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 **Thanh, Luan Nguyen**

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Evaluation of Vietnam's Current Legal Provisions on State Land Acquisition: Amending the Law to Combat Corruption and Promote Socioeconomic Development

Disposições jurídicas no Vietnã sobre a aquisição de terras públicas: alteração da legislação para o combate à corrupção e a promoção do desenvolvimento socioeconômico

Disposiciones legales actuales de Vietnam en materia de adquisición de tierras estatales: reforma de la Ley para Combatir la Corrupción y Promover el Desarrollo Socioeconómico

Les dispositions juridiques actuelles du Vietnam concernant l'acquisition de terres domaniales: Modifier la loi pour lutter contre la corruption et promouvoir le développement socioéconomique

越南现行的土地征用的法律规定：修改法律以打击腐败和促进社会经济发展

Luan Nguyen Thanh*
Vietnam Women's Academy, Vietnam
thanhluanbdbp@gmail.com

DOI: <https://doi.org/10.15175/1984-2503-202214102>

 <https://orcid.org/0000-0002-5095-3251>

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Abstract

This article is developed from evaluation of provisions of Vietnam's 2013 Land Law on State land acquisition for socioeconomic development in the national or public interest. Since implementation, many legal loopholes have been revealed, such as large-scale land acquisition, "cheap" compensation for acquired property, and coercive land acquisitions. These have created additional opportunities for corrupt officials and enterprises who have a close and mutually profitable relationship, putting the people whose land is to be acquired into difficulties and poverty. Amending the law to close these loopholes is especially necessary to combat corruption, ensure the interests of people whose land is to be acquired, and promote Vietnam's socioeconomic development.

Keywords: land acquisition, land prices, economics, land act, officials.

Resumo

Este artigo está baseado na avaliação das disposições da Lei Fundiária do Vietnã de 2013, sobre a aquisição de terras públicas em favor do desenvolvimento socioeconômico e do interesse nacional ou público. Desde a sua entrada em vigor, muitas lacunas legais foram reveladas, tais como a aquisição de terras em ampla escala, compensações "baratas" em troca de propriedades adquiridas e aquisições fundiárias coercitivas. Todas essas lacunas criaram novas oportunidades para que funcionários públicos e empresas corruptos estabelecessem relações de proximidade mutuamente benéficas, mergulhando em dificuldades e na pobreza as pessoas cujas terras tenham sido adquiridas. Alterar a lei para sanar essas lacunas é essencial para o combate à corrupção, a garantia dos interesses das pessoas cujas terras devam ser adquiridas e a promoção do desenvolvimento socioeconômico no Vietnã.

Palavras-chave: aquisição de terras, preços das terras, economia, legislação fundiária, funcionários públicos.

Resumen

Notas de autor

* Doctor of Law, Faculty of Law, Vietnam Women's Academy (VWA).

Este artículo se desarrolla a partir de la evaluación de las disposiciones de la Ley de Tierras de Vietnam de 2013 sobre la adquisición de tierras estatales para el desarrollo socioeconómico en aras del interés nacional o público. Desde su implementación, se han revelado muchas lagunas legales —como la adquisición de tierras a gran escala, la compensación «barata» de la propiedad adquirida y las adquisiciones coercitivas de tierras— que han creado oportunidades adicionales para que funcionarios y empresas corruptos establezcan relaciones cercanas y rentables para ambas partes que, sin embargo, generan dificultades y pobreza para las personas dueñas de las tierras en adquisición. Enmendar la ley para cerrar estas lagunas se revela especialmente necesario para combatir la corrupción, garantizar los intereses de las personas propietarias de las tierras y promover el desarrollo socioeconómico de Vietnam.

Palabras clave: adquisición de tierras, precio de la tierra, rentabilidad, Ley de Tierra, funcionarios.

