

The legal status of a peasant (farmer) farm as a business entity

*Spektor Ludmila*¹ and *Zhmurko Rodion*^{2,*}

¹Institute of Service and Entrepreneurship (branch) of DSTU in Shakhty, 147 Shevchenko str., Shakhty, 346500 Rostov region, Russia

Abstract. This article examines the legal status of the peasant (farmer) economy as a subject of entrepreneurial activity which has developed to date, is the result of numerous reforms carried out in this area. In modern realities for the formation of such an association of citizens, the registration of a legal entity is no longer required, which is enshrined in Federal Law N 74-FL of 11.06.2003 "On peasant (farmer) farming". This article examines the concept of a peasant (farmer) economy, examines the legal aspects of its activities, analyzes the legislative reforms carried out in this area, identifies current problems, and suggests ways to solve them. The article deals with the dual relationship of civil and land legislation arising in the regulation of land relations, including various transactions with land plots. The authors of the article suggest possible options aimed at eliminating the duality of this relationship, despite the fact that the land plot, taking into account the norms of civil and land legislation, can be considered as a natural object and as an object of civil relations with all the characteristics of real estate.

1 Introduction

There has been a rapid development of certain spheres of public life including the economy of our state as a whole which has given rise to many new business entities with the main goal of extracting (receiving) profit in recent years.

The main purpose of the study is to study the problem of the legal status of the peasant (farmer) economy as a subject of entrepreneurial activity as well as to study the problem of the relationship between civil and land legislation in the field of land relations regulation.

The subject of the study is social relations related to the organization and management of a peasant (farmer) economy, normative legal acts regulating these relations as well as the practice of their use.

2 Methodology

*Corresponding author: spektor2@yandex.ru

When writing an educational and research work, the method of analysis and synthesis is used: First, we analyze disparate legal and literary sources, information is synthesized to draw conclusions and form hypotheses.

3 Results of the research

Currently in civil and land legislation, there are no clear criteria for distinguishing the scope of both branches of legislation in the regulation of land property relations, including the turnover of land plots, because firstly, there is no doctrine for distinguishing the norms of civil and land legislation; secondly, a number of authors deny the existence of land law as an independent branch; thirdly, according to other authors, there is no need to include land plots in the sphere of civil law regulation; Fourth, a number of scientists express their position on the priority of regulating land relations by the norms of one or another branch of law, in particular the Civil Code of the Russian Federation.

Thus, the resulting property economic relations regarding the turnover of a land plot as a real estate object are subject to legal regulation, but only by the norms of the Civil Code of the Russian Federation and the norms of the Civil Code of the Russian Federation are not regulated. Therefore, the issues of the correlation of civil and land legislation in relation to land and legal relations remain relevant, not only representatives of civil law science, but also representatives of land and legal science are involved in the problematic issues [1]. Thus, according to the legal position that land law is an independent branch of law, in connection with which all relations related to land plots should be directly regulated only by the norms of land legislation. In their opinion the simultaneous application of civil and land legislation in the legal regulation of land relations is impossible, as in shemaleprivate relationship, despite the fact that they can be associated with the sale, lease, and donation of land, private interest sidelined compared to public law interests[13].

Based on the analysis of different points of view on the issues of the relationship of civil and land legislation in the regulation of a variety of land legal relations, we believe that, in accordance with the concept of development of civil legislation of the Russian Federation it is necessary to revise the law of the civil code and the land code of the Russian Federation, which create competition for the norms of the civil code and the land code of the Russian Federation. Scientists Z. F. Safin, A. Borodin, and their supporters believe that the ratio of civil and land legislation, which is manifested in the regulation of land relations, should be considered as intersectoral relations, since in various normative acts of land legislation, the norms of the Civil Code of the Russian Federation are reproduced in full or in part, without contradicting the civil legislation itself [4,5]. In addition, reproduced civil law developed and fleshed out with the features of regulation of land relations in the first place it concerns the rules on the right of ownership, characteristics of acquisitive prescription, the norms regulating a variety of transactions with land plots, even given the fact that the norms of the civil code takes precedence over the norms of the land code of the Russian Federation [14].

In addition, this legal position is confirmed by various rulings of the Constitutional Court of the Russian Federation, in particular, the ruling of the Constitutional Court of the Russian Federation of February 3, 2000 N 22-O "At the request of the Pitkyarant City Court of the Republic of Karelia on checking the constitutionality of Article 26 of the Federal Law "On the Insolvency (Bankruptcy) of Credit Organizations", including the norms of federal legislation[3]. Thus, the most striking example of the intersectoral nature of the relationship between civil and land legislation in the regulation of land relations is Federal Law N 101-FL of July 24, 2002 "On the turnover of agricultural land". The intersectoral relations of civil and land legislation in this case are manifested in the fact that the Federal Law of July 24, 2002. N 101-FL "On the turnover of agricultural land" contains rules governing transactions with land plots, namely the purchase and sale and lease of land plots, etc., considering them

as real estate objects, in connection with which it can be argued that these rules have a dual nature reflected in both land and civil legislation.

