Shortcomings In Management And Use Of Land For Economic Development And Amendments In Vietnamese Land Law 2013

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Abstract: The current Land Law also revealed certain shortcomings, leading to limited enforcement of the land law, significantly affecting the management and use of land, legal rights and interests of the people. Various research methods such as synthetical method, statistical method, legal analysis method, case study, comparative method, etc., are used to clarify issues relating to policies on land use management, land resource recovery, pricing, transfer of land use right, update on land use fluctuations. This paper pointed that The content of land use planning must combine the criteria of land types associated with space, land use zoning, and natural ecosystem, showing information to each land parcel. Finalize regulations on land allocation, land lease, and land use purpose change. Also, we need to have a reasonable and effective regulation mechanism for revenues from land use levies and land rents between the central and local governments.

Key words: suggestions, Land Law, analysis, revisions, legal rights

1. INTRODUCTION

Our study note that The current Land Law also revealed certain shortcomings, leading to limited enforcement of the land law, significantly affecting the management and use of land, legal rights and interests of the people... Therefore, During the drafting process, attention should be paid to ensuring the compatibility and compatibility between the Land Law and relevant laws, realizing the goal of Resolution No. 18-NQ/TW which is to complete the amendment of the Law by 2023. Land in 2013 and a number of related laws, ensuring uniformity and consistency. Therefore, it is necessary to review and evaluate more closely the compatibility of the draft Law with relevant international treaties to which our country is a signatory; continue to carefully review the provisions of the draft
Law and fully and more specifically institutionalize the views, tasks and solutions set forth in Resolution No. 18-NQ/TW

Figure 1- Land Law need new concepts

(source: internet)

Then We see related studies in below table:

Table 1- Related studies summary

<table>
<thead>
<tr>
<th>Authors</th>
<th>Year</th>
<th>Content, results</th>
</tr>
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<tbody>
<tr>
<td>The National Assembly of the Democratic Republic of Vietnam</td>
<td>1953</td>
<td>In November 1953, the Fifth Conference of the Central Committee of 2nd national CPV congress approved the Land Platform. On October 4, 1953, Land Reform Law was ratified by the National Assembly of the Democratic Republic of Vietnam. Under this Law, the land is distributed among farmers in accordance with the egalitarian principle. The National Assembly of the Democratic Republic of Vietnam.</td>
</tr>
<tr>
<td>The Government of the Socialist Republic of Vietnam. Achievement policy content in 1955-1975 period.</td>
<td>2017</td>
<td>In November 1958, the 14th Conference of the Central Committee of 2nd national CPV congress set out the three-years renovation plan and initially developed the</td>
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<td>Phuc to et al</td>
<td>2019</td>
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<td>Between Vietnam’s independence and its reunification in 1975, the country’s socialist land tenure system was underpinned by the principle of “land to the tiller”. During this period, government redistributed land to farmers that was previously owned by landlords. The government’s “egalitarian” approach to land access was central to the mass support that it needed during the Indochinese war. Even when the 1993 Land Law transitioned agricultural land from collectivized to household holdings with 20-year land use certificates, the “land to the tiller” principle remained largely sacrosanct in state policy. Planned amendments to the current Land Law (issued in 2013), however, propose a fundamental shift from “land to the tiller” to the concentration of land by larger farming concerns, including private sector investors. This is explained as being necessary for the modernization of agricultural economy in Northern Vietnam (1958-1960): &quot;Promote the socialist revolution for individual economic sectors of farmers, artisans, the socialist reformation of private capitalist economic sector, and at the same time develop State-owned enterprises&quot;.</td>
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production. The government’s policy narrative concerning this change emphasizes the need to overcome the low productivity that arises from land fragmentation, the prevalence of unskilled labor and resource shortages among smallholders. This is contrasted with the readily available resources and capacity of the private sector, together with opportunities for improved market access and high-tech production systems, if holdings were consolidated by companies. This major proposed transition in land governance has catalyzed heated debate over the potential risks and benefits. Many perceive it as a shift from a “pro-poor” to “pro-rich” policy, or from “land to the tiller” to the establishment of a “new landlord”—with all the historical connotations that this badge invokes. Indeed, the growing level of public concern over land concentration raises potential implications for state legitimacy. The paper considers how the transition could change land access and governance in Vietnam, based on early experience with the approach.

| Nguyen Lan Huong | 2022 | However, in a transition to a modern economy as emerging in Viet Nam, there remain challenges to the security of farmers’ land-use rights such |
as limitation of arable landholding ceiling, unnecessary procedural provisions of renewals, and no clear-cut transition to modern thinking of law-makers for land use management.

(source: author synthesis)

2. METHOD
Thus study uses synthetical method, statistical method, legal analysis method, case study, comparative method, etc., are used to clarify issues relating to policies on land use management, land resource recovery, pricing, transfer of land use right, update on land use fluctuations, and authors have observed with experiences and implementation of provisions of the Land Law in Vietnam to learn experiences and lessons.

3. DISCUSSION

Shortcomings in management and use of land for economic development
Firstly, supporting policies still have shortcomings (jobs tranfer, vocational training, etc.)

According to many localities, in the process of implementing policies for people whose land is acquired, there are still problems such as support policies for people to identify, choose jobs, choose career change direction, it is very difficult to organize vocational training for people whose land has been recovered; In fact, many households and individuals whose production land has been recovered are unable to change occupations, and many households and localities are still confused in identifying and choosing occupations for conversion.