Résumé

Cet article se base sur l'évaluation des dispositions de la loi foncière vietnamienne de 2013 concernant l'acquisition de terres domaniales en vue du développement socioéconomique et au nom de l'intérêt national ou public. Depuis sa mise en œuvre, de nombreuses lacunes juridiques ont été révélées, telles que l'acquisition de terres à grande échelle, une compensation « bon marché » en échange des biens acquis et les acquisitions foncières coercitives. Toutes ces lacunes ont créé de nouvelles opportunités pour les fonctionnaires et les entreprises corrompus qui entretiennent des relations étroites et mutuellement profitables, plongeant les personnes dont les terres doivent être acquises dans la difficulté et la pauvreté. Modifier la loi pour combler ces lacunes s'avère indispensable si l'on veut lutter contre la corruption, garantir les intérêts des personnes dont les terres doivent être acquises et promouvoir le développement socioéconomique du Vietnam.

Mots clés: acquisition foncière, prix des terrains, économie, législation foncière, fonctionnaires.

摘要

本文评估了越南 2013 年《土地法》中关于政府因为国家或公共利益而征用土地的规定，及其在实施过程中出现的弊端。《土地法》实施以来，出现了大量征地、“低价”补偿、强制征地等法律漏洞。这为官商勾结、贪官和企业共同腐败创造了更多的机会，使被征地的人员陷入困境和贫困。我们认为，政府必须修改法律以弥补这些漏洞，并且严厉打击腐败、保障被征地者的利益以促进越南社会经济健康发展。

關鍵詞: 征地, 地价, 经济学, 土地法, 官员.

Introduction

Today, Vietnam is one of the few socialist countries with the leadership of the existing Communist Party and a dynamic, developing economy (DUONG; HOLMES; STRUTT, 2021). The people's lives are getting better both physically and mentally.

Vietnam achieved all 12 key national development goals set for 2019. According to the UN Sustainable Development Report 2019, Vietnam's SDG index ranked 54th among 162 countries, up three positions from 2018. In comparison to the East and South Asia averages, Vietnam performed well on 12 out of 17 SDGs, but lagged on SDGs 8 (decent work and economic growth), 9 (industry, innovation, and infrastructure), 14 (life below water), 15 (life on land), and 16 (peace, justice, and strong institutions). Vietnam's Human Development Index (HDI) continued to increase in 2019, reaching 0.693—only 0.007 points below the Human Development Group's high threshold (UNITED NATIONS, 2020, p. 9).

This result is due to the implementation of the "*Doi Moi*" policy (BERESFORD, 2008, p. 221), whose main content is the transformation from a centrally planned to socialist-oriented market economy from December 1986 until now.

In Vietnam, an all-citizen ownership regime for land was declared from the Constitutions of 1980, 1992, 2013 and the land laws of 1987, 1993, 2003, and 2013 (VIETNAM, 2013),¹ which is different from the free market and democracy model of Western countries (BOLESTA, 2019). On behalf of all people, the State uniformly manages the entire land area in the territory and is entitled to exercise the rights of the owner as prescribed by law.² People do not have the right to own land but are allocated land by the State for exploitation and use in the name of granting *land use rights* (LUAN, 2020), in the form of land allocation by the State or land lease by the State and people have to fulfill obligations to the State (NGUYEN, Thanh; KRABBEN; SAMSURA, 2017). Land that has been allocated to people can be acquired by the State for other purposes.³ Implementation of socioeconomic development projects in the national or public interest is a legal basis for the State to implement land acquisition from the people. In fact, this is the main basis for the state having, in the past, recovered a great deal of land from people, most of which is agricultural land to build economic zones, industrial parks, tourist areas, eco-zones, and new urban areas (TUYEN et al., 2014).

Ho Chi Minh City is the locality with the largest area converted to non-agricultural purposes compared to other provinces in the country. During 2001–2005, the city transferred about 18,000 ha of agricultural land and unused land for industrial development, services, and urban expansion (VO; HOA, 2011, p. 33).

