

By the Judgement of 26 November 2020 No. 48-II the Constitutional Court of the Russian Federation appraised constitutionality of Article 234, para. 1 of the Civil Code of the Russian Federation.

The challenged provision, providing that a person who is not the owner of the property, but in good faith, openly and continuously owns as his own an immovable property for fifteen years, acquires the right of ownership of this property, was the subject of consideration to the extent that it resolves the issue whether the person possesses in a good faith a land plot transferred to him by the previous owner (a garage and a land plot) under a transaction with the intention to transfer the latter's rights to immovable property, which did not entail the corresponding legal consequences, as a condition for acquiring ownership of the land plot by prescription of ownership.

The challenged provision was found not to be in contradiction with the Constitution of the Russian Federation to the extent that it does not imply that such a transaction (which expresses the will of the owner of the land plot to alienate it and which was a prerequisite for the emergence of ownership, and during the ownership the owner of the land plot did not show the intention to exercise power over the possession) in itself can be the basis for recognising the prescription possession as unfair and an obstacle to acquiring ownership of the possession (the land plot) due to prescription of ownership.