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Invited Papers

**Land administration and land registration and the relationship
among government bodies in Viet Nam ***

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ABSTRACT

Land administration and land registration and the relationship among government bodies in VietNam

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Vietnam Land Administration system has implemented successfully the land policy in recent years. In the process of international economic integration and in the next phase of socio-economic development plan, land is requested to become important domestic resources for Vietnam generally and many investment projects in particular.

Obviously, to archive that purpose, land registration needs further development in technical and in practice with the relationship among municipals so that land use rights or land use right certificate can be used as asset in the open market and with the change of land policies, many improved on land registration was undertaken in VietNam to reform, shortening and abolish some cumbersome administrative procedures to push carry out the land registration more quickly. Vietnam has 63 provinces and cities, depend on specific condition of each provinces/cities, each of them have a single hierarchy land registration, however the policy and the technical application of land registration are uniform.

In the context of contribute to Asia-Pacific regional challenges in terms of cadastre and land management, this paper has objectives to contribute more in depth of understanding about land administration, land registration and the relationship of land registration structure among government bodies in Viet Nam.

Key words: Land registration, Land Law, Land use, Government bodies

I. Introduction

Vietnam is a developing country and located in the East of the Indochina Peninsula, with the total area of 330,957 km². It shares borders with China in the North, Lao and Cambodia in the West, the East Sea in the East, and the Pacific Ocean in the East and South. It has 63 provinces and cities under direct authority of the central level and its has an average population of 90 million people in 2014, in which, about 30% of the population lives in urban areas and about 70% in rural. For Land administration, there are currently around 13 million land users, of whom 10.5 million in rural areas and 2.5 million in urban areas, for about 70 million land parcels.

According to Vietnam Constitution, land is the property of the entire people, which is allocated or leased by the State to organizations, households or individuals for long-term or limited-term use. Depending on their status, land users are fully or partly granted the rights of land exchange, transfer, inheritance, mortgage, lease and investment into joint-venture.

In recent years, the Viet Nam Government paid special attention to land administration in order to use this huge internal capital in its development of the economy. The system of land registration is an important part of the overall system of land administration, as it contains and provides information related to land, including but not limited to information on land rights (ownership, the right to use, exploit and share the benefits of land), the owners of these rights and other attributes of land. Consequently, establishing a united system of land registration from top has become an issue that attracted much interest to make its most effective way to administer and exploit the land for development purposes.

II. Land registration system

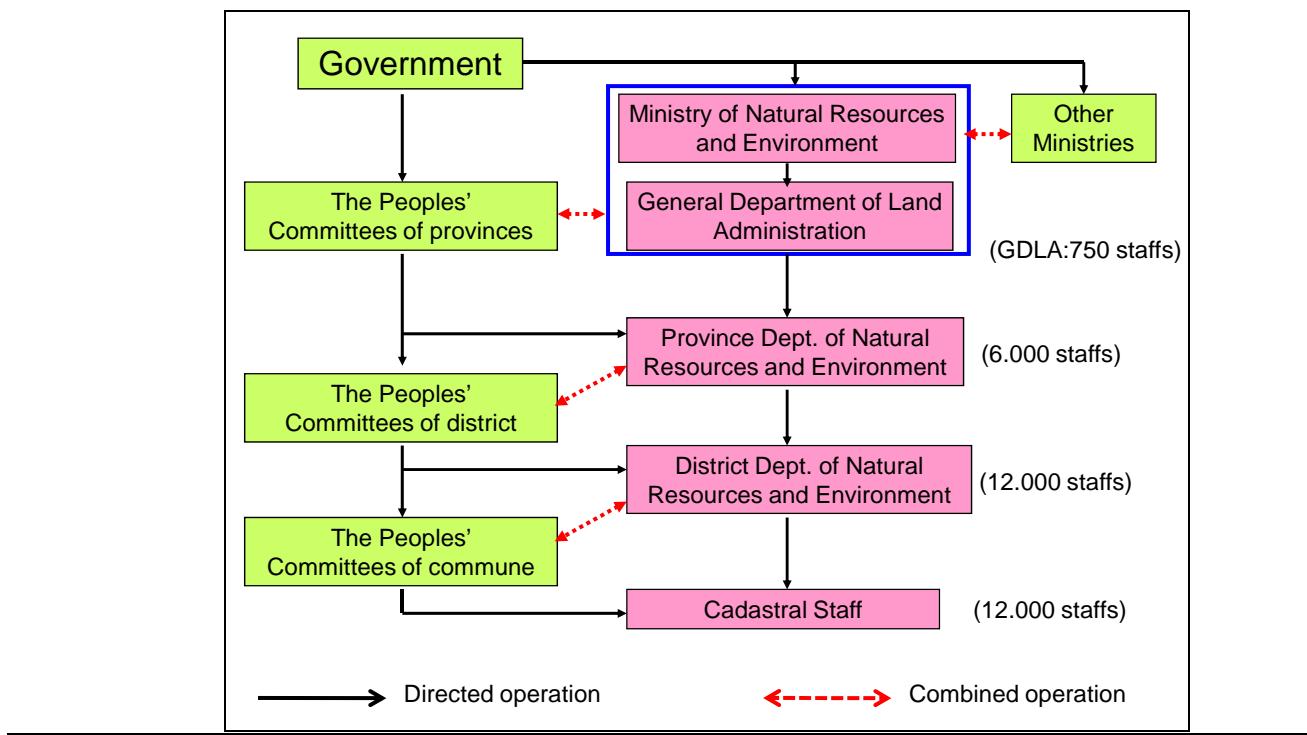
As stated above, in Viet Nam, all land belongs to the entire people with the State as the representative owner. People just have the right to use land, not to own it. So, the term that is used in land registration is “land use right registration”, not “land registration” alone. However, in general, most registration activities fulfilled come to the same. The distinction between land ownership and land use right is a fine one.

