

ODRA-VISTULA FLOOD MANAGEMENT PROJECT
LOAN no. 8524-PL

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3. GENERALLY APPLICABLE PROVISIONS OF POLISH LAW

Pursuant to Article 922 (1) and (2) of the Civil Code, the property rights and obligations of the deceased pass upon their death to one or more persons pursuant to the provisions of this book. **This does not include the deceased person's rights and obligations that were strictly and personally related to them**, as well as rights which, at the time of their death, pass to designated persons, whether or not they are heirs.

The inheritance comprises all the civil and property rights and obligations of the deceased person at the time of their death. The category of rights also includes powers to create legal rights and claims, as well as legally justified prospect of the creation of rights. As a rule, the heirs enter the legal situation of the deceased. Inheritance does not include public law property rights and obligations governed by provisions other than civil law of different branches of law, in particular administrative or tax law, even if these provisions use the structures of inheritance law. Moreover, non-property civil rights and obligations are not included in inheritance. Under Article 922 (2), property rights and civil obligations strictly and personally related to a person, as well as rights which, at the time of their death, pass to designated persons, whether or not they are heirs, are also not inherited.

There is no legal definition of “strictly and personally related”. As indicated in the doctrine, *this concept encompasses **the rights intended to serve the specific interests of a particular person by virtue of their individual situation**, e.g., maintenance claims, entitlement to a pension. Property obligations strictly and personally related to the deceased are also not inherited. These are obligations the performance of which is dependent on the personal qualities of the obligor or which were strictly and personally related to the obligor due to the circumstances of their creation* (Kodeks Cywilny. Komentarz. Vol. VI. Spadki, ed. Jacek Gudowski).

It should therefore be recognised that the search for a strict and personal relation to the deceased person may be based not only on explicit legal regulation, which defines the duration of the right as a period lasting no longer than until the end of the life of the entitled person but may also result from the very nature of the legal relationship. In addition, the *strict and personal relation of rights and obligations and the deceased person can vary. In particular, that relation may be of an **economic nature where the right serves to satisfy the personal needs of the entitled person**. A strict and personal relation of the right or obligation and the deceased may also result **from a particular trust between***

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parties to the legal relationship or the specific personal qualities of the obligor (in legal relationships the performance of which depends on the personal qualities of a party). Rights and obligations strictly and personally related to the deceased may also result from family ties (Kodeks Cywilny. Komentarz. Vol. VI Spadki. ed. Mariusz Frasz, Magdalena Habdas).

Therefore, the question of the nature of the claim for determining the right to the premises held by the PAP requires an analysis in order to determine whether it is part of the estate. As indicated, this claim was established solely due to the qualities of the PAP, i.e., their age and state of their health, which required, in accordance with the World Bank's Operational Policy OP 4.12, classifying them as belonging to a particularly vulnerable group. This right was also of an economic nature, as it was to satisfy the personal needs of the PAP in the future.

If the PAP did not possess certain qualities and did not qualify as belonging to a vulnerable group, there would be no need to take action in accordance with the personal needs of the PAP and thus it would not be decided that they are entitled to appropriate premises.

Thus, the claim for determining the right to the premises was strictly and personally related to the PAP. They were entitled to it due to their specific qualities and their living situation and the premises were to satisfy the personal needs of the entitled person due to their personal situation. Therefore, it cannot be concluded that the right to provide the premises could pass to the PAP's heirs.

It is also important that even the sole right to lease residential premises is not a right subject to inheritance and it is not part of the estate of the deceased. This right may, by virtue of law, pass to clearly defined persons, provided that they resided in the premises until the death of the sole lessee. In these circumstances, however, the lease relationship was not yet established, and the PAP was entitled only to a claim for determining the right to residential premises.

4. CONCLUSIONS

It should be recognised that all property rights and obligations that existed at the time of the PAP's death, excluding rights and obligations strictly and personally related to them, as well as rights that pass to designated persons at the time of their death, will pass to the heirs of the PAP. The claim for determining the right to residential premises due to the fact that the PAP was only entitled to residential premises due to their qualities and that the

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premises served to satisfy their personal needs, also related to the state of their health, disability, and age, is not part of the estate.

The right to acquire property adapted to the needs of the PAP expired at the time of opening the estate, which is, in accordance with Article 924 of the Civil Code, the time of the deceased person's death. We cannot take the view that it could belong to another person who does not meet certain conditions and prerequisites.

As a result of the above considerations, the heirs of the PAP will not be entitled to any claims against State Water Holding Polish Waters Regional Water Management Authority in Szczecin.

attorney-at-law Mariusz Cias