

LAND OWNERSHIP REGIME AND ISSUES IN LAND ALLOCATION FOR INVESTMENT AND CONSTRUCTION OF COMMERCIAL HOUSING

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Summary

The land ownership regime plays a decisive role and coordinates all relationships arising in land ownership. From the perspective of examining the relationship between land ownership regime and land allocation for investment in commercial housing construction in Vietnam, pointing out negative aspects in land management and use towards improvement. Legal regulations aimed at consolidating the public ownership regime of land, eliminating negative factors in the implementation of state management by competent agencies and land use by private entities. prerequisite tasks to ensure transparency and efficiency in land exploitation and use.

Keywords: *Ownership regime, land, land allocation, business investment*

1. Ask the question

Land is an important means of production, it can be said to be the economic foundation of each country, so the issue of land ownership regime is always an issue that no matter any country in the world. focus and aim to improve legal regulations for optimal use. Currently, according to the Constitution of the Socialist Republic of Vietnam, land is owned by the entire people and is represented by the State (Article 53 of the 2013 Constitution). Based on the ownership regime, social relationships in land ownership will be implemented in a unified form guaranteed by the provisions of law[1].

Accordingly, the private ownership regime is the full recognition of the owner's internal rights over land relations, including the rights to possess, use and dispose of, while the ownership regime by the entire people is the recognition and protection of the ownership regime of all citizens, through the State that land relations are guaranteed to be implemented. Therefore, it can be said that the land ownership regime is the foundation for building and orienting land use issues in all socio-economic fields.

Considering the ownership regime by the entire people in Vietnam and the issue of land allocation in investment in commercial housing construction, thereby clarifying legal elements to coordinate land relations towards perfecting the regime. public ownership of land, ensuring fairness and transparency in the distribution of land use among subjects

2. Land ownership regime and issues in land allocation for investment in commercial housing construction

In property regulation, real estate is considered a component in the structure. However, when considering the rights of owners, it depends on each country, political regime, and the will of the State expressed in laws regulating property relationships leading to the fundamental difference in the use of rights.

From an objective perspective, the ownership regime can be understood as a set of all legal regulations and other legal elements to coordinate and operate land relations in a certain order[2]. Besides, from a subjective perspective, the ownership regime is considered the totality of the owner's rights in land relations including the power to possess, use, and dispose according to civil law provisions. .

Currently, in the world, the classification of land ownership models exists in two adjustment systems including: i) single ownership of land; ii) multiple ownership of land. However, this delimitation is only relative and simulates the regulations and policies of each country. However, if we look deeper into the legal nature, the above provisions are not correct. Because, when it comes to ownership, the right to comprehensive control over property must be placed under the possession and use of a defined subject. According to the provisions of Article 1 of the Land Law 2024, the land ownership regime in Vietnam is determined to be universal ownership. The State represents the people as the owner, manages land and carries out management. unified. "The entire people" does not mean the common ownership of the people but must be defined as the whole without being specific by any individual or organization among the people.

In the market economy, many researchers believe that the division and disposition of land[3], in the face of land weaknesses, such as asymmetric benefit distribution, abuse of power by a The section of officials when granting people's rights reveals the shortcomings of the above regime.[4] Some researchers believe that the distribution of land ownership according to ownership orientation is to increase the flexibility of the market through the rights of the owners are an inevitable consequence. However, through efforts in innovating and creating regulations governing land relations and land-related relationships, it is possible to ensure the entire people's ownership of land in Vietnam. Nam is basically still completely suitable. Originating from the subsidy mechanism, however, land use rights from the subsidy mechanism to the 1986 doi moi and the process of industrialization and modernity have achieved great achievements.

As the representative entity in land management, the State carries out the allocation, management and adjustment with its power, the State has gradually reformed and distributed land to free up its capacity. production, solving problems of agriculture, farmers and rural areas, paying

attention to the legitimate interests of disadvantaged people in society. Along with the issue of modernizing the country, our state also ensures the parallel development between national security and defense and economic development of the country.

The implementation of amending regulations on land use rights and investment projects associated with land according to the Land Law and Business Law is inconsistent, with highly flexible innovation, increasing the scope of rights in the regulations. Land use rights regulations have affirmed that development and investment attraction do not depend on the ownership regime but largely come from unified management and political and economic stability. Ensure consistency on the part of State agencies. Accordingly, land laws in Vietnam currently meet the requirements of maintaining national security while still stimulating businesses and investors to get rich on land; Housing and residential land for all classes of residents at all levels have gradually been harmonized and better met the needs of the people.

