LAW ON PROCEDURES FOR ISSUANCE OF CERTIFICATES OF LAND USE RIGHTS, OWNERSHIP OF HOUSES AND OTHER LAND - ATTACHED ASSETS

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Abstract: Land is an extremely valuable resource that nature bestows on humans, an indispensable means of production of each country. The procedure for granting certificates of land use rights and other land-attached assets is one of the measures for the state to exercise its ownership rights. The article studies the law on procedures for granting land use right certificates and gives some opinions on the current status of procedures for granting land use right certificates to individuals and households.

Keywords: the law on procedures, certificates of land use rights, procedures for granting certificates of land use rights

Introduction

Land is an extremely valuable resource that nature bestows on humans, an indispensable means of production of each country. States in the world have different political regimes, but national sovereignty, borders, territories, and land are issues that are always respected by all countries. September 9, 1945 - President Ho Chi Minh announced to the entire nation, compatriots and the whole world about an independent Vietnam - with the goal of being a farmer with a field. Since its establishment, the State has always attached great importance to land issues - The procedure for granting certificates of land use rights and other land-attached assets is one of the measures for the State to exercise the ownership rights of land myself.

1. Law on procedures for granting certificates of land use rights and ownership of houses and other land-attached assets

Procedure is understood as a specific thing that must be done in a prescribed order to carry out a work of a formal nature or a way of doing work according to a familiar order or rule. Procedures for granting certificates of land use rights and other land-attached assets is one of the administrative procedures in land management and use. Land is owned by the entire people, under the unified management of the State, the person who is granted the certificate of land use right and other land-attached assets only has the right to use but no ownership rights as for real property. Other common property, the issuance of land use right certificates must be carried out according to a procedural order as prescribed by law.

Clause 6, Article 3 of the 2013 Land Law stipulates that “Certificates of land use rights and ownership of houses and other land-attached assets are legal documents for the State to certify land use rights and rights ownership of houses and other land-attached assets by land users, ownership of houses and other land-attached assets.

The grant of certificates of land use rights and ownership of houses and other land-attached assets to individuals and households shall comply with the provisions of the 2013 Land Law and its guiding documents. Through a system of legal regulations on administrative contents and procedures to establish and recognize land use rights and other land-attached assets for individuals and households.

Legal bases for procedures for granting certificates of land use rights and land-attached assets:

- Articles 100, 101, 105 of the 2013 Land Law
- Articles 18, 31, 32, 33, 34, 70 of Decree 43/2014/ND-CP
- Article 5.6 of Decree 140/2016/ND-CP
- Article 2 of Decree 01/2017/ND-CP
Authority to perform

Article 105 of the 2013 Land Law stipulates the competence to grant certificates of land use rights and ownership of houses and other properties to individuals and households:

Provincial-level People’s Committees shall grant certificates of land use rights and ownership of houses and other land-attached assets to organizations, religious establishments, overseas Vietnamese, and enterprises with foreign capital foreign investors implementing investment projects, foreign organizations with diplomatic functions.

District-level People’s Committees grant certificates of land use rights and ownership of houses and other land-attached assets to households, individuals, residential communities, and overseas Vietnamese.

Profile composition:

1. An application for registration of changes in land and land-attached assets, made according to the Form;
2. The contract or document on transfer of rights made according to regulations; or Papers on the transfer of land use rights and land-attached assets with full signatures of the transferor and the transferee.
3. The original of the issued Certificate;

The documents in the financial obligation determination file for the rotation of the financial obligation determination file include:

1. Registration fee declaration (original). Non-agricultural land use tax declaration (if any), income tax return from real estate transfer (if any).
2. Document of land user requesting exemption or reduction of financial obligations on land (original) and copies of papers proving eligibility for exemption or reduction as prescribed by law (copies, if any).
3. Papers proving that they are not subject to financial obligations as prescribed by law (copy, if any).
4. Value-added invoice in case the organization transfers real estate (copy).

- Place of receiving dossiers: Administrative center, Land registration office, Commune People’s Committee.

- Agencies competent to settle: People's Committees at all levels; Land Registration Office; Agency for Natural Resources and Environment.