4 Discussion of results

Currently business activity is one of the most priority and popular types of economic activity in the Russian Federation. In our opinion the existing business entities make a significant contribution to the development of the economy of our state. However, I would like to focus my attention on such a business entity of the agricultural sector as a peasant (farmer) farm. Thus, the Federal Law of June 11, 2003 N 74-FL " On peasant (farm) farming " considers a farm as a set of individuals related to each other by kinship and (or) property, with the main goal of carrying out personal joint efforts of economic activity [2].

Table 1. Information about the location of a typical peasant (farm) farm

1.	Trunkroad	8.	householdunit
2.	Powergrid	9.	Artesianwell
3.	kotorogo	10.	kitchen-garden
4.	pond	11.	yard
5.	Equippedwateringhole	12.	current
6.	forest	13.	Houseandgarden
7.	farm	14.	—

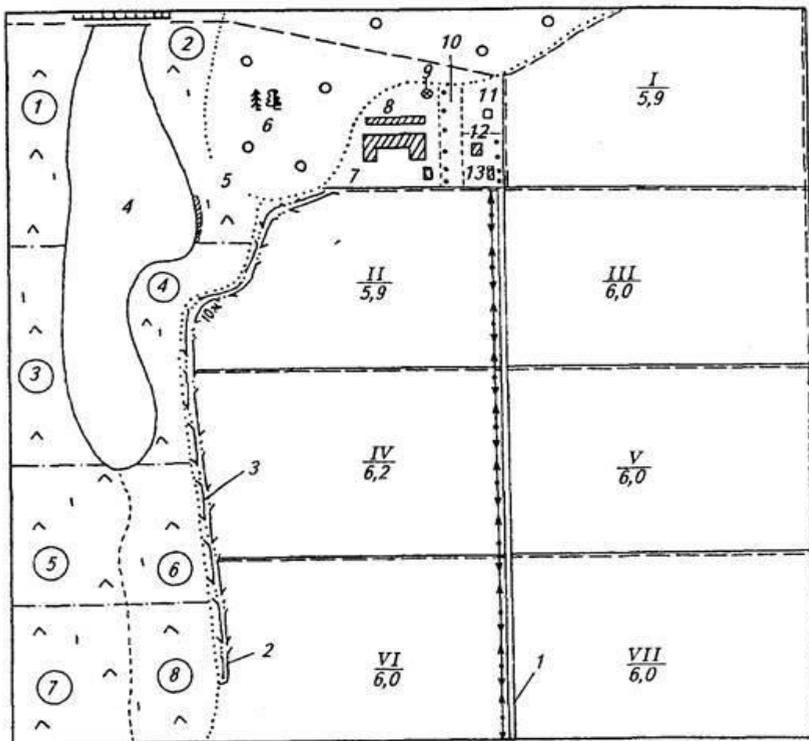


Fig. 1. The scheme of location of the model of peasant (farmer's) economy.

The economic interest in farming on the part of state bodies is caused, first of all, by the fact that these economic entities allow providing the population with high-quality agricultural products. Important in the activities of farmers is not only the economic factor, but also the social one. Thus, the development and improvement of these economic entities of entrepreneurial activity in rural areas contributes to the emergence of new jobs, improving the infrastructure of the locality, the supply of food products, etc.

However, it is necessary to create a high-quality regulatory framework for the purpose of clear legislative regulation of the activities of peasant (farm) farms to achieve this level. It should be noted that the result of the emergence of peasant farms, which are economically independent units that have private ownership of production facilities and products, as well as having a special legal status, was the reform of the agricultural sector of our state [8]. For example, in the legislation of the USSR, the formation of a legal entity (organization) was a prerequisite for the creation and implementation of the activities of farms.

However, this situation did not last long. At that time, the legislator considered it necessary to simplify the system of education of farms and fixed the rules according to which it was no longer necessary to register a farm as a legal entity. It was enough to register him as an entrepreneur. However, against the background of these innovations, there were significant problems and contradictions between state bodies and members of peasant (farmer) farms. In this regard, the tax authorities required farmers with the status of a legal entity to change the registration of farms in accordance with the law to the status of an individual entrepreneur, which increased the number of organizational and legal forms of peasant farms.

