

Actual Status of Law Application on Land Acquisition for Socio-Economic Development Purposes

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Abstract: Vietnamese law has regulations on land acquisition cases for socio-economic development for national and public benefits, limiting land acquisition cases according to the scale of each type of project that will be approved and deciding the investment and investment policy. However, certain realities still exist. Analysis and comparison are the main methods used in the study. The article aims to present the current situation and recommend improving the land acquisition law for socio-economic development.

Keywords: Land acquisition, socio-economic development purposes, land acquisition in Vietnam, land law, land acquisition for socio-economic development.

1. INTRODUCTION

Urbanization is an inevitable trend associated with socio-economic and natural environmental changes. In Vietnam, only about 10% of the land area belongs to urban administrative boundaries, of which the urban area only accounts for about 4.4% of the area (Ministry of Construction, 2019). With the increasingly extensive development of the economy, the regulation of land acquisition for socio-economic development is considered the most objective and common requirement compared to the other requirements for land acquisition, such as land acquisition for defense and security purposes.

Land is a unique and irreplaceable means of production, one factor that profoundly influences people's lives regarding economy, society, culture, and politics. Therefore, land acquisition should be implemented from three aspects: (i) land is a resource, so when taking resources, investors must offset that resource; (ii) land is a means of production, so livelihoods and income of people who lose land must be compensated; (iii) land is property, so it must be compensated according to market rules (Linker, R, 1932). In general, the 2013 Land Law and its sub-law documents have detailed the land acquisition cases for socio-economic development for national and public benefits, limiting the land acquisition cases according to the scale of each type of project that will be approved and deciding the investment and investment policy. However, specific "gaps" still exist when the concept of land acquisition for socio-economic development has not yet been established, and the criteria for socio-economic development have not been proposed (Hien, T. P. & Linh, T. M. D., 2020).

To systematize the legal basis related to identifying land acquisition cases for socio-economic development; analyze and evaluate the actual status of law application, thereby pointing out the limitations and inadequacies and proposing solutions to perfect towards the goal of ensuring balance and harmony between the parties' benefits in land acquisition in Vietnam.

2. ACTUAL STATUS OF LAND ACQUISITION FOR SOCIO-ECONOMIC DEVELOPMENT PURPOSES

2.1. Land acquisition cases for socio-economic development purposes

The land acquisition cases for socio-economic development will include three levels of decision: 1. National Assembly; 2. Prime Minister; 3. Provincial People's Council.

2.1.1. Land acquisition for implementation of important national projects whose investment policies are decided by the National Assembly

Clause 1, Article 62 of the 2013 Land Law stipulates, “*Land acquisition for implementation of important national projects whose investment policies are decided by the National Assembly*”.

Influential projects are detailed in Article 7 of the 2019 Law on Public Investment when one of the following criteria exists:

- “1. Use public investment capital of VND 10,000 billion or more;*
- 2. Greatly impact on the environment or have a potentially serious impact on the environment, including:*
 - a) Nuclear power plant;*
 - b) Land use that requires the change of land use purpose of national parks, nature reserves, landscape protection zones, scientific research and experimental forests of 50 hectares or more; watershed protection forests of 50 hectares or more; protective forests to block wind, sand, waves, sea encroachment, and environmental protection of 500 hectares or more; production forests of 1,000 hectares or more;*
- 3. Land use that requires the change of land use purpose of wet rice cultivation for two or more crops with a scale of 500 hectares or more;*
- 4. Migration and resettlement of 20,000 people or more in mountainous areas, 50,000 people or more in other regions;*
- 5. The project that requires the application of special mechanisms and policies that need to be decided by the National Assembly”.*

Comparing clause 1, Article 3 of Resolution No. 49/2010/QH12 dated June 19, 2010, on important national projects and works to be submitted to the National Assembly for the decision on investment policies, requiring “*Total investment capital from thirty-five trillion Vietnamese dong or more, of which State capital is eleven trillion Vietnamese dong or more*”. It shows that the scope has expanded with projects requiring land acquisition for the National Assembly decision on investment policies.

2.1.2. Land acquisition for implementation of projects approved and decided to invest by the Prime Minister

Unlike the cases of critical national projects whose investment policy is decided to acquire by the National Assembly, projects approved and decided to invest by the Prime Minister, listed in detail and clarified by stating the following subjects needing investment in clause 2, Article 62 of the 2013 Land Law including the following 3 project groups:

The 1st project group: Projects to build industrial parks, export processing zones, high-tech parks, and economic zones; new urban areas; investment projects using official development assistance (ODA) capital.