- Order of issuance of certificates of land use rights and other land-attached assets.

Step 1: Submit an application for a certificate of land use rights and land-attached assets at the Public Administration Center (if there is no public administrative center, submit it at the Land Registration Office). If you are a household or individual in a rural area, you must submit your application to the People’s Committee of the commune to transfer it to the Land Registration Office.

The public administration center (or the place where the application is received and checked); If the dossier is incomplete or invalid, the Public Administration Center shall return it and guide the applicant in accordance with regulations; If the application is complete and valid, write a receipt and transfer the application to the Land Registration Office.

Step 2. Carry out procedures for granting land use right certificates
The land registration office shall check the details of the dossier: If the dossier is not secure, within a maximum period of 03 days, a written notice shall be sent to the Public Administration Center to guide the applicant to complete the application profile. If the dossier is secure, the dossier shall be appraised.
Committees of communes (wards) where land and land-attached assets are located shall consider the origin of land and land-attached assets, and certify in the application for a certificate of land use rights and assets attached to land land; publicly listed at the headquarters of the People's Committee within 15 days.

Certification for land: origin; the time of land use, the status of land use disputes, the conformity with the planning.

Certification for assets attached to land: confirm the current status of assets attached to land compared with the declared contents; confirm the status of the dispute; confirm whether the time of creation of the property is subject to a construction permit and its conformity with the approved planning; certify the plan of a house or construction work if there is no certification from a legally recognized organization on construction or cartographic activities.

- To publicly post up the results of the examination of dossiers, certifying the current status, the status of disputes, the origin and time of land use at the headquarters of the commune-level People's Committees and the residential areas where the land and assets associated with the land are located attached to the land within 15 days; consider and resolve complaints about public content.

After that, the commune-level People's Committee of the locality where the land is located shall make a report enclosed with the dossier and send it to the district-level People's Committee (via the land registration office) to request the grant of a certificate of land use right.

If there is no cadastral map, before carrying out the certification, the commune-level People's Committee must notify the land registration office to make cadastral measurements of the land plot or cadastral measurement of the land plot by the user land use paid.

* Duties of the Land Registry Office

- In case an individual or household submits a dossier at the Land Registration Office, the dossier shall be sent to the People's Committee of the commune and residential area where the land and assets attached to the land are located for approval, and make the results public.

- Extract the cadastral map or cadastral measurement extract of the land plot where there is no cadastral map but the current status of the land use boundary has changed or check the cadastral measurement quote of the land parcel submitted by the land user.

- Check registration dossiers for issuance of certificates of land use rights and other land-attached assets; verification performed in case of need; confirm eligibility or ineligibility to be granted certificates of land use rights and other land-attached assets in the registration application.

- If the owner of the property on land has no papers or the current state of the property changes compared with the prescribed papers, he/she shall send a written request to the state management agency for that type of property. The competent State agency shall reply in writing to the Land Registration Office.

- Update information on land parcels and land-attached assets in cadastral records and land databases.

- Send cadastral data to tax authorities to determine and notify collection of financial obligations.

- Prepare documents for the natural resources and environment agency to submit and sign the certificate of land use rights and other land-attached assets.

- Update and supplement certificates of land use rights and other land-attached assets in the cadastral records and land database.

Within 03 days from the date of having the settlement result, the Public Administration Center shall notify and return the result to the applicant.
If an individual or household submits it to the commune-level People's Committee, the certificate of land use rights and other land-attached assets shall be sent to the commune-level People's Committee for handing over to the land user.

The time limit for handling administrative procedures in the issuance of a certificate of land use right is specified in Article 61 of the Decree No. 43/2014/ND-CP dated May 15, 2014 specifically as follows: Time limit for registration and issuance of a certificate No more than 30 days for first-time certification, not more than 20 days for registration for additional asset certificates, no more than 10 days for change registration in other cases.

2. Some opinions on the current status of procedures for granting land use right certificates to individuals and households

Firstly, the Regulation on electricity regulation with land use right certificates has been opened and amended in favor of land users, specifically:

Firstly, these provisions at Point g, Clause 1, Article 100 of the 2013 Land Law (specified in Article 18 of Decree No. 43/2014/ND-CP dated May 15, 2014), allow individuals, households and land users who are lawful and stable, before July 1, 2004 and now certified by the People's Committee of the commune where the land is located, that the land is free of dispute and in accordance with the planning, shall be granted a license by a competent authority Certificates of land use rights.

