

UDC 332.2.021(477)«08/16»

DOI <https://doi.org/10.26661/2414-0287-2022-3-55-15>

## PECULIARITIES OF FORMATION AND DEVELOPMENT OF LAND RELATIONS IN UKRAINE DURING THE FEUDAL AGE (9TH – 17TH CENTURIES)

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### Key words:

feudal method of production, land relations, land management, land proprietorship, land accounting (cadaster), zakupnitsvo, chinsh, rank estates, land grants, zaymanshchyna

The article is devoted to the research of peculiarities of the formation and development of land relations on the territory of Ukraine during the feudal period of its history. One of the ownership eligibility forms is the right to use a thing (land). The basis of the production relations in feudal society was the feudal lord's land proprietorship, which in the territory of modern Europe had been seized by the top of the slaveholding society since the period of collapse of this socio-economic system. Introduction of the right to own land in the era of feudalism in the West found its justification in Roman law and was called land ownership. Civil law systems of many countries of the developed world on the background of this right. The states of Western and Central Europe were formed under the influence of the of the Roman state experience.

Land relations and land management among the Eastern Slavs, as well as the land proprietorship, had specific features during the period of formation and development of the early feudal state of Kyivan Rus, which was formed from the 9th to the beginning of the 12th centuries.

## ОСОБЛИВОСТІ СТАНОВЛЕННЯ І РОЗВИТКУ ЗЕМЕЛЬНИХ ВІДНОСИН В УКРАЇНІ У ФЕОДАЛЬНУ ДОБУ (ІХ–ХVІІ СТ.)

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### Ключові слова:

феодалний спосіб виробництва, земельні відносини, землевпорядкування, право власності на землю, облік (кадастр) земель, закупництво, чинш, рангові маєтності, земельні пожалування, займанщина

Стаття присвячена дослідженню особливостей становлення та розвитку земельних відносин на теренах України у феодальний період її історії. Однією з правомочностей власності є користування річчю (землею). Основою виробничих відносин феодального суспільства була власність феодала на землю, яку на території сучасної Європи захопила верхівка рабовласницького суспільства ще в період розпаду цього соціально-економічного ладу. На Заході започаткування права власності на землю в епоху феодалізму знайшло своє обґрунтування ще у римському праві і мало назву – право власності на землю. На тлі цього права зростали системи цивільного права багатьох держав світу. Держави Західної і Центральної Європи формувалися під впливом досвіду.

У східних же слов'ян земельні відносини та землевпорядкування, як і право власності на землю мали специфічні особливості у період формування та розвитку ранньофеодальної держави Київська Русь, формування якої відбувалося від ІХ до початку ХІ ст.

### Introduction

Food cultivation, production and its quantity were and still are a critical need of humanity in the conditions of planet population continuous increasing. After all, that is why land, as means of food production, as well as the right to use it, has become the main form of land relations of various social-economic formations of humanity.

The peculiarity of feudal economy consisted in combination of feudal lord's land proprietorship with

peasant's management of the small plot of land given to him by the feudal lord for agriculture. The period of feudal relations lasted especially long in Eastern Europe for well-known reasons. And the territory of Ukraine, as part of it, was no exception to this process.

### Analysis of the latest scientific research

Land relations have always been in sight of those who studied the history and development of mankind, including

the period of feudalism. Domestic researchers of the 19th and early 20th centuries – M. Arkas, M. Hrushevskiy, M. Vladimyrskiy-Budanov, V. Sichinskyi, D. Doroshenko, etc., contemporary Russians – M. Karamzin, S. Solovyov, K. Pobedonostsev, V. Klyuchevskiy, considering the emergence and development of land proprietorship law in Ukraine, pointed out their differences in comparison with a similar phenomenon in Western and Central Europe. Modern domestic researchers – V. Goshchytskyi, A. Tretyak, Yu. Lupenko, etc., who deal with such issues, also agree with the opinions of their predecessors.

### Objective of the research

To highlight the peculiarities of formation and development of land relations on the territory of Ukraine during the feudal period of its history and on the base of historical experience thereby contribute to the implementation of new land relations in our state in the modern land reform conditions.