1. Land Administrative Authority and Organizing of Land Registration.

The administrative units of the Socialist Republic of Viet Nam are organized in a hierarchy that the country is divided into provinces and cities directly under the central authority. Provinces are divided into districts, provincial cities and municipalities; cities directly under the central authority are divided into precincts or districts and municipalities. Districts are divided into communes and townships;

provincial cities and municipalities are respectively divided into wards and communes; districts are divided into wards.

Viet Nam Land administration relationship among Government bodies



The administrative agencies for land at the central and provincial level are entitled to establish departments, offices and public service organizations to fulfill their administrative activities and assist them in land administration.

- At central: The Vietnam Government uniformly conducts the State management on land in the whole country and The Ministry of Natural Resources and Environment (MONRE) bears the responsibilities before the Government for the uniform State management on land.

The Government make decisions on the establishment General Department of Land Administration (GDLA) attached to the MONRE, which assists the Minister of Natural Resources and Environment in performing the function of specialized State management over land throughout the country; implement public services in accordance with their authority.

The MONRE make decisions on the establishment Department of Land Registration attached to the GDLA. It has the function in State administration on

cadastral survey for cadastral records establishment; registration for land use right; issuance of certificate of land use right and ownership or usage of associated real properties; compilation, adjustment and management of cadastral records;...

-At local: The People's Committees via the Department of Natural Resources and Environment at all levels (province, district and commune) bear responsibilities of conducting the State management on land in the locality within their jurisdiction. So a uniform system for the organization of administrative authorities concerned with land has been established and extends from the central to the grass-roots level.

Province level: The Peoples' Provinces Committees (PPC) and cities under central authority are to make decisions on the establishment of Province Department of Natural Resources and Environment (PDoNRE). Like at central level, PPC are to make decisions on the establishment of province Land Registration Office (LRO) under the Province DoNRE and depending on the need for registration of land use right in their areas they also establish district LRO branches where necessary. Normally, to convenient for land user when apply document, each district have one branch of LRO. The organization, staff and duties of province LRO shall be provided for by PPC and the Province DoNRE, province LRO will make decision about staff and duties of any branch office.

The Province LRO is a public service unit with the function of organizing and conducting the registration of land use rights, changes in land use and the management of cadastral records, and providing assistance to the agency in charge of natural resources and environment at the same level in implementing administrative procedures relating to land use and administration.

Some main functions of Province LRO and its branch as:

1. To register and changing register of land use rights, ownership of houses and other assets attached to the land.
2. Renew, re-issue the certificate of land use rights, ownership of houses and other assets attached to land for first registration (hereinafter referred to as the certificate).
3. Prepare, revise, update, store and manage cadastral records.
4. Update, adjustment and synchronization the land data; construction and management the land information system.
5. Perform statistical, land inventory and making present land use map; revision of cadastral maps; cadastral map extraction.

