Features of unilateral deals interpretation

A. Shevchenko

ORCID ID 0000-0003-2663-9892
University of Fiscal Service of Ukraine

V. Antoshkina

ORCID: 0000 0003 2136 3073
Berdyansk University of Management and Business

M. Dei

ORCID: 0000-0002-0626-8089
National Aviation University, Ukraine

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In this paper the object of the research is unilateral deals from the point of view of their content interpretation. The authors study the contents and features of the interpretation of unilateral deals. Identified existing methods and rules of interpretation of unilateral deals. Analyzed the jurisprudence concerning the interpretation application of certain provisions of the civil law in relation to unilateral deals.

In general, the legislation of Ukraine in the studied aspect is slightly different from the legislation of other countries. It can even be recognized that the domestic system has a greater degree of unification of legal rules, which contains uniform rules of interpretation for virtually all types of deals. Due to this fact the mechanism of interpretation is more transparent, eliminates the diversity of interpretations of the same type of deals.

Thus, the interpretation mechanism as a whole in the civilistic field is formed, but some of its elements require clarification, concretization, improvement, taking into account the peculiarities of different types of deals interpretation, including unilateral ones.

Keywords: civil deal; unilateral deal; interpretation; will; ways of interpretation; rules of interpretation; court practice.

Introduction

While clarifying the features of interpretation in law, we cannot overlook the question of the interpretation of deals, including unilateral ones. Persons’ words and expressions while making unilateral deals do not always express their will unambiguously. There are often disputes on the content of particular provisions or conditions during their implementation. Therefore, the lack of certainty of unilateral deals conditions, the incomprehensibility of the content of the concepts used, the necessity to determine the legal nature cause the need for their interpretation.

The above mentioned question was the object of research in the works of such domestic and foreign authors...
as: Agafonov S., Vaskovskyi E.V., Kalaur I., Kot O.O., Kukharov O., Lukyanenko M.E., Rabinovich M.V., Sibilov M.M., Spasibo Fateeva I.V., Yudin Z.M. and others. However, discussions are still ongoing on the concept of unilateral acts, their composition, invalidation, will’s expression, etc. The relevance of the research topic is determined by these aspects.

Goal of article

The object of the research is unilateral deals from the point of view of their content interpretation. To achieve that goal, the author used methods of analysis and synthesis to reflect the unity and difference of views on the phenomenon of the study, and also used a comparative legal method and a systematic one.

Results and Discussions

A civil deal, as an action aimed at acquiring, changing or terminating civil rights and obligations, is the unity of the will and will’s expression of its performer. It is extremely important for the stability of legal relations, that the words and expressions used in the document should clearly and unambiguously reflect the will of its maker. Due to the fact that the addressees and third parties are dealing with a will that may not coincide with the maker’s internal will, and in order for the deal to be valid, it is extremely important to interpret the unilateral deal.

The concept of unilateral deals has been defined since the times of Soviet civil law, but before the amendments to the civil code the term “agreement” was used. The complexity of identifying unilateral deals, which subsequently affects the difficulty of interpreting them, is to some extent due to their heterogeneity.

It is evidenced, in particular, by the court practice, which has problems in understanding and defining unilateral deals. Due to that fact there was an explanation of their composition in the materials of practice overview:

- issuance and cancellation of a power of attorney;
- acceptance or storage of the manufactured item;
- notification by one co-owner of the other co-owners of the sale of one’s part in common ownership;
- an offer to sell the property;
- a public promise of reward for finding a lost item;
- drafting, changing and canceling a will;

Legal relations arising from unilateral deals shall be governed by the general rules on obligations and contracts, unless it is contrary to the civil law acts or to the essence of the unilateral deal.

The concept of unilateral deals is defined at the legislative level as the will of one party. However, such a party may be represented by several persons (Part 3 of Article 202 of Civil Code of Ukraine). A unilateral deal may create obligations only for the person committed it (for example, only the will of the testator is required for making and registration of a will). For other persons, it may create obligations only in cases provided for by the law or by an agreement with those persons.

Therefore, a unilateral deal reflects an internal will of a person. If one's will is expressed vaguely, then a different interpretation of such a deal is possible. Therefore, there is an objective need to establish rules for interpreting the will of a deal’s party, taking into account the peculiarities of unilateral deals.

The Civil Code of Ukraine was firstly supplemented by Art 213, which regulates the procedure of interpreting the content of deals, establishing the subjects of interpretation (parts 1, 2) and rules of interpretation (parts 3, 4). The parties have the right to interpret the content of the deal, and in the case of the unilateral deal interpretation - the party implementing it has such a right. At the request of one or both parties, the court may decide to interpret the content of the deal (Part 2 of Article 213 of the Civil Code). This prescription reflects the private-law nature of civil relations.

That is, a party of a unilateral deal has the power to interpret directly the essence of the deal, not the content of the legislation. And the respective subjects of interpretation have the right to interpret the legal rules governing this deal.

The interpretation of the deal by its side is quite natural, since it is the willer who knows best the content of the expressed will and what one really meant while making the deal and was going to reflect through the will's expression.