The State holds great power in the distribution and management of land, but the mechanism of monitoring this power is still ineffective, the system is loosely controlled, and social criticism has not been appreciated (NGUYEN, D. et al. 2019). The law that allows State agencies to recover land to implement projects for socioeconomic development purposes—"in the public benefit"—becomes an easy opportunity for corrupt officials and enterprises to form mutually beneficial and profitable relationships—an expression of the *crony capitalism* that has long existed in Vietnam (NGO; TARKO, 2018)

In recent years, the massive construction of golf courses has made it easy for many negative "interest groups" to occupy land. Although the economic efficiency of golf courses is not high, many investors still do it with the main purpose of occupying the land. According to a report by the Ministry of Planning and Investment on the implementation of golf course planning (in 2011), out of 90 golf course projects included in the planning, only 21 projects are golf course businesses, and the remaining 69 projects combine golf business with real estate and tourism. Many golf course projects are mere disguises for occupying land and converting its intended land use purposes (HOA; CHUNG, 2020, "Nhóm lợi ích'...", para. 4, our translation).

The result of this cooperation is the creation of people's land acquisition projects to reap huge economic benefits for corrupt officials and enterprises with a mutually beneficial relationship. People whose land is acquired are deprived of valuable assets and even lose their main source of livelihood (CHAU, 2019).

People whose land was to be acquired are driven into corners, while corrupt officials and enterprises became wealthy, causing a rift in the relationship between the people and the State. This is demonstrated by the resistance of the people: there have been prolonged gatherings and large crowds, and even taking direct action against the State, confiscating the land by force, which has caused socioeconomic instability in Vietnam (LABBÉ, 2015).

Regulations on cases of State land acquisition for socioeconomic development in the national or public interest

According to Article 62 of the 2013 Land Law, the National Assembly, the prime minister, and the People's Councils of the provinces and Municipal Cities are the decentralized authorities who decide on land acquisition for the implementation of projects for socioeconomic development in the national or public interest.

Under the authority of the National Assembly, the law does not specify which projects are important to the country under the jurisdiction of the National Assembly to decide on land acquisition. Instead, in Article 7 of the Law on Public Investments (2019), projects of national importance are those with one of the following characteristics:

- Using public investment capital worth 10,000 billion dong or above.⁴
- Having a substantial environmental impact or posing potential risks of having a serious environmental impact, such as the construction of a nuclear power plant, destroying natural forests 50 ha or larger, or destroying production forests 1,000 ha or larger.
- Using land subject to the requirement for conversion of land use purposes from arable land for growing wet rice during at least two cropping seasons that cover an area of 500 ha or more.
- Moving and resettling at least 20,000 inhabitants in mountainous areas or at least 50,000 inhabitants in other regions.
- Requiring special legal frameworks or policies subject to the National Assembly's resolutions.

Under the authority of the prime minister, projects subject to land acquisition decisions include the following:

- Project to build concentrated industrial production zones, concentrated export processing zones, economic zones, high-tech zones, and new urban areas.
- Projects to build working offices of central State agencies, offices of diplomatic missions, and construction projects such as parks, monuments, etc.
- National-level technical infrastructure construction projects such as roads, irrigation systems, electricity systems, and national-level reserves, etc.

Under the authority of the provincial People's Council, projects to approve the investment to recover land include the following:

- Building working offices of local State agencies, public parks, public squares, etc.
- Projects to build a transportation system, or irrigation systems for agriculture, water supply, and drainage.
- Projects to build new urban areas, build houses for low-income people, create new rural residential areas, build funeral homes, and construct pagodas, churches, houses of worship, etc.
- Projects to build concentrated industrial production clusters, export processing clusters, and mineral mining projects.

In general, the provisions of Article 62 of the 2013 Land Law are a step forward compared to the old land laws when they clearly and specifically stipulate the cases in which State agencies recover land to carry out socioeconomic development projects in service of national and public interests in law to limit rampant and indiscriminate land acquisition dumps that occurred between 2000 and 2013.⁵ However, the cases

specified in Article 62 of the 2013 Land Law are still large-scale, making it easy for corrupt officials and enterprises with close beneficial relationships to create projects and recover the people's land.

There are still localities that consider land acquisition for "ecotourism urban areas" for national and public benefits. In fact, the construction of an ecological urban area is a profitable investment and a business project that does not represent a work that serves only the residential community. Alternatively, there are projects where the planned area for social housing and resettlement accounts for less than 10% of the project's area. The remaining more than 90% of the planned area for business housing includes: public residential housing, streets, gardens, etc., but it is still considered by some localities to be simple land acquisition by the State for the purpose of socioeconomic development (HIEN; LINH, 2020, "Thực trạng pháp...", para. 4, our translation).