The 2nd project group: Projects to build the headquarters of state agencies, political organizations, and socio-political organizations at the central level; headquarters of foreign organizations with diplomatic functions; works of historical-cultural relics, ranked scenic spots, parks, squares, monuments, memorial stelae, national-level public non-business works.

The 3rd project group: Projects to build national-level technical infrastructure construction projects, including transportation, irrigation, water supply, drainage, electricity, and communications; petroleum and gas transmission and storage systems; national reserve; waste collection and treatment works.

As the land owner’s representative, the State should not be the subject of land acquisition for projects with the above purposes. Suppose the criteria are still unclear about the “profit or non-profit” factor; it will be easy to abuse and show signs contrary to clause 3, Article 54 of the 2013 Constitution regarding land acquisition for socio-economic development for national and public benefits (Vo, V.P., 2022).

2.1.3. Land acquisition for implementation of projects considered the land acquisition policies by the Provincial People's Council

* Laws

In cases of land acquisition through the approval of the Provincial People's Council when implementing projects that require land acquisition, including:

- *Projects to build headquarters of state agencies, political organizations, and socio-political organizations; historical-cultural relics, ranked scenic spots, parks, squares, monuments, memorial stelae, and local public non-business works;*
- *Projects to build local technical infrastructure construction, including transportation, irrigation, water supply, drainage, electricity, communications, and urban lighting; waste collection and treatment works;*
- *Projects to build works serving common activities of residential communities, projects of resettlement, housing for students, social housing, and public housing; projects to build religious establishments; cultural, sports, and entertainment areas for public services; cemeteries, graveyards, funeral homes, and crematoriums;*
- *Projects to build new urban areas and new rural residential areas; projects to beautify urban areas and rural residential areas; production or processing zones of agricultural, forestry, aquaculture, and seafood; projects to develop protective forests and special-use forests;*
- *Mineral exploitation projects licensed by competent authorities, except for cases of mining minerals for common construction materials, peat, and minerals in areas with scattered and small-scale minerals and making full use of exploited minerals.*

In Korea, whether the above projects satisfy economic, social, or socio-economic needs is a matter. The state can acquire land for housing construction, new urban infrastructure construction projects, and housing areas for sale or lease. The main difference in Korea is that these projects still need to be identified for economic and social purposes. Because this belongs to the group of economic projects that contribute to the growth and development of the country, it is evident that the investor where the land is acquired must compensate according to the agreement based on the market price (Soo Choi, 2010).

After all, public purpose is a concept with many layers of meaning, created by political, economic, and social needs in different social institutions governed by different political, economic, and social systems (Cham, T.P.N., 2009). From an institutional perspective, the concept of public purpose is associated with social models, whereby the State is responsible for creating spaces and works that serve the expected benefits to which everyone has equal access rights (Lien, V.T., 2021). Cemeteries currently serve only a small group of interests in urban areas, so labeling this as a public-purpose project needs to be more accurate.

Another shortcoming occurs when a business sets up a project to serve national interests, then quickly changes the purpose, breaking the original plan: *"As soon as clean land is acquired, immediately apply to change the project purpose from a public project into an economic project, which causes resentment for the people whose land is acquired and causes considerable losses to the state budget"*.

2.2. Compensation, support, and resettlement when the State acquires land for socio-economic development purposes

A report from the General Department of Land Management in 2018 believed that the adjusted documents on compensation and support only cover some problems that arise in practice, leading to difficulties and confusion in implementation (Nhan, D. N., 2022).

In essence, land acquisition belongs to the power of the State; in contrast, a mechanism for voluntary agreement for other types of assets established on land must be established. In this case, the State should not use its power to impose compensation prices. Compensation needs include tangible and intangible damages. Besides, it is also necessary to eliminate the support policy because once the damages have been fully estimated, there is no need for regulations related to support (Nam, P.P. & Hanh, N.B., 2021).

2.2.1. Regarding compensation when the State acquires land for socio-economic development purposes

When considering the compensation mechanism, there are many inconsistencies. There are 7 of 63 provinces and cities providing compensation for travel expenses divided by distances; 6 of 63 provinces and cities providing compensation for actual costs; 8 of 63 provinces providing compensation for types of house and acquired house construction area; 32 of 63 provinces providing compensation for administrative units at commune, district, and provincial levels with an amount ranging from VND 2,000,000 to VND 15,000,000; 10 of 63 provinces have no regulations on compensation for travel expenses (Nhan, D. N., 2022). In general, land valuation is a basis for calculating land compensation, which is a susceptible category because conflicts of interest may arise (Hien, T.P. & Thang, D.N., 2021).