One of the peculiarities of a unilateral deals is the lower likelihood of divergence in the meaning of its content comparing with bilateral and multilateral deals, since each of its parties may have its own vision of both the one’s will and the will of the other parties of the contract. Therefore, often an authentic interpretation is usually sufficient for resolving the disputes that have arisen and there is no need for further interpretation. As an exception, may be noted the actions of other persons, whose interests are affected by a unilateral deal and which may go to court. While doing so, they must prove that the person who committed the deal misconstrues it by abusing one’s subjective civil right (in accordance to Article 13 of the Civil Code of Ukraine). The reason for such misinterpretation may be the intention of the willer to change the content of the deal for selfish purposes. The court may oblige the interpreter to suspend such actions and to interpret the deal in accordance with the actual intentions which one had at the time of its conclusion, as it is provided in Art 13 of the Civil Code of Ukraine, subjective right abuse is an offense.

Unilateral deal content interpretation by its party is not obligatory for third parties, in particular in order to a notarized power of attorney, to a will. However, the party or parties may apply to the court in order to a decision to interpret the contents of the deal, (which will be binding) should be done.

The peculiarity of the interpretation is that in a unilateral deal, in order to one party interprets only rights are interpreted, and in order to the other - only obligations, unlike a contract where the rights and obligations of both parties are interpreted. Attention should be paid to the fact that the methods of interpreting the contract may differ from methods of interpreting unilateral deals.

Article 213 of the CC contains the main rules for interpreting the content of deals, which can be fully extended to unilateral deals, taking into account their particularities. Rules for interpreting a deal containing in parts 3-4 of Article 213 of the Civil Code of Ukraine, are
applied both in the authentic interpretation of the deal by its party (as recommendations), and in the interpretation by the court (binding nature). We find it necessary to study ways of unilateral deals interpretation in more detail:

1. The principle of \"concentric circles\" (Kharitonov E.A., Sanakhmetova N.A., 2004, p. 104). If a literal interpretation is not enough, other ways of concretization and clarifying the content and conditions of the deal are involved.

2. Literal, grammatical interpretation – is the same meaning of words and concepts for the whole content of the deal, the definition of terms, generally accepted for civil law abbreviations, and the like. They need to be given the meaning that is applicable in legal science and practice or literary language.

3. Comparison usage. The use of the direct meaning of words and concepts and the terms generally accepted in a particular segment of civil-law relations does not always make it possible to establish the content of the individual parts of the deal. In that case, it is established by the method of comparison: the unexplained part of the deal is compared with its corresponding part, with the content of other parts, with the whole content or with the intentions of the parties - a structural and systemic interpretation.

4. Taking into account of material circumstances. If while interpreting a deal it is impossible to establish the true will of a party, then the purpose of the deal, the content of the previous actions, the customs of business turnover, the subsequent behavior of the party, etc., should be taken into account - comprehensive interpretation.

5. Other ways of interpretation usage. Part 3 and Part 4 Art. 213 of the Civil Code contains a non-exhaustive list of rules for deals interpretation, so other ways of interpretation can be applied. The historical way to interpret it is to identify what events happened before the deal. Functional way of interpretation is to identify the further behavior of the willer (the parties to the deal), the conditions of the actual operation of the deal.

The content of the rules of unilateral deals interpretation is as follows:

1. Interpretation of unilateral deals should be carried out in the context of the content of the law. Thus, in court it may be necessary to apply the generally accepted civilistic way of interpreting the legal rules governing controversial relations. If certain part of the relations is not regulated at all by the deal, the court has the right to apply the relevant legal rules to them.

2. Interpretation of unilateral deals (clarification of words and expressions) should be carried out in the context of the content of the deal. In doubtful cases, it is necessary to give preference to the understanding that is most relevant to the content and purpose of the deal.

3. The same words in different clauses of the deal may not be given different meanings without sufficient justification; it is inadmissible to interpret a deal in such a way, when certain words and expressions would be considered superfluous. This rule follows from the presumption that the persons have carefully and thoroughly approached the deal, giving each phrase a certain meaning that is relevant to the deal’s action. It is obvious that such a presumption can be reversed, and some words and phrases may be considered unnecessary for the deal. However, such a conclusion must be substantiated with strong arguments.

4. Each clause, each sentence of a deal should be interpreted in relation to other provisions of the deal. Their interpretation should not contradict the content of other clauses, sentences of the deal.

Regarding the regulation of the procedure of interpreting unilateral deals according to their types, as the most legally determined should be recognized interpretation of the wills, which is regulated by the rules of Art. 1256 of the Civil Code. However, the provisions of this article require further improvement. Thus, it lacks the features of interpretation of the will as a unilateral deal, the order of processing the results of the interpretation of the will by the heirs and the interpretation in case of disputes presence (referring to the general provisions of Article 213 of the Civil Code). The peculiarity of interpreting the will as a unilateral deal is that it can be interpreted by the heirs. However, it should be noted that they as subjects of interpretation are considered to be secondary actors after the testator and after his/her death (opening of the inheritance). These two subjects is not able to interpret at the same time, the testator takes priority.