In particular, land acquisition for the implementation of projects to build new urban areas, residential areas, tourist areas, ecological zones, commercial zones, economic zones, business zones, social housing construction projects (SEO; CHUNG; KWON, 2018),⁶ new rural residential areas, concentrated industrial zones, export processing zones, industrial clusters (NGUYEN, Tuan et al., 2019), and new rural residential areas, are preferred. They are widely applied because they bring huge profits to enterprises.

According to Luu Binh Nhuong, deputy head of the Civil Volunteers Committee under the National Assembly, in the period 2016–2018, Long An province received 11 resolutions of the People's Council to recover land to implement 1,694 projects. Thus, the average resolution covered 154. Tien Giang province has 16 resolutions with 846 projects, with an average of 53 projects/resolution. Lam Dong province has eight resolutions with 771 projects, about 96 projects/resolution (NAM, 2020, "Phải đặt lòng...", para. 1, our translation).

Accordingly, plots of land with beautiful locations, high value, or thousands of square meters of agricultural land can be recovered only through the State Land Acquisition's decision, which are then assigned to enterprises that have close beneficial relationships with officials for project implementation (LABBÉ, 2018). After completing the investment and construction of these projects, enterprises sell them to the market and make huge profits. The investment of these enterprises is often only at the level of infrastructure construction, including roads, electricity, water supply, and drainage, but new urban areas, residential areas, tourist areas, and ecological zones have not been formed, and commercial areas have sold land plots to the market, which further increases the huge profits for corrupt officials and enterprises (HANSEN, 2013).

In the land use plan for 2021, Dong Nai province has nearly 350 residential and urban projects in districts, as well as in Bien Hoa City and Long Khanh City. More than 70% of residential and urban projects have had investors for 5–10 years, but the projects have not been completed. From 2018 until now, the "fever" of land in the Southeast region has made the purchase and sale of land plots and housing projects in Dong Nai more exciting. Many investors in residential areas and urban areas in the province, after barely starting construction on the project, transfer the product in the form of a secondary investor to sign a contract. co-investment, deposit, capital contribution, and reservation (NHI, 2021, "Chưa hoàn thành...", para. 1, our translation).

Apart from the cases specified in Article 62, under Article 73 of the 2013 Land Law, State agencies are not allowed to recover land from people to assign to enterprises for project implementation. Enterprises that want to have land for project implementation are to negotiate with the people through receiving land use rights transfers, leasing land use rights, and receiving capital contribution in the form of land use rights. Essentially, this is a voluntary land transfer mechanism between the people and enterprises. The State does not intervene in the force of power to take the land of the people. This shifting mechanism is in stark contrast to land acquisition, which is a compulsory land-shifting mechanism where land is transferred to enterprises using the power of the State to take back land from the people and then assign it to enterprises.

The voluntary land transfer mechanism ensures the rights of people whose land has been acquired and is suitable for the market economy. Businesses must negotiate and pay landowners according to the wishes of landowners to acquire land to implement the project. However, enterprises, especially those with close beneficial relationships with corrupt officials, do not like this mechanism because it brings less profit, and the time to acquire land takes longer than acquiring land by forced land transfer mechanisms.

Voluntary land transfer is reached by consensus; thus, there is no conflict of interest, but investors can never successfully negotiate with 100% of people who use land for investment projects. During negotiations, about 70% of the people ask for land prices that investors cannot accept. This situation makes investors not want to implement the voluntary land transfer mechanism, but want to apply the compulsory land transfer mechanism (ANH, 2019, para. 3, our translation).

