

THE DIFFERENCE BETWEEN NEWLY DISCOVERED CIRCUMSTANCES AND OTHER STAGES OF CIVIL PROCEEDINGS

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Abstract

The author analyzes the stage of review of a civil case based on newly discovered circumstances, revealing the general and distinctive features of its implementation in comparison with other types of review of a civil case according to the legislation of the Republic of Uzbekistan. The article is also devoted to the analysis of approaches to the doctrinal definition of the concept of newly discovered circumstances in civil proceedings. The author proposes to give a legislative definition to the concept of reviewing judicial acts based on newly discovered circumstances.

Keywords: newly discovered circumstances, new circumstances, circumstances essential to the case, special circumstances, grounds for revision, appeal revision, cassation, revision proceedings, legal facts, application, civil proceedings, stage, revision of judicial acts, revision procedure.

Introduction

Any democratic rule-of-law state cannot tolerate the suppression of illegal and unfounded judicial acts. It must strive to timely cancel unjust decisions and achieve the truth in every case. Along with appeal, cassation and revision proceedings, the institution of reviewing judicial acts based on newly discovered circumstances also serves to achieve this goal in the system of verification stages of the civil process. The consideration of civil cases based on newly discovered circumstances as an independent stage of the civil process has its own inherent characteristics that distinguish it from other stages of the civil process. However, this stage has some common features with such processes as consideration of a civil case on its merits in the court of first instance. However, this stage has some common features with such stages of the process as consideration of a civil case on the merits in the court of first instance, as well as appeal, cassation, and audit proceedings. In practice, these stages are mixed, which entails significant violations of the norms of procedural law.

Article 55 of the Constitution of the Republic of Uzbekistan guarantees every citizen judicial protection of their rights and freedoms [1]. One of the forms of implementation of this constitutional and legal basis is the institution of review of judicial acts based on newly discovered circumstances. The essence of it is to correct a court error by establishing the presence (or absence) of circumstances that are significant for the case, which were previously not known to the persons participating in the case and to the court when considering the case



on the merits and, in connection with this, were absent at the time of consideration of the case and the issuance of a judicial act.

From January the 1 of this year, the legislator introduced amendments to the existing Civil Procedure Code, Economic Procedure Code, Criminal Procedure Code and Code of Administrative Offenses of the Republic of Uzbekistan, related to improving the procedure for verifying the legality, validity and fairness of court decisions. In particular, the institution of appeal and cassation review of the case was reformed, the institution of revision was introduced procedure for reviewing the case [2]. In this regard, in our opinion, the analysis of the legal regulation of the concept of grounds for reviewing judicial acts based on newly discovered circumstances deserves closer attention.

Comparison of the stage of consideration of civil cases based on newly discovered circumstances with the stage of consideration of cases on the merits by the court of first instance reveals a fundamental feature in the tasks they implement. Thus, the immediate task of the claim proceedings in the court of first instance is to resolve disputes arising from civil, family, housing, labor and other legal relations.

Consideration of the case on the merits, as a rule, ends with the issuance of a decision on the case. And only as an exception it can end with the issuance of a ruling in the event of termination of proceedings in the case on the grounds specified in Article 124 of the Code of Civil Procedure of the Republic of Uzbekistan and leaving the claim without consideration in the case on the grounds specified in Article 122 of the Code of Civil Procedure of the Republic of Uzbekistan [3].

At the stage of reviewing a case based on newly discovered circumstances, the court only establishes and examines the circumstances that are significant for the case. These circumstances were not known to the court and the applicant, and therefore were not reflected in the case materials and the decision. At the same time, these circumstances are assessed by the court from the point of view of whether they could affect the legality and validity of the decision made without them. Therefore, at this stage of the process, the court does not consider the case on its merits, does not resolve any disputes, but only establishes the presence or absence of these essential circumstances.

The institution of reviewing a case based on newly discovered circumstances has a number of common features with the institution of special proceedings. When considering an application in a special manner, there is no dispute about law. The subject of its consideration is certain circumstances, the presence or absence of which will affect the subjective rights of the applicant.

Identification of circumstances (facts) is a common task both for the consideration of cases of special proceedings and for the review of court decisions based on newly discovered circumstances. However, it should be emphasized that based on the results of consideration of cases of special proceedings, the court makes a decision that affects the subjective rights of citizens. Whereas, based on the results of the revision of a judicial act based on newly discovered circumstances, facts were established with the aim of using them in a new ruling of the judicial act [4].

If newly discovered circumstances are established, the court cancels the act of justice that has entered into legal force. At this point, the stage of reviewing the case based on newly discovered



circumstances ends. After the decision is cancelled, the court that overturned the decision re-considers the case, but taking into account the newly discovered circumstances.

It must be borne in mind that the facts themselves, when established at the stage of reviewing the case based on newly discovered circumstances, do not directly affect the subjective rights and obligations of citizens. They are assessed and examined by the court during a new trial, in conjunction with other evidence in the case.

Some scientists included in the review of a case based on newly discovered circumstances not only the establishment of the presence or absence of circumstances essential to the case. They included here the subsequent consideration of the case on its merits. However, with this approach, these stages are identified. However, both stages have different goals and objectives [5].

Let me agree with the classic of domestic civil law Sh. Shorahmetov, who believed that “the institution of reviewing judicial acts that have entered into legal force is aimed at ensuring the adoption of legal, justified and fair decisions in the case by protecting the violated legal law and the interests of citizens and organizations. The peculiarity of this institution is that there is no room for judicial error. The basis for reviewing the issued judicial acts is the subsequent emergence of circumstances unknown during the consideration of the case to the persons participating in the case and the court [6].

Summarizing all these opinions, we can draw a conclusion. Newly discovered circumstances are certain legal facts that already existed at the time of consideration of the case and these are facts that are important for the correct resolution of a particular case. Consequently, their presence affects the participants in the legal relationship, the emergence, change or termination of their rights and obligations. Since newly discovered circumstances serve as facts on which the emergence, change or termination of the rights and obligations of the persons participating in the case depend, they must be distinguished from judicial evidence (provided for in Article 70 of the Code of Civil Procedure of the Republic of Uzbekistan) and intended to establish these facts [7].

An essential feature of such a circumstance is that it was not and could not have been known during the consideration of the case, either by the person who subsequently declared it, or by the court that considered the case. If a newly discovered circumstance were known to the court when making a decision or ruling, this could lead to a miscarriage of justice, expressed in incomplete examination of the evidence in the case, which means review of the case in appeal or cassation, and then in the audit procedure [8].

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