The second feature is the presence of three subjects of interpretation. Thus, in the case if correct interpretation of the will by the heirs is impossible due to contradictions caused by the inaccuracies of the statement, doubts on the content and will of the testator, the incoherence of the content of the will, the interpretation is carried out by the court.

As practice shows, secret wills require the interpretation more because the notary is not able to check in the absence of ambiguity and ambiguity in their content directly during their drafting. According to Art. 1256 of the Civil Code the interpretation of the will should occur after the opening of the inheritance and be carried out by the heirs or the court in case of any dispute between them.

Regarding "the problem of recognition of a void will as valid, that is, the ratio of Part 2 of Art. 219 and Art. 1257 of the Civil Code, it should be noted that Sec. 85 of the Civil Code, which regulates the procedure of inheritance by will and is special, does not provide for an ability for the court's recognition of a valid will, made in violation of requirements for its form and verification (Romanyuk Ya.M, Kosenko V.Ya., Melnik Z.P.), Part 2 of Art. 219 of the Civil Code, which provides for the right of a court to recognize a unilateral deal as valid one, which is not complied with the requirements for a notarial verification, is a general rule and does not regulate the legal relations that have arisen between the parties of the case (see the decision of the Supreme Court of February 28, 2007, in Case No. 6-246797ec069)."

There has been some debate in the court materials on the recognition as invalid of unilateral deals due them being done as a result of a fraud. We believe that according to the content of Art. 230 of the Civil Code, this article should not extend to unilateral deals, which was confirmed by the decision of the Supreme Court of Ukraine of July 19, 2006 in case No. 6-71822ex069. It subsequently received an official interpretation in the Supreme Court Plenum Resolution in 2009, according to which the provisions of Article 230 of the Civil Code are not applied to unilateral deals (Resolution of the Plenum of the Supreme Court of Ukraine "On court
practice of civil cases on invalidation of deals” of November 6).
Also “not quite well laid out part 2 of Art. 219 of the Civil Code on the possibility of a court to recognize worthless unilateral deal to be a valid one, which leads to unequal application of this rule in practice” (Romanyuk Ya.M, Kosenko V.Ya., Melnik Z.P.).

While interpreting a will expression addressed to uncertain number of persons (a public promise of a reward, issue of securities for trading on the stock exchange, publication of materials of the Trade Register, etc.), there are certain peculiarities that are caused by the fact that the willer isn’t able to guess the ability of perception of all persons who may become the addressees of the will expression. Therefore, the interpretation should take into account the average perception of the addressees, including a certain number of specialists. Thus, the statements made on the stock exchange are addressed to an indeterminate circle of persons - specialists. Not everyone could understand the specific terms they contain. Therefore, their interpretation takes into account the special knowledge and experience of the recipients of these unilateral deals.

The Supreme Court of Ukraine expressed a legal position on the recognition of the right of common joint ownership, which by its legal nature is a unilateral deal. The Court explained the rules on the consent of all co-owners while transferring the jointly owned property as a bail (mortgage):
“According to part one of Article 219 of the Civil Code of Ukraine, in case of failure to comply with the requirement of the law on the notarial verification of unilateral deal, such deal is worthless. However, the absence of such consent itself cannot serve as a ground for the invalidation of a contract concluded by one spouse without the consent of the other spouse. According to part two of Article 369 of the Civil Code of Ukraine, in case if one of the co-owners commits a deal concerning the disposal of the joint property, it is considered that it was made with the consent of all the co-owners”.

On the basis of these data, the following interpretation of the law was given: “the conclusion by one spouse of a contract on the disposal of joint property without the consent of the other spouse may be the ground for declaring such a contract void only if the court finds that the spouse who has concluded the joint property agreement and the third party - the counterparty to such agreement acted in bad faith, in particular that the third party knew or could know, under the conditions of the case, that the property was owned by the spouses under joint ownership and that the spouse who concludes the contract did not obtain the consent of the other spouse” (The Resolution of the Supreme Court of Ukraine in case No. 6-1912/uc15 of 27.01.2016).

Regarding the usage of business turnover customs in complex interpretation, the position of Chanturiy L.L. is worth (Chanturiy L.L., 2006). If the willer, as well as the addressee of the will belong to the same group of business circles, then in that case the addressee of the will can indicate that the words spoken, he/she understood as it is customary in these circles. Such an understanding will be obligatory for the willer regardless of whether he/she knew of the existence of this order. The main thing is that the willer belongs to this category of business circles. Although this does not make it impossible to deny a deal because of a false will expression.

Conclusions
In general, the legislation of Ukraine in the studied aspect is slightly different from the legislation of other countries. It can even be recognized that the domestic system has a greater degree of unification of legal rules, which contains uniform rules of interpretation for virtually all types of deals. Due to this fact the mechanism of interpretation is more transparent, eliminates the diversity of interpretations of the same type of deals.

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