### Presentation of the main research material

Each social mode of production in historical development, creating its own form of land relations, determines itself the content of land management corresponding to this form. And we shall discuss changes in this land management below.

The beginning of right to own land in Western Europe in the feudal era found its legal justification in Roman law (Spurius Thorius Law) of the 3rd century BC. The land management actions of the Middle Ages already had a state character and were primarily related to the land accounting (cadaster), their division among landowners and fixing the boundaries of land proprietorship. The medieval cadasters in Western Europe included the land records of the king of the Franks Charlemagne (742–814), the English “Book of the Last Judgment” from the time of William the Conqueror (1066–1087) containing detailed summaries of the quantity and quality of land, the Sicilian cadaster of Frederick II (1194–1250), the cadaster of Calabria (1375), etc. [8].

Eastern Slavs settled mainly in small groups in scattered fortified cities, mainly on the banks of large rivers and lakes. Lands located around the settlements were considered common, they were divided between individuals or families by drawing lots. Already in the first centuries AD they had signs of land ownership – tamga, demarcated by borders of fields and meadows. Land relations and land management in the territory of Ukraine during the period of formation and development of Kyivan Rus had specific features. Therefore, the early feudal state – Kyivan Rus – was formed since the 9th to the beginning of the 12th century. In the 9th century this state covered the territories from the Baltic to the Black Sea and from Transcarpathia to the Volga-Oka interfluvium [1].

The rural population in Kyivan Rus was divided into such categories: free members of the village community and feudal dependents. Free members of the community had their own farm and land. They were bound by several obligations. There was a clear idea in society at that time

that the land belonged to the prince, that is there was feudal land proprietorship, although this fact was not officially certified anywhere. Finally, there was legislation – “Ruska pravda”, which systematized legal norms to a certain extent. It divided property into movable and immovable (real estate) categories [5].

Special relations of relay or agricultural zakup arose from the conditions of real estate lease (Article 71 of “Ruska Pravda”). The concept of “zakupnitsvo” was perceived as a special form of social relations, which was regulated by legal norms (Articles 70–73, 75, 77 of “Ruska Pravda”). Professor of Kyiv University M. F. Vladimyrskiy-Budanov called these relations “peasant lease” and added that zakupnitsvo was not only a personal obligation (debtor to creditor), but also the result of combining a loan agreement with a personal employment agreement [8].

Article 46 of “Prostrannaya Pravda” (the third edition of “Ruska Pravda”) lists three main categories of feudal lords: prince, boyars, monasteries. Thus, the owners of the land are legally defined in this way. Art. 71, 72, 73, 75, 80 are about the protection of objects that are under legal protection, that is, they are objects of property, including land. Moreover “Prostranna Pravda” is currently considered a summary of provisions of developed feudal law [8].

Prof. K. Pobedonostsev in the 19th century performed a comparative analysis of land relations between the East and the West and came to the following conclusions: the German conquerors in the West took possession of the land that was already inhabited by their tribes. They found an established system of Roman concepts on this land, which were based on legal law, and adopted this system. But the experience of the Roman Empire in land use was not spread to Eastern Europe as well. Therefore, the problem of the necessity to introduce land proprietorship arose here only in the 17th century. This question found comprehensive answer in scientific sources. The same prof. K. Pobedonostsev came to the following conclusions: Kiev princes in the East were not conquerors of the land, they did not find any legal system on their native land and did not have their own, but they “ruled the land”. But one can hardly say what was their meaning of the concept “rule” [8].

If Kyivan Rus arose as an early feudal state, then the period from the end of the 15th to the 17th centuries in Ukraine refers to late feudalism. Most of the features of feudalism were preserved in Ukraine until the 18th century and in the subsequent times, however, they already differed from the features of feudalism of the early period. Six centuries had passed from the 11th century (the time of the highest development of Kyivan Rus state) to the 17th century, but the concept of “land ownership” was not officially implemented in the lands of Ukraine. However, the awareness of this concept was close to its content. Moreover, there was no necessity to implement this right on the lands of Kyivan Rus, because of large amount of free land in Rus at the beginning of the history of our people, it was captured by anyone who wanted it, and the attitude to this free land was determined by the following words: “where the ax, plow and scythe went” [8].