6. Check the cadastral measurements of the land parcel; inspection, verify the housing and other assets attached to land diagram done by organizations and individuals to provide registration service.

7. Perform registration of security transactions of land use rights, ownership of houses and other assets attached to the land in accordance with law.

8. Provide records, maps, information and data of land, houses and other assets attached to land to organizations and individuals in accordance with law.

District level: The Peoples' District Committees (PDC) are to make decisions on the establishment of District Department of Natural Resources and Environment (DoNRE). District DoNRE do all State land management function and cooperate with LRO branch in its area to do land registration for land user.

Commune level: for this level, it is not necessary to have a separate administrative agency for land. Land administration is under the cadastral official. There are often one or two cadastral administrators for each commune.

2. Land Registration procedures and relationship with other bodies.

- Application for land registration

Land registration shall be uniformly applied by the LRO following the “one-stop” procedure (The “one-stop” procedure was started in 2003. People submit their applications or requests at one administrative agency only. This agency will receive applications and return the results to applicants. It is liable for dealing with other authorities where this is needed so the people do not have to go to each of the related authorities to have their requests settled. In order to put the “one-stop” procedure into practice, administrative procedures must be simple, clear and public. Besides that, the authorities should be closely coordinated to ensure that people’s applications or requests are quickly).

- First registration is carried out in the following cases:

The land parcel which is allocated, leased for use.

The land parcel which is in use but not registered yet.

The land parcel which is allocated for management but not registered yet.

The houses and other land-attached assets which are not registered yet.

- Change registration is carried out in the cases that the Certificate is issued or the registration is made and there is a change, including:

The land user, the owner of land-attached assets implement the rights to exchange, transfer, lease, sublease, inherit, donate the land use rights, land-attached assets; mortgage, contribute capital in form of land use rights, land-attached assets.

The land user, the owner of land-attached assets are allowed to change the names.

There is a change in the shape, dimension, area, number, address of the land parcel.

There is change in land-attached assets comparing with the registered contents.

There is a change in land use purpose.

There is a change in land use term.

There is a change from the form of land lease with annual rental payment to the form of land lease with one-off rental payment for the entire lease period; from the form of land allocation without land use fee to the form of land lease; from the form of land lease to the form of land allocation with land use fee in accordance with the provisions of this Law.

The land use rights, the ownership of houses and other land-attached assets of the wife or husband are converted to the joint land use rights, joint ownership of houses and other land-attached assets of both husband and wife.

The land use rights, the ownership of houses and other land-attached assets of the organization or the household or both husband and wife or joint land users group, joint owners of land-attached assets is splitted.

There is a change in land use rights, ownership of other land-attached assets as a result of the successful conciliation of land disputes which is confirmed by competent People's Committee; the agreement in the mortgage contract to settle the debt; the decision of competent State agencies on settlement of land dispute, complaint, denunciation on land, the decision or judgment of the People's Court, the decision on enforcement of the Enforcement Authority which has been implemented; the document recognizing the result of the auction on land use right in accordance with provisions of laws.

The limited use rights on the adjacent land parcel is established, changed or terminated.

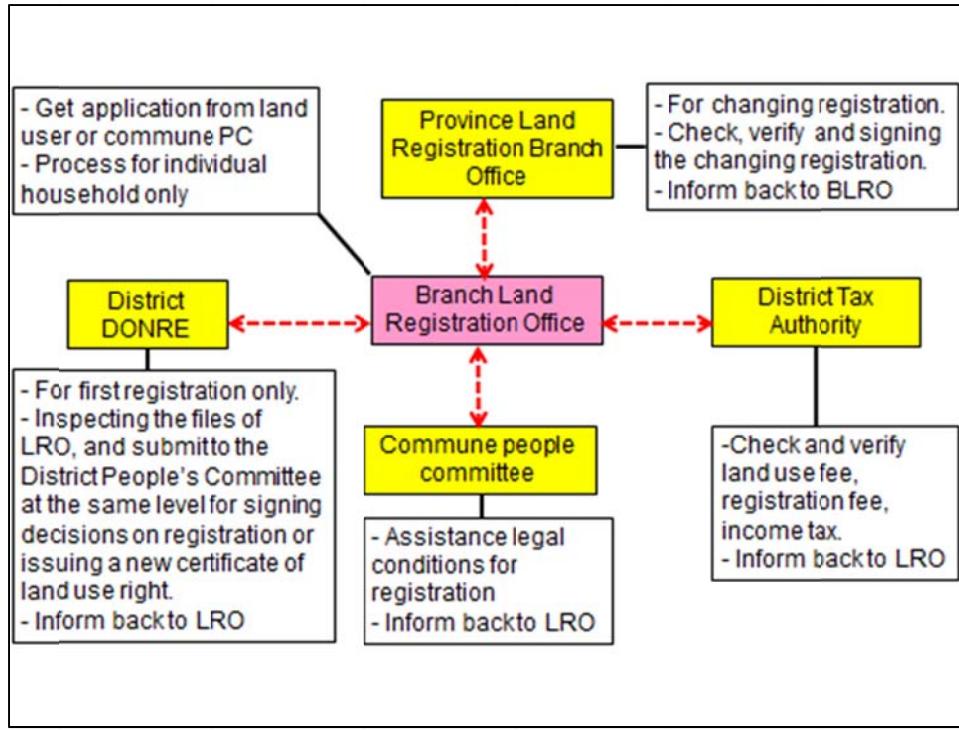
There is a change in the limitations on the rights of land users.

