

How can you find if there are any restrictions on a land plot you are planning to hire? If you cannot find a good plot to build a house/cottage within the city or in suburbs at a reasonable price, should you find a variant without ownership of land? Developer failing to buy a suitable land plot, took into long-term lease or sublease and built a house. How often can court make remove buildings? If an individual buys a house but the land plot where it is built does not belong to municipality or is an unlocated title land, in which case can land privatization be claimed?

Kirill Vozisov, senior lawyer of ZAO Legal Company INMAR:

If one cannot buy a land plot title for building purposes you may take it into lease from any individual, city or region accounting for preliminary ordered Information about such land. On such hired land you build a real estate object accounting for the category and permitted use of land and in compliance with real estate construction procedures. If construction is legal, lessee shall have the rights same as owner of land (Article 41 of Land Code of the RF). When state or municipal land is sold, the lessee of such land plot shall preferential right of purchase. Moreover, the exclusive right to privatization of land shall be enjoyed by owners of houses/buildings/structures located on such land. If land was taken into lease from an individual and lease period expired, owner of house/building/structure or any other real estate located on land belonging to another individual shall be entitled to use the land which was allowed for the said real estate by land owner (clause 1, Article 271 of Civil Code of the RF). It should be noted that if any unauthorized building is made (i.e., without due approvals and in violation of any restrictions), you cannot make ownership title to such building. You will be made to remove it at your expense or title to it shall be acquired by land owner accounting for compensation to you of any costs determined by court in connection with construction (cost of materials, works, etc.) which do not comply with the market value of similar real estate object.

Is it real to transfer agricultural land into individual housing category?

Pavel Figuurov, lawyer of ZAO Legal Company INMAR:

There are two variants of possible use of agricultural lands for development purposes: 1) transfer of agricultural land into settlement land; 2) change of kind of permitted use of agricultural land. The first variant is rather complicated due to a lot of restrictions, long procedures and bureaucratic factor. The most applicable and widely used variant for individual housing is the change of the legal regime of agricultural land by changing the kind of their permitted use. In that case, land category does not change (agricultural land), only permitted use is changed. For example, permitted use for farming may be changed to small-scale cultivation (horticulture) with the right to build houses. As a result, construction of a house on such land becomes possible. Currently such procedure is arranged via head of local council accounting for public hearings.

If a house is built on any land not targeted for construction (i.e., having sanitary restrictions) is it possible to legalize that house?

Pavel Figuurov, lawyer of ZAO Legal Company INMAR:

In other words, we are dealing with unauthorized building. In accordance with the general rule, as per Article 222 of Civil Code of the RF, unauthorized building shall be removed by the person who erected it or at its expense. However, ownership title to unauthorized building may be admitted by court solely for a person which owns, has in lifetime inheritable possession, has in permanent (unlimited) use the land plot where such building is erected. Thus, to legalize such building it is required to apply to court with relevant application. In court, plaintiff has to prove the following: respective rights to land plot; fact of erection of unauthorized building and costs born by developer in case if land owner is the plaintiff; actual existence of unauthorized building and technical condition as on the moment of case proceedings – acknowledging document may be object's passport made by technical inventorying authorities; that rights to land plot are not owned by any third party; that plaintiff has all permission and project documents for construction (if required by Urban Development Code of the RF); compliance of building with sanitary/epidemiological, fire prevention, engineering, ecological standards; possibility to take unauthorized building into use; fact of absence of any violations of rights and legal interests of any thirds party and statement that such building does not create any threat to life/health of anyone. If plaintiff manages to prove all the said issues, unauthorized building may be legalized. Otherwise, ownership title claim will be rejected.