]. Likewise, in England, inheritance disputes are resolved by the County Courts and, as a higher instance, the Chancery Division of the High Court, while non-contentious inheritance matters are handled by the Family Division of the High Court[17, pp 83]. In Japan, inheritance disputes are handled by Family Courts - Katei Saibansha [18, pp 177].

Conclusion. This experience demonstrates the importance of judicial specialization in the consideration of inheritance cases. Specialization contributes to increasing the knowledge and experience of judges in this category of cases, forming a unified approach in judicial practice, ensuring the prompt and high-quality consideration of cases, and rationally distributing the judicial workload.

Furthermore, in accordance with paragraph 9 of the Resolution of the President of the Republic of Uzbekistan No. PP-401 dated December 21, 2023, starting February 1, 2024, as an experiment, two judges each in the civil courts of Samarkand city, Namangan inter-district, and Mirzo-Ulugbek inter-district courts have been specialized in considering family disputes, and the institution of "Family Judges" has been introduced.

From the author's point of view, it is advisable to gradually apply this experience to disputes arising from inheritance legal relations. In particular, the formation of a corps of judges specializing in the consideration of inheritance disputes in inter-district civil courts will serve to ensure the uniformity of judicial practice, improve the quality of consideration of complex inheritance cases, and strengthen the stability of court decisions. The effective operation of specialized inheritance courts in countries such as Germany also confirms the practical justification of such an approach.

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