While production and business establishments in many areas are still very limited in receiving and recruiting local workers, especially those whose land has been recovered to implement the project when the project comes into operation. In addition, the number of people of working age whose land has been acquired are mostly unskilled workers with low technical qualifications, unable to meet the labor demand in the industrial environment or high-tech labor.

Secondly, priority is given to consistency of provisions of the Land Law with the Civil Code, the Law on Investment, the Law on Procurement, the Law on Real Estate Trading, and other legal documents

Based on review of implementation of the Resolution No. 19/NQ-TW dated 31 October 2012 on further reform of land policies and laws for comprehensive development, forming the backdrop for Vietnam to become a modern and industrialized country by 2020, it is important to conduct inter-ministerial and inter-departmental review of provisions of the Land Law to remove overlapping and ensure consistency with other relevant laws. In the short term, it is urgent to revise and amend
provisions on orders, procedures, power, duration, time limit for dealing with land-related complaints, denunciations, disputes. At the same time, the power of the people’s courts in settlement of land disputes should be extended while provisions of the Land Law should be consistent with provisions of the Law on Complaint, the Law on Denunciation, the Law on Housing, the Law on Investment, the Law on Procurement, the Law on Administrative Procedures, etc., and other relevant laws. Specific guidance on legal application in settlement of land-related disputes, complaints, and denunciations should be issued to avoid shortcomings, conflicts, and inconsistency of provisions of the Land Law and relevant laws on settlement of land-related disputes, complaints, and denunciations.

From the legal basis and practice of compensation, support and resettlement when the State recovers land, there are still some shortcomings and problems.

Thirdly, The State must directly implement the land acquisition and compensation according to the uniform mechanism for all real estate investment and development projects with the investment approval decision of the State: people have land recovered, enjoy a uniform compensation and resettlement policy, ensuring the re-establishment of a better life after resettlement; enterprises have book land to carry out investment and project implementation without facing problems such as self-negotiation mechanism; The State will recover the difference in land rent value from the conversion of land use purposes when allocating land to real estate developers.

4. RECOMMENDATIONS and CONCLUSION

Land-related complaints and denunciations have seen a decline tendency since 2013 but still account for more than 60% of total complaints and denunciations. Land-related administrative cases out of total administrative cases constantly increase from 64.2% in 2015 to more than 80% in 2020. During this period, number of land-related civil and commercial cases received and settled by the Supreme People’s Court according to cassation and re-opening procedures also account for 75% of total cases (of which 83.49% were settled)¹. Land-related criminal cases are diverse with complicated motivations and purposes. These statistics confirm urgent needs for amendment and revision of the Land Law to minimize land disputes, ensuring transparency and effectiveness of the real estate, creating incentives for economic development to make greater contributions to the Government and the society.

The Government has just submitted to the National Assembly a Report on the Land Law Project (amended), according to which, the Draft Land Law (amended) consists of 16 chapters, 240 articles, of which 48 articles remain unchanged; amending and supplementing 153 articles; added 36 new articles and abolished 8 articles. The Draft Law has 10 innovative contents.

Specifically, renewing and improving the quality of land use planning and plans. National master plans as well as land use planning and sectoral and sectoral master plans must be appropriate, unified, synchronous, closely linked, and promote each other for development.

Land use master plans and plans are made at the national, provincial and district levels to meet the requirements of implementing the strategy for rapid and sustainable socio-economic development; ensure national defense and security; environmental protection, climate change adaptation.
The content of land use planning must combine the criteria of land types associated with space, land use zoning, and natural ecosystem, showing information to each land parcel.

Finalize regulations on land allocation, land lease, and land use purpose change. Land allocation and land lease shall be carried out mainly through auction of land use rights and bidding for projects using land. Strictly stipulate cases of land allocation, one-time land lease, suitable to the nature and purpose of land use, ensuring stable income.

To stipulate the conditions for land allocation and land lease to religious organizations in accordance with the existing land fund of the locality; Religious organizations that use land for other purposes must pay land rent to the State in accordance with law.

More specific regulations on the authority, purpose, scope of land recovery, specific conditions and criteria for land recovery by the State for socio-economic development for national and public interests. Completing regulations on compensation, support, resettlement and land recovery for the purpose of national defense and security; socio-economic development for national and public interests.

Compensation and resettlement support must be one step ahead, ensuring publicity, transparency and harmonization of the interests of the State, people whose land is recovered and investors; specific regulations on compensation, support, resettlement, job training so that people whose land has been acquired must have a place to live and ensure equal or better living standards.

Specifying the effective exploitation of the adjacent land fund to promote land resources for socio-economic development and the mechanisms for contributing land use rights, adjusting the land, embellishing urban areas and areas. rural population.

Completing the mechanism for determining land prices according to market principles, and the inspection and supervision mechanisms of the Central Government and the provincial People's Councils in formulating land price lists. Supplement and complete regulations to ensure publicity and transparency such as: publicizing land prices, compulsory transactions through trading floors for residential, urban and commercial housing projects.

Perfecting financial mechanisms and policies on land to ensure harmony between the interests of the State, land users and investors; have a reasonable and effective regulation mechanism for revenues from land use levies and land rents between the central and local governments; regulate the difference in land rent, ensuring publicity and transparency

(source: dangcongsan.vn)

Figure 2 –Current Land Law need amendment
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