A significant part of Ukrainian lands was seized by Poland, Hungary, North Bukovina at the end of the 15th century. Slobozhanshchyna became a part of Russia. The North-Western lands of Ukraine became the lands of the Grand Duchy of Lithuania. Right-bank Ukraine and Galicia – became lands of the Polish-Lithuanian Commonwealth. Bukovina, together with Moldavia, were under the rule of Turkey. After the capture of the central part of Hungary by Turkey and the southwestern lands by Austria, a large part of Transcarpathia became part of the Principality of Transylvania (Semigrad) which was dependent on the Turkish sultan. This situation persisted for quite a long time [3; 4].

The noble government of the Polish-Lithuanian Commonwealth introduced its own laws, court, authorities, administrative and political system on the captured Ukrainian lands. The nobility owned large tracts of land due to grants, arbitrary seizure. In 1569 Royal Poland together with the Grand Duchy of Lithuania created a state – the Polish-Lithuanian Commonwealth [3] under the Union of Lublin in 1569.

Political changes that took place in Eastern Europe in the 15th–16th centuries led to a change in the legal system on the territory of a large part of Ukraine. In the lands that became part of Poland the rules of this state were transferred. But in some lands of the north-central part of Ukraine, which were transferred to the Grand Duchy of Lithuania, the code of feudal law – “Ruska Pravda” – was in force at first. Lithuania adopted the terminology and legal norms of feudal Kievan Rus. The similarity between the Statute of the Grand Duchy of Lithuania (1529) and “Ruska Pravda” is now documentary justified. Subsequently, changes and additions were made to the Statute of Lithuania, new Statutes were adopted – the Statute of 1547 and the Statute of 1557, which were called the “Statute of Voloka”. A land reform (Sigismund-August reform) was carried out on the lands of the Grand Duchy of Lithuania. The reform had been carried out for almost 100 years. In some voivodeships, reformation gained intensity only at the end of the 16th century. The reform began in the middle of this century and continued to be introduced in the 17th and until the end of the 18th century. Prince of Lithuania Sigismund spread the Lithuanian statute on the lands that had become Lithuanian, including the northwestern Ukrainian lands, and guaranteed the preservation of the rights of freedoms granted by the “King of Poland, the Grand Duke of Lithuania, Russian, Prussian, Zhemaisky, Mazowiecki and others” [8].

The Lithuanian Statute was abolished only in 1840. The reform left some organizational innovations to the descendants, for example, internal land management, determination of arable land by its quality, land cadaster, register of lands for tracts (voloka), demarcation of villages, keeping of writing books and many other useful land management documents. The new organization of land was known as the main feature of the reform: the size of the land plots for economic activity was determined, the so-called voloka, equal to 30 morgs (19–20 desyatinas). Each peasant household received one voloka, a feudal one – two. A mandatory three-part land system was

introduced (such a system existed in Kyivan Rus since the 11th century). All the peasants, “implanted” on voloka, were obliged to pay the feudal lord duties in kind and money, in addition, they worked for the manor. The reform did not affect noticeably the social system.

The “Statute of Voloka” reform introduced one social difference in the feudal sphere: the size of the area of feudal lands was limited to 40 desyatina. As for land relations, they continued to be in force in accordance with the requirements of feudal law [8].

Ukrainian lands came under the crown of the Polish-Lithuanian Commonwealth after the unification of Poland and the Grand Duchy of Lithuania. Land relations began to be influenced not only by the feudal Polish order, which had been in use on the lands of Poland until then, but also by “Ruska Pravda”, Lithuanian statutes, and also Western European laws. The collection of legal norms of the Western European Middle Ages – “Saxon Mirror” (1224–1230) was considered universally recognized at that time. This collection of the law of early feudalism entered Ukrainian lands through Poland and Lithuania. And it formed land relations in Ukraine together with Lithuanian statutes at a certain time. “Saxon Mirror” was a German compilation of legal norms of the 13th century, another collection of law appeared later as Magdeburg Law. This Law arose in the 13th century. It was feudal city law in terms of content. Magdeburg Law became a continuation of the “Saxon Mirror”. A characteristic feature of the “Saxon Mirror” was that some of the legal norms of this collection had roots in Roman Law. Later, these norms spread to the eastern lands of Europe. The introduction process started in Poland, and then they were brought from the latter to Ukraine. That is why the introduction of new legal norms on the land use also took place with the help of Magdeburg Law, which became widespread in the 14th–15th centuries.