Regulations on land prices that the State compensates people whose land is acquired is lower than the market price of land

Since the Land Act of 1993,⁷ when the State recovers land to carry out socioeconomic development projects for the national and public interest, people whose land is to be acquired will be compensated by the state for the land and the assets attached to the recovered land. In case of loss of accommodation, the state will arrange resettlement, and for lost livelihood sources, the State will train them and transfer them to new jobs. After inheriting the old land laws, the 2013 Land Law fully and specifically stipulates the issue of compensation for land, assets attached to the land and resettlement, and support for new jobs; in addition the compensation level for those whose land is acquired has increased. However, people whose land is to be acquired are not interested in this compensation from the State.

The cause of this problem is that in Vietnam, there are currently two types of land prices: land prices formed during the implementation of civil and commercial transactions on land use rights, permitted by law between individuals and organizations; and land prices issued by the state according to the land pricing mechanism specified in Section 2, Chapter 8 of the 2013 Land Law.⁸ The land price for calculating compensation for people whose land is considered “damaged withdrawal” is the price issued by the State.⁹

According to the law, the land price promulgated by the State is determined based on the principle of being consistent with the common land price in the market, not the actual market land price.¹⁰ Every five years, the government promulgates the land price bracket applicable to each type of land,¹¹ and region.¹² If during this time, the land price bracket differs from the common land price in the market by 20%, the government will adjust the land price bracket accordingly.

Based on the land price bracket promulgated by the government (VIETNAM, 2019).¹³ the People's Committee of the province shall decide to issue the land price list within the administrative boundaries under its management after it has been considered and approved by the People's Council of the same level.¹⁴ To issue specific land prices in line with common land prices in the market, State agencies apply valuation methods¹⁵ and can consult organizations with land price consulting functions. However, the land price issued by the government is still much lower than the market price (LUAN, 2020).

The highest price at the local land price lists is only 30% of the common maximum price in the market; in many streets in big cities, especially in some cases, it is not equal to 20% (VO, 2019, para. 7, our translation).

Therefore, the specific land price that the State applies to compensate people whose land is acquired at prices much lower than the market price of the land. With the amount of compensation received, the person whose land is acquired cannot buy back the same area of land for resettlement or buy land to continue agricultural production to stabilize life (PHUONG et al., 2018).¹⁶ This often leads to the lives of poverty for those whose land is acquired (SEO; SHIN; KWON, 2021).

While they are not suffering as much as temporary households, the Thu Thiem people who moved to the resettlement area also said that they were struggling day by day because of the money they had to pay when buying an apartment. Doan Thi Chua (living in Binh Khanh ward) said that her dream of having a tailor shop since she was a girl ended when her 60 m² house (in An Khanh ward) was cleared: When I was cleared, I only received a support of 71 million VND.¹⁷ The resettlement apartment was bought for nearly 1 billion VND,¹⁸ and we had to pay more than 65 million VND¹⁹ annually. The reality was too much for the family (DONG; TRUONG, 2018, “Ước vọng dở dang”, para. 4, our translation).

Meanwhile, after the land is recovered, the State allocates that land to enterprises implementing projects to build residential areas, new urban areas, tourist areas, commercial zones, etc., and the land was sold to the market at a price many times higher than the compensated one for the people, making huge profits.

The story of borrowing the project, recovering the land from the people at the price set by the State, and then selling it quickly at the highest market price, especially in Nha Trang and Khanh Hoa. In the Quoc Anh Villa project, in Phuoc Dong commune, although most of the area is production forest land, the investor is still licensed to build villas and tourist apartments for sale or rent. Meanwhile, for many years, many people with land in the project were not allowed to touch the status quo, and are now being charged a low compensation price, only 20,000 VND²⁰/m² (BANG, 2018, para. 5, our translation).

The economic loss of people whose land is to be acquired is obvious, which is the main reason people whose land is to be acquired are protesting the State's land acquisition. This objection is reflected in the refusal to comply with the decision on land acquisition, not to receive compensation for land recovery, and to complain about prolonged mass gatherings, causing social instability (NGUYEN, H., 2019).

Land-related lawsuits occur in many projects in most localities. By summarizing and reviewing, there were 44 out of 63 localities where there were complaints and denunciations of many people at the central citizen reception office, with 221 cases. Hanoi has the most cases, 59; Bac Giang has 15 cases, Bac Ninh has 11 cases, and Ho Chi Minh City has 10 cases (NAM, 2020, "44 tỉnh, thành có...", para. 1, our translation).

