

THE REAL ESTATE LAW REVIEW - 9TH EDITION: RUSSIA CHAPTER

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Legal Briefings - By **Sergey Kolobov**

Under Russian law there are two main legal interests in real property:

- a) ownership: full title allowing possession, use and disposal of the property, including leasing it out to tenants. It is in some respects similar to freehold, although Russian law recognises separate ownership of land and of the buildings and other fixtures erected on land. Ownership rights to land extend to the surface (soil) layer of the land plot as well as to water (with some restrictions) and plants on the land plot. The subsoil is entirely state-owned; and
- b) lease: an interest allowing possession and use of the property for a specified or an indefinite term.

The most common ways to acquire ownership rights to real property are as follows:

- a) sale and purchase, exchange or gift;
- b) privatisation of state-owned or municipal-owned real property (especially land plots);
- c) by operation of law (e.g., if a legal entity is going through a reorganisation, the reorganised entity is deemed to have acquired ownership rights to the relevant real property by operation of law);
- d) development of real property; and
- e) inheritance

Real property may be co-owned. There are two types of co-ownership: shared ownership (where the shares of co-owners are determined) and joint ownership (where the shares of co-owners are not determined). Shared ownership is a default option for co-owning real property unless the law provides otherwise (e.g., community property (i.e., property owned in common by husband and wife) is deemed to be a joint ownership) or it is not feasible to determine the shares of the co-owners.

The most common shared ownership is co-owners having shared ownership of the common areas in trade centres, shopping malls and office buildings. Usually, such co-owners have also been co-investors in the development of the relevant building. Co-owners may conclude a co-ownership agreement and govern the manner of use, maintenance and disposal of the co-owned real property.

Russian law also recognises a hereditary land plot right, which is in many respects similar to absolute ownership but may be acquired only through inheritance. Previously this right was granted only to individuals, and state and municipal authorities have now ceased to grant such a right.

Certain rights to property, which are at present primarily reserved for state institutions (such as 'permanent use'), still exist. These rights are no longer granted to individuals and private entities, and are non-transferable.

In Russia, it is not possible to separate the legal interest in property from the beneficial interest.

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