Landowners in cities, in the most cases Polish feudal lords, settled their lands with subordinates, obliging the latter to perform various functions: guarding castles, military service, etc. They were given land plots for this. The owner of the plot, in turn, paid the feudal lord a certain monetary fee. These relations were formalized by certain constitutive acts – privileges established in Magdeburg Law. Plots were given as inherited property, for construction of buildings, cultivation of land by the owner, transfer of land to ownership or pledge was also allowed. Thus, the landowners had various privileges. Over time, such privileged ownership of land received the special name – *chinsh*. The word “chinsh” (from the Latin – census) meant a constant payment (rent). This fee didn’t depend on productivity of the land plot and was not subjected to change at a request of a tenant (the person who acquired the right to use the land plot). The owner of the land had the right to change the amount of chinsh arbitrarily. Chinsh was a form of remuneration, which the user of the land paid to its owner for the right to possess and use someone else’s land. The tenant had essential rights: the right to inherit and dispose the land for lifetime, to receive all increases from the use of the land, he had the right to transfer the plot of land as

a pledge, an inheritance, to alienate it during his lifetime to any other person, to renounce the right for chinsh [8].

The right for chinsh on the lands of Ukraine was considered as a property inherited right to use someone else's land, subject to the payment of a certain amount to the land owner. The land of cities and rural settlements became the object of this right. This right had termless nature [8].

Liberation wars of the Ukrainian people against the Polish-noble rule took place in the middle and second half of the 17th century. Intensive development of productive forces, as well as positive changes in agriculture, were observed in Left Bank Ukraine, Slobozhanshchyna and Zaporizhzhia. These lands were gradually becoming a component of the all-Russian market. Class of feudal lords (foremen, nobility, clergy), who owned lands and estates, occupied, as before, the dominant position in economic and political life.

Foremen land ownership existed in two main forms after the liberation war: rank lands given to foremen as a reward for serving in command positions in the Zaporizhian army, and land grants that did not depend on official position and were personal feudal possessions (permanent or temporary).

Rank estates in various localities of Left Bank Ukraine were primarily given to the hetman and general foreman. The estates consisted of individual villages and entire parishes. Rank estates were granted instead of a monetary salary and were in use as long as the Cossack foreman held the position [4].

There was another form of feudal land ownership, which did not depend on the official position and was divided into the following groups: "absolute glorious ownership" of estates, which was preserved during the reign of the hetman, who granted this ownership; "to support the home" and "for the grace of the military". "Absolute glorious ownership" was based on the right of perpetual possession of land, which was considered free military. "For the support of the house" and "for the grace of the military" land was given in temporary possession. Lands were granted by Hetman universals and royal charters. Over time, the difference between temporary and lifetime estates disappeared and temporary estates turned into lifetime estates. Meanwhile, this form of feudal land ownership gradually became dominant [8].

Churches and monasteries also received hetmans universals for land ownership, according to which the peasants who lived on these lands were ordered to observe "customary obedience", and they themselves were attached to churches and monasteries. In addition, development of feudal relations contributed to the rapid accumulation of land wealth among secular feudal lords.

One of the achievements of the liberation war of 1648–1654 was that it significantly contributed to the liquidation of large feudal landholdings of Polish magnates and nobility, whose estates were transferred to the treasury of Zaporizhian Army. The so-called free military villages were formed on these lands ruled by the hetman-foremen administration. Free military villages, being part of the

possession of Zaporizhian Army, represented a completely new phenomenon – state feudal property.

At the same time, Right-Bank Ukraine remained under the authority of the Polish-Lithuanian Commonwealth, where Polish laws regarding land relations, discussed above, continued to be applied.