The terms for this procedure were given minimal, which significantly complicated the implementation of re-registration. After the adoption of the Federal Law "On peasant (farmer) farming" in 2003, farmers began to register as business entities, but there were also those who did not want to change their registration from a legal entity to an individual entrepreneur, in connection with which they were reorganized into other forms that retain the status of a legal entity [6].

Regulation regarding the registration of peasant (farm) farms affected the activities of the tax authorities, in connection with which they began to register farmers as individual entrepreneurs, without obtaining the status of a legal entity [9]. According to the scientist P. Sklenička, all these reforms carried out by the legislator in the field of entrepreneurship left their mark on the relationship between farmers and state authorities, which subsequently led to numerous disputes [7]. On the basis of the above, we believe that the legislation in the field of agricultural activities by peasant (farmer) farms should not undergo changes with such frequency.

In the regulation of various land and legal relations, including land transactions, land inheritance or donation, the principle of limitation, on the basis of which the provisions of the civil code shall prevail and be subject to mandatory application, for example in the regulation of transactions with land plots, in comparison to the norms of the land code of the Russian Federation. The legislative consolidation of the principle of restriction of property rights to land plots has a different effect on the ratio of civil law norms regulating land legal relations, since plots are not only objects of property rights, but also acts as a real estate and as a natural resource with its own specific characteristics, is used where both the civil code and the land code of the Russian Federation.

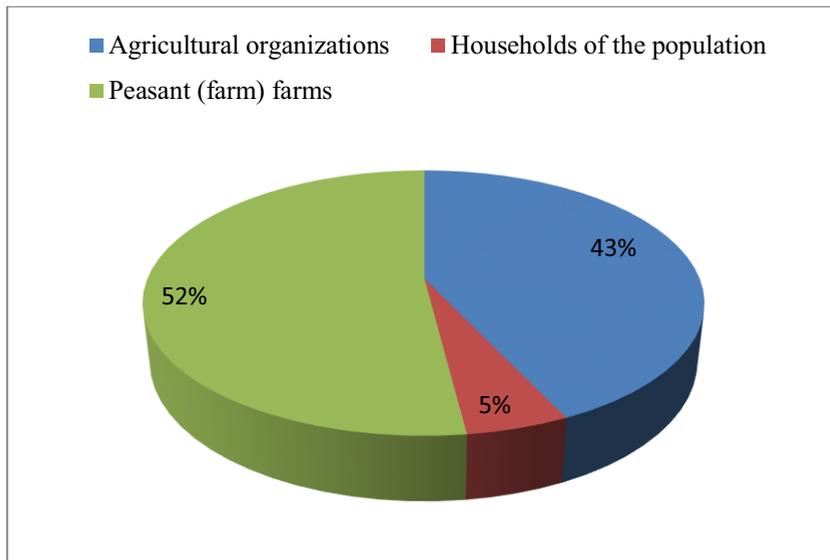


Fig. 2. The structure of agricultural production by categories of farms in the 2020-2021, the percentage

The competitive relationship between the norms of civil and land legislation arises, for example, in the regulation of land relations related to the acquisition limitation or the limitation of ownership of a land plot. In addition, the priority of the norms of the civil code governing property rights to land in relation to the land code of the Russian Federation, due to the fact that land law is under the joint authority of the Russian Federation and its subjects, while the norms of the civil code of the Russian Federation are the responsibility solely of the Russian Federation. The discussion of the correlation between the norms of civil and land legislation in terms of regulating land relations was started back in 1994. A. Ji believed that land relations can only be regulated by civil law, despite the fact that over time a new branch of law was singled out from the Civil Code of the Russian Federation, and the independence of such a branch of law as land law causes him great doubts, taking into account the position and discussions on this issue among a number of foreign authors.

Over time, this position was supported by the civil scientist S. Neumeier, who not only supported the legal position expressed by A. Ji, but also stated his position that land legislation can only establish the necessary public legal restrictions and prohibitions related, for example, taking into account the natural and intended purpose of land plots, i.e. he believed that land law belongs to public law, due to the fact that the subject of land relations regulation is land monitoring and land management; relations related to the management of the state land cadastre; land protection, land control, etc., based on relations of a public legal nature [10, 15].

Therefore, the assignment of land plots to the category of civil relations is possible only if we consider land plots as a property right that has all the characteristics of real estate. The position of R. Melot, opposite to that of S. Neumeier and A. Ji, who believed that if all the norms aimed at regulating land law relations closely related to civil law are removed from the Land Code of the Russian Federation, then it is necessary to do the same with other codified acts containing norms of water, forest and other environmental legislation, since all the same, the norms of law removed from these codified acts will need to be replaced with

something, or where to correlate [11]. But, however, the legislator will have to issue a large number of special laws aimed at civil law regulation of land and other natural resource relations, as a result, all this can negatively affect law enforcement practice and legislative activity, since these legal norms will differ significantly from those legal norms that were previously removed from the codified acts.