In case the person is granted the collective house and land of the agency; But in fact, in the process of using it, it has been handwritten to change owners many times, buying and selling is not in accordance with the law, but there is no dispute, no planning problems. These are the cases where, due to the people's lack of understanding of the law, when granting certificates of land use rights and land-attached assets, the conditions prescribed by law are not met. affect the rights of land users. In the process of carrying out the certification procedure: it is very difficult to have the signatures of the parties, to reapply for the documents because it has passed many owners ... making it difficult for the agency carrying out the procedures for granting the certificate of use right land use.

Land of individuals or households with ponds and gardens has now become residential land. In order to be eligible for recognition as residential land, there must be conditions: that land plot must be on the same parcel of land with houses or must have residential land documents on land use rights related to having houses built on land, gardens and ponds.

Secondly, according to the provisions of Article 29, Article 29 of Decree No. 43/2014/ND-CP dated May 15, 2014 of the Government, there is a regulation that will issue certificates for cases with an area smaller than the area with a minimum area of 30m² when the land plot in use is formed before the effective date of the written regulations of the provincial People's Committee on the minimum area to be divided, the land user will be granted a certificate. receive land use rights.

Secondly, the regulation on the 5% registration fee is too high, there should be a regulation to reduce the registration fee. With the regulation of the registration fee of 5% on the land value, land users will pay a huge amount compared to their income and property value, they do not have the financial capacity to pay. This is one of the reasons leading to the unfinished situation of granting certificates of land use rights and land-attached assets in the locality.

Third, the system of documents stipulating procedures for granting land use right certificates is still scattered in many documents issued by many agencies, frequently changing, unstable, causing difficulties for local authorities. parties to the procedures for granting land use right certificates.

The regulation to write the full names of household members on the land use right certificate is also a regulation to protect the rights of family members. But on the other hand, this very thing will also create certain difficulties in the process of performing other types of transactions, because the property may not be the common property of family members.
Fourth, due to the people’s lack of understanding of the law, resulting in the process of carrying out the procedures for granting certificates of land use rights and other land-attached assets, causing difficulties for themselves implementation process. On the other hand, from ignorance causes anxiety and fear, thereby creating conditions for cadres, civil servants and public servants performing official duties to have the opportunity and conditions to do wrong and take advantage.

To solve this problem, it is necessary to further strengthen measures to propagate and disseminate legal education to the people through mass media, social networks, technology, etc. to help people understand the law. law, see the benefits and role of land use right certificates.

Fifth, transparently implement the registration procedures for land use rights and other land-attached assets on the websites of the People's Committees at all levels, the Department of Natural Resources and Environment, and the Administrative Center.

Sixth, increase the application of information technology in the implementation of procedures for granting certificates of land use rights and land-attached assets to individuals and households. Step up the settlement of online procedures for granting certificates of land use rights and land-attached assets to individuals and households; receive dossiers and return results via public postal and telecommunications services.

Seventh, in order to carry out the procedures for granting land use right certificates in a modern direction, applying the achievements of technology 4.0, to be able to save costs and reduce negatives, the necessary and sufficient conditions are equipment, facilities, and modern machinery to perform.

Land is a great asset of each individual, family, is a resource for the development of the country, the certificate of land use rights and other assets attached to the land is a legal deed confirming the legal relationship. between the State and land users. Procedures for granting land use right certificates have now been amended and supplemented in the direction of openness and transparency to protect the legitimate rights and interests of land users. The Party and State are very interested in this issue, but in the actual implementation process, there are still many shortcomings, limitations and obstacles. In order to be able to perfect the legal system on the procedures for granting land use right certificates in a simple, public, transparent and low-cost way to ensure the rights of land users and also for the common goal of building a Vietnam's rich and strong country, a just, democratic and civilized society requires the cooperation, consensus and determination of the whole political system and all relevant actors.

LIST OF REFERENCES

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