Enforcement of land acquisition decisions

In cases where the person whose land is to be acquired does not hand over the land under the land acquisition decision of the competent State agency, they may be subject to the application of coercive measures to recover the land according to the provisions of Article 71 of the Land Law in 2013. According to the law, the enforcement of land acquisition is a measure that is only applied when the propaganda and dialogue between the State and the people whose land is to be acquired fails to achieve results within a certain period and adheres to the principles of openness and transparency. In essence, the enforcement of land acquisition is the State's use of public power, expropriating people's land without the consent of the people.

In fact, people's disagreement with the State's land acquisition leading to the State applying coercive measures also mainly comes from the State's compensation when land is recovered for project implementation at a price lower than the market price; people whose land is to be acquired feels economic loss, so clearly they did not cooperate in handing over the land to the State.

On the morning of April 24, the People's Committee of Van Giang district, Hung Yen province, enforced the transfer of 5.8 ha of land from 166 households in Xuan Quan commune. This area is part of a total of 72 ha that will be assigned in the second phase to an investor to build the Van Giang tourist commercial urban area (Ecopark).

According to the People's Committee of Hung Yen province, 90% of households on the land allocated in the second phase to the investor Ecopark "received compensation and handed over the land." With the remaining 166 households, after many unsuccessful negotiations, the Provincial People's Committee agreed to the coercive plan of the District People's Committee. The reason these villagers did not agree to land allocation was said to be "not satisfied with the compensation plan" (HUNG, N., 2012, para. 1-2, our translation).

People whose land is to be acquired are weaker than the coercive force of the State, so they are forced to hand over their land to the coercive force or be taken off the land. This leads to a conflict between the people whose land is to be acquired and the State being pushed to a serious level. There have been cases where people whose land is recovered have protested by force against the State's forces, executing the decision on coercive land recovery, causing damage to property, health, and the lives of both those whose land is to be acquired and the power that enforces the decision on coercive land recovery (NGUYEN et al., 2019).

In 2014, the People's Committee of Ha Tinh province approved the investment policy of the project of raising foreign sows and growing fruit trees in Huong Xuan commune, Huong Khe district, with an area of 17.9 ha. The People's Committee of Huong Khe district then issued a decision to recover the land, but was opposed by the people because they thought it would pollute the environment and the water sources.

On September 8, 2015, the People's Committee of Huong Khe District organized the coercive recovery of land for eight households in the Hoa Xuan hamlet. Nguyen Van Cuong, born in 1992, residing in Phu Yen hamlet, was arrested for "resisting official duty officers," then sentenced to prison (DAI, 2018, para. 1-2, our translation).

The conflict between the State and the people whose land is acquired only occurs when the State recovers the land and allocates it to the enterprise implementing the project. For the State's land acquisition to make traffic systems, schools, or serve the purposes of national defense and security, building offices of State agencies, schools, and hospitals, the consensus of the people is reached, and the people are willing to hand over the land to the State to build these works. In many localities, people have actively donated land to the State for the construction of public works, for the common goal of socioeconomic development according to the plan set forth by the State.

To date, Muong Khuong district has five out of 16 communes meeting new rural standards (Ban Lau, Ban Xen, Lung Vai, Thanh Binh, and Pha Long); people actively contribute cash, donate land, work days, and participate in new rural construction activities launched by all levels and sectors. In five years, people voluntarily contributed with a total cash amount of over 10.5 billion VND, donated over 79,000 m² of land, and contributed over 26,000 working days (HUNG, G., 2021, para. 11, our translation).

Therefore, disagreeing with the State's compensation level for land due to economic disadvantage is the main reason for people whose land is acquired against the State's land acquisition force.