-The order of land registration and relationship with other government office.

After receiving an application, the land registration office is responsible for verifying the files and determining the legal conditions for registration or for taking seeking the assistance of the Communal Peoples' Committees, in case of individuals and households, regarding the land use situation, the origin and time the land use started, state of land disputes, if any and the like. The office is to certify the application for registration or issue a land use right certificate if all conditions for registration are satisfied, or to provide a recommendation in the case where all conditions are not satisfied.

Where the conditions are satisfied, the LRO is to make an extract of the cadastral map or the cadastral measurements of the land parcel/unit with respect to areas where there is no cadastral map and send the cadastral data to the tax authority to determine the financial obligations in the case that the land user is required to discharge any financial obligations in accordance with law. The Tax office (in the same area with LRO) will check and verify the financial for each case and send back to LRO. The LRO shall send any tax notification received from the tax authority to the applicant. The LRO is also to send copies of these files together with the extracts of the cadastral map and extracts of the cadastral files to the District Department of Natural Resources and Environment at the same area whether the conditions are satisfied or not.

Sample about working relationship at a LRO branch



For some cases such as a lease or sub-lease of the land use right, the LRO is responsible for directly registering the lease etc on the cadastral file and for amending the issued certificate of land use right or for conducting procedures for issuing a new certificate where necessary and then returning the results to the applicant.

The District Department of Natural Resources and Environment is responsible for inspecting the files based on the certification of the LRO, and forwarding a submission to the District People's Committee at the same level for signing decisions on registration or issuing a new certificate of land use right.

As a result, the land user only has to submit applications and receive results at the LRO. The LRO is in charge of verifying the files and coordinating with concerned authorities to resolve any issues. Within three working days from the date of receipt of signed decisions and/or the land use right certificate, the LRO (or other authority) shall deliver or return them to the land user/applicant.

The information of land registration are to be updated and recorded in the cadastral file managed by the LRO regularly and the results of land registration are to be supply for many land management purpose as land use planning, determination of land price, land information system and land database as well as denunciation and treatment of legal violation on land legislation.

III. Conclusion

The Vietnamese Government has in recent years made many efforts to improve the land registration system and promote an electronic system for land registration and information. Specifically, the latest Land Law (2013) have many land registration reforms as the regulations on compulsory land registration, implementation of electronic land registration; the regulations on the legal framework for land information, land database, the right to access to land information. This is an important issue to ensure the socio-political stability of the country on the one hand and to meet the requirements of socio-economic development of the country in the new period on the other hand as well as for the transparency of the real estate market, and limit the too-frequent land disputes.

With the development of computer and high technologies in the future and lessons via international experiences, the Vietnam land registration system will continuous improve about structure and practice to establishing an perfect electronic land registration system and it will be an important factor which will help the Government and the land user develop the potential of land as much as possible and achieve the many benefits that will arise from this.

Reference

- (1) Constitution 2013 of the Socialist Republic of Vietnam.
- (2) Land Law 2013: approved by the National Assembly of the Socialist Republic of Viet Nam in 29th November, 2013 and shall be effective from 01st July, 2014.
- (3) Decree 21/2013/NĐ-CP dated 04 March 2013 On functions, tasks, powers, and organizational structure of the Ministry of Natural Resources and Environment.
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- (5) Report of GDLA in 2015 for 70th anniversary the Land Administration sector

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