Marx, Engels and Lenin said "To ensure fairness in the distribution of surplus value, land must be under public ownership, owned by the State. The State must protect public ownership of the means of production, both protecting equality in labor and equality in the division of products"[5]. Accordingly, the Party and State are thorough in establishing and implementing the regime of ownership of land by the entire people but do not apply it mechanically, rigidly and arbitrarily. Within the scope of the law, land users can still recognize and exercise their rights according to their will, ensuring that organizations and individuals enjoy absolute rights and policies, especially in the field of land use. invest

First of all, the regime of public ownership of land demonstrates fairness to all land users, regulated by legal regulations to ensure fairness, transparency, and management and regulation through the State, limiting the polarization between rich and poor, or monopoly on the means of production, which is land.

Second, the people's ownership regime ensures consistent and synchronous management across the country, helping the State be flexible in managing and distributing land in accordance with development orientations in each country. certain period. Accordingly, when it is necessary to build necessary projects that are important to ensuring the security, political situation, and development of community life, the State can proceed with land recovery while still ensuring Absolute benefits for users of recovered land through compensation and resettlement support

Although the public ownership of land also has a number of shortcomings that have been revealed, such as: abuse of power, asymmetric benefit distribution, the risk of corruption, and group interests. because a group of people took advantage of the grant of rights to exercise certain

powers in the process of State management of land, showing the dark side of the implementation of land law in recent times.

However, when considering the overall limitations and shortcomings do not entirely come from the ownership regime but may come from many causes originating from the process of state management organization: the law still has many shortcomings and lacks unity in understanding and operation at local levels or creates opportunities for a part of public agencies to take advantage for personal gain; a part of businesses and people deliberately carry out illegal land activities to bypass the control of competent authorities, the system of organization, implementation and inspection in land management and use is still not tight.

Therefore, to promote the effectiveness of land management and use in the all-people regime, it is first necessary to improve legal regulations, strengthen management capacity and responsibility in exercising the authority of agencies. state

Accordingly, in the issue of land allocation to carry out commercial housing construction investment projects, the issue of ensuring the interests of the subjects is also raised on the basis of strict and effective implementation on the basis of the law. Appropriate legal regulations such as: legal regulations on planning and land use plans right from the beginning of construction must pay attention to the land fund for investment in housing construction not only in urban areas. but also in the countryside.

These are considered legal bases to control the State's activities in land allocation and land lease to implement projects according to law in accordance with each period of the country's development in each period. specific periods and fairness and transparency in real estate market operations. Doing this also limits the situation of amending, supplementing and adjusting planning and land use plans to allocate land to investors in each year of plan implementation. Because if planning and land use plans are allowed to be adjusted without appropriate control mechanisms, it will cause significant consequences such as: the master plan is broken, the agricultural land fund is a means of production. Farmers' finances are at risk of being arbitrarily repurposed for the benefit of a group of people, of a number of businesses with the potential and strength to manipulate, and the risk of corruption is entirely possible. Laws on land allocation for investment in commercial housing construction require transparency, democracy, openness and fairness, and easy access for people and the business community.

Accordingly, information about land funds for housing construction investment must be transparent at all levels of land administrative management so that the business community and people have the right to access and learn for themselves. its investment activities. Building grounds for approving, supplementing, and adjusting projects must be clearly stipulated, eliminating the

seeds of corruption and local interests; Aiming for the legitimate interests of disadvantaged people in society, protecting highly valuable agricultural land funds.

In addition, the enforcement mechanism in the process of land allocation for commercial housing construction must ensure fairness, rigor, and the ability of businesses to access and receive investment projects. are equal, avoiding the situation of focusing only on a few potential enterprises, eliminating the opportunity for small and medium enterprises to access land funds. At the same time, there must be a mechanism to closely and continuously inspect and monitor the implementation of investment projects by enterprises to ensure that projects are implemented according to purpose and on schedule.

3. Conclude

Public ownership of land is an optimal form of ownership that best utilizes the most important means of production in socio-economic development. In essence, the State is the land ownership representative to manage and distribute land funds according to each land use purpose in a reasonable manner, promptly meeting the country's development process according to the land use plan. certain but still ensures the rights of land users when the State recovers land through compensation and resettlement support.

However, due to the legal system still having many shortcomings in State management in the field of land and limitations in inspection and supervision, it has created opportunities for a number of officials and civil servants to be given the right to take advantage of it for personal gain. Land users in the process of being allocated land or leasing land for use have used land for the wrong purpose contrary to the provisions of law, which is the main cause leading to negative consequences in the issue of land allocation in general and land allocation for commercial housing construction in particular in the public ownership regime of land.

On that basis, perfecting legal regulations to strengthen inspection and supervision and enhance the responsibility of officials and civil servants in State management is a prerequisite to eliminating negative aspects of standards. Extremely proactive in land allocation to build commercial housing. From there, we also consolidate the positive aspects of the public land ownership regime

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