Recommendations to amend the law on land acquisition for socioeconomic development in the national and public interest

From the above analysis, the conflict between the State and the people whose land has been recovered for construction projects of a residential area project, new urban areas, tourist areas, economic zones, ecological zones, business, and trade are mainly over economic matters. The person whose land is to be acquired wants to receive compensation equal to the market price of land, and cannot accept that land is acquired with cheap compensation, and is angry that land is not used for public purposes but is assigned to enterprises for projects and then sold at high prices in the market. Meanwhile, the current law on State expropriation of land for socioeconomic development in national and public interests has created lucrative opportunities for corrupt officials and businesses with a close, mutually beneficial relationship. They cooperate with each other to use the coercive power of the State to deprive people of land and become wealthy as a result, leading the landless into difficulties and poverty.

To overcome this situation, the law on State land acquisition for socioeconomic development in the national and public interests needs to be amended and supplemented with the following content:

First, narrow down the cases in which the State recovers land for socioeconomic development in national and public interests.

It is necessary to abolish the regulations on land acquisition to implement new urban areas, residential areas, tourist areas, ecological zones, commercial zones, economic zones, business zones, social housing construction projects, new rural residential areas, industrial parks concentration, export processing zones, and industrial clusters. These are business projects in which the most beneficial party is the business. The State performing the social management function must ensure social justice (RYAN, 2007), not for the benefit of enterprises, especially enterprises that have close beneficial relationships with corrupt officials, recovering land to benefit large businesses, let the people whose land is to be acquired into difficulties and poverty. The abolition of this land acquisition regulation also has the effect of promoting the anti-corruption campaign carried out by the Communist Party of Vietnam to clean up the State apparatus and

regain the people's trust in the Communist Party,²¹ the State has already been eroded by corruption (PHAM, 2021).

The fight against corruption can only be successful when the conditions and opportunities for corruption are eliminated, not only in exposing and adjudicating cases that have occurred (NGUYEN, D. et al., 2019). The law allows State agencies to recover land to implement new urban areas, residential areas, tourist areas, ecological zones, commercial zones, economic zones, business zones, and housing construction projects. In society, new rural residential areas, concentrated industrial parks, export processing zones, and industrial clusters are creating conditions and opportunities for corruption, so they should be abolished.

The only solution for construction projects of new urban areas, residential areas, tourist areas, ecological zones, commercial zones, economic zones, business zones, social housing construction projects, new rural residential areas, industrial park concentrations, export processing zones, and industrial clusters that are enterprises wishing to use land for project implementation must implement the voluntary land transfer mechanism. The State only plays the role of guiding and accrediting transactions for voluntary land transfer between land owners and enterprises wishing to use land.

For other cases, according to the provisions of the current law, it can be kept the same.

Second, amend the provisions of the law on land prices to compensate people whose land is to be acquired.

The current law needs to amend the land price to compensate people whose land is acquired, which must be the market price to ensure the interests of the people who have their land acquired, and eliminate the situation of taking advantage of the gap between the price of land issued by the State.

Third, amend the provisions of the law on coercive land acquisition to recover land for socioeconomic development in national and public interest.

The current law needs to abolish the application of forced land acquisition for socioeconomic development in the national and public interest because it causes conflicts between the State and the people whose land is recovered, sparking violence and socioeconomic instability in the country. This measure should only be applied to cases where it is necessary to use land for national defense and security purposes, and land use is dangerous to human health and life. The State's land acquisition for implementation of projects for socioeconomic development in the national and public interests must be carried out by means of dialog and consensus based on adequate compensation for the acquired land at market prices to the landowners whose land is acquired, which shall be taken from the national budget. Implementing projects to develop socioeconomic development for the national and public interests is about bringing benefits to the people and the country, that is, for the majority, using coercion to take land of a few people, pushing a few people into difficulties, poverty is unjust and unsuitable for a State organized and operated on the principles of the people,²² by the people, and for the people (GRABER, 2006).