A completely different view was expressed by S. Bui, justifying its legal position that the Constitution guarantees citizens the right to purchase land as private property, proficiency in the use and disposal of such property, which should not damage the environment, infringe on the rights of third parties, in connection with which, in her opinion of land involved in civil turnover, as the earth is not only a natural object, but the object of market relations (sale, donation contract, lease, etc.) [12].

Given that a land plot can bring income to its owner, it becomes a full-fledged object of civil law in connection with the involvement of the land plot not only in economic, but also in property relations.

5 Conclusions

In our opinion, the current legislation does not specify in what status a peasant farm should be created. Due to changes made over the years, citizens who want to create the economic entity in question may incorrectly register it. Thus, we propose to make changes at the legislative level to the Federal Law "On peasant (farm) economy" to introduce norms that will prescribe a clear algorithm of actions when creating a peasant (farm) economy. We also believe that the solution to the current problems related to the relationship between civil and land legislation in the regulation of transactions with land plots can be the official recognition of the intersectoral nature of this relationship, which will allow to resolve most of the legal conflicts between civil and land legislation, including in the case of transactions with different land plots.

The problem of the relationship between civil and land legislation of the regulation of land relations can be completely solved if the legislator will identify land and civil law to the objects of exclusive competence of the Russian Federation or to the joint jurisdiction of the Russian Federation and its constituent entities, which will also allow you to avoid all sorts of contradictions between the state and Federal laws governing civil and land relations.

References

1. S.A. Lipski, Legal aspects of agricultural land circulation in post-Soviet Russia *J. Russ. Law* **4**, 12-19 (2014)
2. A. Anisimov, O. Popova, Legal problems in developing organic (environmentally friendly) markets *Environm. Policy Law* **47(3-4)**, 139-147 (2017),
3. Z.F. Safin, E.V. Luneva, Application of the principles of land legislation as a way to resolve conflicts *Legal technique* **11**, 558-560 (2017)
4. Z.F. Safin, *New in the civil status of peasant farms enterprises Proceedings of Kazan University, Humanitarian series*, 151-156 (2013)
5. A. Borodin, N. Shash, G. Panaedova, S. Frumina, A. Kairbekuly, I. Mityushina, The impact of the publication of non-financial statements on the financial performance of companies with the identification of intersectoral features *Entrepreneurship Sustain. Issues* **7(2)**, 1666-1685 (2019)
6. Y. Gorodnichenko, G. Roland, Culture, institutions, and the wealth of nations *Rev. Econ. Stat.* **99**, 402-416 (2017)

7. P. Sklenička, Classification of farmland ownership fragmentation as a cause of land degradation: a review on typology, consequences, and remedies *Land Use Policy* **57**, 694-70 (2016),
8. T. Noszczyk, J. Hernik, A. Glowacka, J. Tazsakowski, Preventing and resolving social dissatisfaction in spatial management in rural areas *Eng. Rural Dev.* **16**, 1057-1063 (2017)
9. J. Janus, I. Forty years later: assessment of the long-lasting effectiveness of land consolidation projects *Land Use Policy* **83**, 22-31 (2019)
10. R. Melot, *Droits de propriété et d'usage sur la terre. Une étude statistique des recours contentieux en matière de fermage* *Économie rurale*, 69-85 (2014)
11. S. Neumeier, Social innovation in rural development: identifying the key factors of success *Geogr. J.* **183**, 34-46 (2017)
12. S. Bui, A. Cardona, C. Lamine, M. Cerf, Sustainability transitions: insights on processes of niche-regime interaction and regime reconfiguration in agrifood systems *J. Rural Stud.* **48**, 92-103 (2016)
13. A. Syp, D. Osuch, Assessment of farm efficiency and productivity: a data analysis envelopment approach. Conference: research for Rural Development International Scientific Conference Proceedings (Latvia) **2**, 146-153 (2018) 10.22616/rrd.24.2018.065
14. P. Mamardashvili, R. Bokusheva, D. Schmid, Heterogeneous farm output and technical efficiency estimates *GJAE* **63(1)**, 16-30 (2014) 10.22004/ag.econ.253147
15. A. Ji, H. Liu, H.J. Qiu, H. Lin, Data envelopment analysis with interactive variables *Manag. Decis.* **53(10)**, 2390-2406 (2015)