

Special Alert

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New Party Resolution on Land Management

Background

On 16 June 2022, the Central Committee of the Communist Party of Vietnam issued Resolution No. 18-NQ/TW (“**Resolution 18**”), which replaces its predecessor – Resolution No. 19-NQ/TW dated 31 October 2012 and provides land policy to be applied in the near future. Resolution 18 has several new points which are the subject of this Article.

Amending the 2013 Land Law, together with its guiding documents

By 2023, amendments to the 2013 Land Law and a number of related laws must be completed with a view to ensuring unity and consistency. Success in setting up the national digital database and information system on land must be centralized, consistent, synchronous, multi-targeted and fully connected. The establishment of the organizational machinery for state management of land in the expectation of ensuring that it becomes streamlined, effective, efficient, uniform and unified. There must be elimination of intermediaries, promotion of appropriate decentralization of authority and management hierarchy in line with the mechanisms for inspection, monitoring the exercise of power and control of power. Also, issues and problems related to the management and use of land of previous state-owned agriculture and forestry farms; land intended for national defense and security in combination with production and economic development; land of production facilities and non-business units that have been relocated from the centers of major cities; encroaching land; religious land; cemetery land; combined land uses with a variety of purposes; residential land, and productive land for ethnic minorities must be addressed and resolved.

The elimination of land price framework

As specified in Resolution 18, the required land price range, which has caused many controversial

issues, has been officially removed (Note: the land price range has been regulated under Decree No. 96/2019/ND-CP, and is the basis for localities to enact the land price table). New mechanisms and methods for determining land prices according to market principles will be supplemented, including the functions, tasks and responsibilities of agencies in charge of determining land prices. The Central Committee shall formulate criteria and procedures for inspection and supervision of localities in the construction of land price lists. Provincial-level People's Councils shall decide and inspect and supervise the implementation of land prices. There must be effective mechanisms to improve the quality of land valuation and ensure the independence of the land valuation council, the capacity of the consulting organizations to determine land prices, the capacity and ethics of the valuations. New regulations should be issued to ensure publicity and transparency such as: publicizing land prices, mandatory transactions through exchanges, payment through banks, non-cash payments, the sanction of violations, etc.

Higher tax rates for people owning a lot of land / real estate product

Resolution 18 sets out higher tax rates for those using a large amount of land, houses, speculating in land, postponing the use of land or abandoning wasteland. Furthermore, new policies on tax incentives, land use levies and land rent suitable for the field and geographical areas eligible for investment incentives are also supplemented by the need to consider poor households, ethnic minorities and families of revolutionary contributors; localities which are planned to ensure national food security, protect all kinds of forests, especially protection forests, special-use forests, etc.

(Note: Currently, policies on tax incentives, land use levy for poor households are regulated under Article 11 of Decree No. 45/2014/ND-CP; and Decree No. 131/2021/ND-CP for families of revolutionary contributors).

Land allocation and land lease by way of auction of the land use right and/or tendering for selection of an investor

Under Resolution 18, the allocation and lease of land should be carried out mainly through auction of land use rights and/or tender for selection of an investor. Specific provisions on the auction of land use rights, tenders for selection of investors should be added. Limits and strict regulation of land allocation or land lease without an auction of land use rights or tender for selection of investors is also required. Such works should also ensure the publicity, transparency, and specify synchronicity and mechanisms to handle violations of regulations on land allocation and land lease, especially regarding the auction of land use rights and tender for selection of investors.

(Note: Currently, land allocation and land lease are conducted according to Articles 54, 55, and 56 of the 2013 Land Law).

Specifically regulate compensation, assistance / support, and resettlement after land resumption

Land resumption must comply with the 2013 Constitution and the applicable laws and is only conducted after a compensation, support and resettlement plan is approved. In case land resumption requires resettlement, resettlement arrangements must be completed before land resumption.

There must also be specific provisions on compensation, support and resettlement to ensure that people with owning resumed land receive accommodation and an equal standard of living than the old residence after land resumption is completed.

More specific provisions on the competence, purpose, scope of land resumption, conditions and specific criteria for the Government to resume the land for socio-economic development and for national and public interest should also be added.

(Note: Currently, compensation after land resumption is regulated under Article 88 to Article 92 of the 2013 Land Law).

Real estate transactions to be conducted through exchanges and transfers via banks

In addition to the requirement to “*Remove the land price range*” and mechanisms and methods to determine land prices according to market principles, Resolution 18 also determines the need to supplement and complete regulations to ensure publicity and transparency such as: making land prices available to the public; requiring transactions to be performed via exchanges; requiring payments to be made via bank transfer or non-cash payments; strictly sanction violations, etc.

Conclusion

Although Resolution 18 is a general directive document from the Central Committee of the Communist Party of Vietnam, and therefore is not considered a legal document, pursuant to the principle of “*The Communist Party of Vietnam is the force leading the State and society*” specified in Article 4 of the 2013 Constitution, Resolution 18 provides important guidelines and policy for the upcoming legal documents to follow. As the land issue in Vietnam has long been sensitive, the changes in Resolution 18 will help complete the legal framework and boost the growth of Vietnam’s economy as well.

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