Conclusion

Characterized by the regime of ownership of land by the entire population, the State plays the role of representing the owner of the land, exercising the rights of the owner; the people do not have the right to own land, so the State has the right to recover the land that has been allocated to people to use for other purposes. The State's land acquisition for implementation of projects for socioeconomic development in the national and public interest, if it is carried out truly in the public interest, based on consensus with the State. Landowners and ensuring the interests of those whose land is acquired will be a great driving force for Vietnam's socioeconomic development. However, the current law on State expropriation of land for socioeconomic development in the national and public interests has many loopholes, creating opportunities for corrupt officials and businesses with close beneficial friendships to take advantage of land acquisition for construction projects in urban areas, residential areas, tourist areas, economic zones, etc., to earn huge profits and become richer and richer. In contrast, a person whose land is to be acquired is forced to receive the compensation price issued by the State with a price that is too low to be able to buy an area

of land equal to the acquired land, houses, or land for production and business. If they do not comply, they will be subject to the application of coercive measures to recover their land, further increasing conflicts and injustice in society. The current law on State expropriation of land for socioeconomic development in national and public interests needs to be revised and narrowed down to cases in which the State recovers land and provides compensation for land owners. If the land is recovered at the market price and the forced land acquisition is removed, only the State's land acquisition can be used to implement projects for socioeconomic development in the national and public interests, if implemented properly with its meaning, contributing to socioeconomic promotion in Vietnam.

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Notes

¹ The 2013 Land Law is currently in force in Vietnam

² Provisions in Article 4 of the Land Law 2013.

³ Article 62 of the 2013 Land Law stipulates cases in which the State may recover land to use for national security or military purposes to protect the country.

⁴ About 430 million USD.

⁵ The 2003 Land Law does not specify the cases in which State agencies may recover land for socioeconomic development, but only general provisions in Article 38.1 "The State uses land for defense and security purposes, national interests, public interests, and economic development."

⁶ In Vietnam, the government has a policy to build apartments for sale to low-income people (called social housing), but it is very difficult for low-income people to buy because of the high cost of living. Prices are still very high relative to their income.

⁷ The Land Act 1987 was built on the concept of a centrally planned economy, not recognizing land as an asset, so people whose land was confiscated to build a school would not be compensated by the State.

⁸ The performance of civil and commercial transactions related to land must satisfy the conditions specified in Article 188 of the 2013 Land Law.

⁹ Provisions in Article 114.2 of the Land Law 2013.

¹⁰ To determine the price of land “common in the market.”

¹¹ Article 10 of the 2013 Land Law has classified all land in Vietnam's territory into three groups according to the purpose of use: (1) land used for cultivation and agricultural production; (2) land used for non-agricultural activities, such as residential, industrial, commercial, service production facilities, and the construction of headquarters of State agencies; and (3) unused land.

¹² Classified by rural, urban, plain, or mountainous areas.

¹³ The current land price bracket is prescribed in Decree No. 96/2019/ND-CP dated December 19, 2019, of the government regulating the land price bracket

¹⁴ In Vietnam, local government is organized from top to bottom: (1) provincial level: provinces and centrally run cities; (2) district level: district, district, provincial city; (3) commune level: commune, ward, town.

¹⁵ The methods of land price appraisal are prescribed in Article 4 of Decree No. 44/2014/ND-CP dated May 15, 2014, of the government on land prices, including: (1) direct comparison method; (2) subtraction method; (3) income method; (4) residual method; and (5) land price adjustment coefficient method.

¹⁶ Vietnam is currently a developing country, but agriculture is the main economic sector of the country, also the main occupation of most of the people.

¹⁷ About 3,000 USD

¹⁸ About 43,000 USD.

¹⁹ About 2,800 USD.

²⁰ About 1 USD.

²¹ The anti-corruption campaign, also known as the kiln-burning campaign, has been carried out strongly and drastically in Vietnam since 2016. This campaign was directly initiated and led by General Secretary of the Central Committee of the Communist Party of Vietnam Nguyen Phu Trong, with the main point that there is no forbidden zone in the work to regain people's trust in the Communist Party of Vietnam and the government. This campaign has exposed and brought to trial a series of large corruption cases worth billions of dollars, many high-ranking officials of the Communist Party and the State—something unprecedented in Vietnam since 1975—were brought to trial and severely sentenced

²² Article 2.1 of the current Constitution of Vietnam declares that the State of the Socialist Republic of Vietnam is organized and operates on the principle of the People, by the People, for the People.

Enlace alternativo

<https://periodicos.uff.br/revistapassagens/article/view/51229> (html)