One of widely practiced forms of land acquisition, was known as *zaymanshchyna*: peasants and Cossacks occupied free land, cultivated it and even sold it. The institution of *zaymanshchyna* was not legally formalized, it operated as a form of customary law. In the same form there also existed public lands managed by the council of the community. So, we can summarize some of the changes that occurred in land relations and the status of lands in Ukraine as a result of the six-year liberation war, as well as after the unification with Russia.

First of all, it is necessary to pay attention to the guarantees that were given to Ukraine in the decisions of the Pereyaslav Council of 1654, which to some extent influenced changes in agriculture. The guarantee of 1654 was reproduced in the Pereyaslav decisions. On March 29, 1654, it was decided that Little Russia has its own administration and is judged by its ancient law and laws. Legally, the hetman's administration officially becomes the disposer of the lands that were transferred to the treasury of Zaporizhian Army, in fact – the hetman, who possessed the right to distribute lands or sell them.

The status of Ukraine as part of the Russian state was determined by separate articles and royal charters, universals of the Hetman administration. At the same time, the way of expansion of the foremen land ownership was diversified as they had no limits and there was no control over them.

More than a thousand universals were issued on the estate only during the years of I. Mazepa's hetmanship. Other hetmans and colonels were not far behind him. The documents of the time abound with references to the forced seizure of Cossack and peasant lands by hetmans (D. Apostol, P. Polubotok, etc.) and the forementop. Meanwhile, the Russian favor nobility land ownership, as well as ownership of foreign nobles, increased significantly. Clerical feudal lords also bought up peasant-Cossack lands, even under the threat of violence. Horsetail, the badge foremen, having concentrated a large amount of land in their hands, aspired the legal enslavement of their subjects, that is, the majority of the peasantry and a significant part of the ordinary Cossacks. Such a desire was based on a solid foundation [8].

Russia adopted the Summary of Laws of the Russian State – "Sobornoe Ulozhenie", approved by Zemsky Sobor (1648–1649), in which serfdom was legislated. With the adoption of the "Sobornoe Ulozhenie" in Russia, the gradual transformation of land ownership into land proprietorship began. The Russian government therefore positively perceived the aspirations of the foremen, who were also interested in the fact that their land was not in temporary, but in their permanent possession. Moreover, the right to land proprietorship was also applied in Western European countries [5].

### Conclusions

Thus, the formation and development of land relations in Ukraine during the feudal era (9th–17th centuries) had its own peculiarities. Land relations and land management of the Eastern Slavs, as well as land ownership, had specific features in the period of early feudalism (5th–9th centuries) within the territory of the future Kyivan Rus. The lands located near the settlements were considered common, they were divided between individuals or families by drawing lots. At the same time, even before the appearance of “Ruska pravda” in the society of Kyivan Rus, there was already a clear idea that the land belonged to the prince, that is, feudal land proprietorship existed, although this fact was not officially certified anywhere.

With the disintegration of Kyivan Rus and the arrival of foreign invaders on its land in the 13th–15<sup>th</sup> centuries each of them brought their own rules regarding land ownership to these lands, and this, in turn, further strengthened specific features in land use. The noble government of Polish-Lithuanian Commonwealth introduced its own laws, courts, authorities, etc. on the captured Ukrainian

lands. The authorities of the Grand Duchy of Lithuania, Austria, Turkey and Muscovy pursued the same policy.

Slobozhanshchyna and Zaporizhzhia faced an intensive development of productive forces, as well as positive changes in agriculture in the middle and the second half of the 17th century due to the liberation war of the people of Ukraine against the Polish-noble rule in Left Bank Ukraine. Mentioned lands were gradually becoming a component of the all-Russian market. With the development of land holdings of clerical, local and Russian feudal lords, a completely new phenomenon emerged – state feudal property. Meanwhile, *zaymanshchyna* as one of the forms of land acquisition appeared and was widely practiced. The institution of *zaymanshchyna* was not legally formalized, it was operated as a form of customary law. The gradual transformation of land ownership into land proprietorship started with the adoption of the “*Sobornoe Ulozhenie*” in Russia. That is why, relying on the knowledge of historical experience, it is possible to contribute to the implementation of new land relations in our country in the modern land reform conditions.

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