

The Supreme Court has summarised case law in relation to personal bankruptcy cases

FAO credit and financial institutions, legal entities with all forms of ownership, court-appointed administrators, and individuals

Pepeliaev Group advises that the Russian Supreme Court has published an Overview of Judicial Practice on Cases Concerning Personal Bankruptcy (approved by the Presidium of the Supreme Court on 18 June 2025).

The Overview contains several important approaches that protect creditors' interests, some of which may be termed revolutionary.

Below are the key provisions of the Overview, starting with the most significant ones.

1. The Supreme Court has confirmed that it is possible for a debtor to be released from obligations arising from:

- secondary liability
- losses caused by controlling persons or by the debtor acting as a court-appointed administrator
- the consequences being implemented of transactions that have been invalidated on the grounds of bankruptcy.

A release from obligations is possible where:

- there was no intent or gross negligence when the harm was caused (and the court judgment states this)
- the debtor conducted himself in good faith during the bankruptcy procedure.

Intent is a person being aware that their acts (or omissions) were harmful and foreseeing those consequences.

Simple negligence is observing the minimum but not all requirements of due care and attentiveness.

Gross negligence is a failure to meet even minimum standards of prudence.

When there is a release from debts on the above grounds, courts refer in addition to:

- the principles of social rehabilitation behind the institute of consumer bankruptcy
- the debtor not being a beneficiary and not having derived any financial benefit from loss-making transactions
- the debtor, when approving the transactions, having followed the model of corporate governance adopted in the company, which implies implementing instructions from the principal controlling person.

The debtor's being released from such liability must be specifically mentioned in the court judgment.

PG's comment

In court judgments regarding personal liability, it is extremely rare for courts to classify defendants' actions from the standpoint of their subjective attitude towards the acts (or omissions) that have been undertaken, whether there was intent or negligence, and even more so the form this took. To this end, creditors should expect an increase in cases where debtors, in a personal bankruptcy, are released from debts that have arisen on the above grounds.

Controlling persons should take into account the new judicial approaches and apply them in a personal bankruptcy. In current disputes concerning personal liability, particular attention should be devoted to substantiating that (1) there is no personal benefit, (2) the adopted corporate governance model has been followed, and (3) there is no direct intent or simple negligence present.

2. The property position of spouses in a bankruptcy case

The conditions of a prenuptial agreement do not extend to obligations that arose before the agreement was entered into, even if the onset of the timeframe for performing them came afterwards.

Creditors whose obligations arose after a prenuptial agreement was entered into have no right to lay claim to property returned to the bankruptcy estate as a result of it being challenged.

Transfers of funds between spouses' accounts carried out in the course of everyday life activities are not considered expenditure transactions and cannot be challenged.

PG's comment

We recommend paying attention to the nature of transfers between spouses and analysing how they are carried out with a view to identifying whether assets of the debtor are being siphoned away.

The recognition that an obligation is a joint one is precluded by the dissolution of a marriage and the debtor using loan funds for their personal needs.

An obligation is personal obligation of the debtor if it has arisen:

- as a result of him undertaking business or other economic activity
- as a result of harm being caused (secondary liability being imposed, losses being recovered, etc.)

Importantly, the limitation period for claims to have a debt recognised as a joint marital obligation is the limitation period applicable to joint and several debtors and it starts to run simultaneously with the claim against the debtor.

PG's comment

The criteria for the "actual" dissolution of a marriage have been drawn up in the case law of courts of general jurisdiction regarding the dissolution of the marriage and division of jointly acquired property (separate living arrangements and independent household management).

We recommend applying the approaches formed in such case law when proving the relevant circumstances.

3. Initiating bankruptcy proceedings

The court will find the creditor's petition unjustified and will terminate the proceedings in a bankruptcy case (in the absence of other creditors):

- if the individual's financial situation has improved (for example, by finding a job)
- if there are indications of a dispute over a right (including regarding the legal force of a loan agreement entered into as a result of fraudulent actions).

4. Restructuring an individual's debts

Restructuring is not applied where it is evidently ineffective.

The restructuring plan (the "Plan") must provide for settlements with all known creditors, even those who have not submitted claims. The inclusion of new claims in the register after the Plan is approved may lead to it being cancelled or adapted to the new circumstances, depending on the debtor's financial capabilities.

The Plan may be approved by the court despite creditors' disagreement or the debtor's bad faith, if it is more economically justified and more effective than the procedure of selling assets.

A "partial restructuring plan" is permissible. This is a settlement agreement with an individual creditor. A court may approve such an agreement only if there is a condition regarding the source of paying off debt. The timeframe for implementing the agreement may exceed the maximum five-year debt restructuring period.

5. Nuances relating to the debtor's sole residence

When determining whether housing qualifies as the debtor's sole residence, one should proceed based on the following:

- the debtor's actual place of residence, not registration address, is taken into account because
- the debtor residing elsewhere than in his sole residence does not prevent other residential premises from being excluded from the bankruptcy estate
- the sole residence may constitute multiple properties (e.g., rooms) or a property that does not have residential status, but meets the characteristics of residential accommodation and is regarded by the debtor himself as suitable to reside in.

The procedure for acquiring replacement housing is to be approved by the court at the same time as the ruling on the sale of the sole residence, as a constituent part of that document. Replacement housing must be provided before depriving the debtor of the right to what is considered luxurious accommodation.

Before excluding or refusing to exclude the sole residence from the bankruptcy estate, the creditors' meeting must decide on whether the housing is luxurious and whether its sale is economically reasonable, as well as on the conditions for providing replacement housing.

A sole residence may be sold without it being replaced if the debtor has abused his rights and he and the members of his family will not be left homeless (for example, residential property was gifted to children when bankruptcy was imminent).

6. Bankruptcy of a debtor's inheritance estate

An heir and members of their family are entitled to the testator's only residence.

The procedure for selling the testator's property may be applied only if it can be separated from the heir's personal property. Such separation is possible within three years from the date of the testator's death.

A debtor's refusal or non-acceptance of an inheritance may be challenged on bankruptcy grounds if it was intended to harm creditors.

7. Nuances of releasing the debtor from obligations

A release from debts must not automatically be refused in the following cases:

- loan funds have not been used for the designated purpose
- claims have not been paid over an extended period without signs of malicious default
- unreasonable actions have been undertaken owing to difficult life circumstances
- the debtor provided, when the obligation arose, incomplete or contradictory information.

What to think about and what to do

Creditors should already be taking into account the approaches that the courts have devised at the stage when a transaction is being entered into. Its performance may be jeopardised by miscalculations in assessing the solvency of the debtor in the obligation and a lack of knowledge about the subtleties of foreclosing on an individual's assets.

We recommend supplementing standard pre-contractual checks of counterparties (including under security transactions) with an analysis from the perspective of family law, bankruptcy legislation, and risks of the debtor becoming personally liable under an obligation relating to his business and other debts.

Help from your adviser

Our bankruptcy and anti-crisis protection of business practice helps, at the stage of checking out a counterparty, to identify and rule out the risk of assets being lost during the period when a contract is being performed, as well as when checking assets that are being acquired in terms of the risks of them

being seized in bankruptcy proceedings of predecessors-in-title or even their spouses.

Our lawyers have extensive experience of safeguarding the interests of both debtors and creditors in personal bankruptcy cases, including those involving personal financial liability. We place particular importance on using out-of-court methods of resolving dispute.

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