Based on clause 3, Article 112 of the 2013 Land Law, the State acquires land for socio-economic development purposes, and the land price calculated for compensation “must be consistent with the prevailing land price on the market”. It is also imposing, as determining specific land prices tends to be mostly lower than the market price (Thai, Q. L., 2016). “Is it only relative because the market price fluctuates significantly” (Hien, T.P., 2017). The determination of compensation value is based only on the current land use status, not considering the increase in land value after the State acquires land from people and investors implement the project. The State’s land price is only about 20% - 30% of the market land price. The provincial land price is also 30% - 60% of the local market price. It leads to a situation where the compensation land price is far lower than the market price when land is acquired (Huyen, K, H. & Ha, T. N. N., 2022). It recognizes the land allocation process to implement investment projects in Da Nang, with land areas A2 and A3 belonging to the Son Tra-Dien Ngoc Resettlement Area project. Da Nang City decided the VND 2,570,000/m² compensation unit price for affected households. The total compensation for plot A2 is 25 billion Vietnamese dong, and for plot A3 is 63 billion Vietnamese dong (Than, H. C., 2020). After 1 month from the date the Da Nang People’s Committee allocated the land, the enterprise transferred the project to the new investor. Accordingly, the value of plot A2 is 133 billion Vietnamese dong, with a difference of 107 billion Vietnamese dong compared to the original unit price (Notification No. 160/TBKL-TTCP, 2013).

To explain why the compensation land price has yet to approach the market price, some scholars have given many reasons. In particular, the time to determine the specific land price has yet to be clarified, as clause 2, Article 74 of the 2013 Land Law stipulates that the Provincial People’s Committee decides the specific land price at the time of land acquisition decision. However, no document guides the “time to decide on land acquisition” (Hien, T. P., 2017).

In India, when comparing experience with Article 22, Section 3 of the Land Acquisition Act, in case land is needed for economic development, the State calculates compensation according to the market value of the land, and land damage will be considered to decide the compensation amount at the time of land acquisition notification. In addition to the market price basis, the Court may consider adding 30% of the compensation value because this is a case of compulsory land acquisition (Ministry of Natural Resources and Environment, 2012).

In Australia, in Article 55 of the WA 1997 Land Management Act, compensation for land is determined according to the principle of “value to the owner”, which recognizes that the compensation level is higher than the market value. Value to owners includes the market value of the interest affected, exceptional value due to acquired land ownership or use, damage due to the land parcel being divided; noise damage, or other damages. The price for calculating compensation is the current market price, decided with the management agency in consultation with the head of the valuation agency. Market value is the amount of money the asset can be sold voluntarily and readily at a particular time (Ministry of Natural Resources and Environment, 2012). In the UK, the Valuation date is a “fixed date of law” to determine all assets according to the market on that date (Land Compensation Act, 1961).

According to the 2000 Land Occupation Law in Taiwan, real estate valuation needs to distinguish between the value of land and assets created on land. The compensation price for land is the value at the time of land allocation; the compensation value for the construction works on the land is calculated according to the price of the replacement works with equivalent conditions (Vo, H. D., 2012). Therefore, regarding the compensation price for land for public benefit purposes, some countries have calculated compensation higher than the market price because this is, after all, a compulsory land transfer mechanism, which may be contrary to the wishes of the land user.

The law of our country has yet to widely recognize the cases of compensation for damage occurring even though the land is not acquired (Hien, T. P., 2018a). Because, when determining compensation, our country defines the scope

“according to the law”. Unforeseen arising damages will be outside the scope. In addition, Vietnam’s provisioning mechanism is limited to damage during land acquisition, with invisible damages or damages since the notice of land acquisition (before land acquisition) or damages after the land acquisition process has not been calculated.

2.2.2. Support when the State acquires land for socio-economic development purposes

2.2.2.1. Regarding support for training, job change, and job search when the State acquires land for socio-economic development purposes

The support mechanism for training, job change, and job search when the State acquires land for socio-economic development purposes needs to clarify the following issues:

Firstly, the form of support for training, job change, and job search does not stipulate the minimum requirement of the acquired land area. It leads people whose agricultural land is acquired a few square meters to enjoy the policy. Logically, it should be reconsidered because they have kept their jobs.

Secondly, point a, clause 1, Article 20 of Decree No. 47/2014/ND-CP stipulates: “Cash support is not more than 05 times for the price of agricultural land of the same type in the local land price list for the entire acquired land area, and the supported area does not exceed the local agricultural land allocation quota”. The law specifies a maximum support limit of not more than 5 times the price of agricultural land and does not show a minimum limit. It can lead to disparities in support payments between localities (Hien, T. P. & Thang, V. V., 2014).

Thirdly, land is a means of production, but the nature of the support sometimes does not help people whose land has been acquired to re-establish their livelihoods (Hien, T. P., 2019). Because there is no data to guide the use of compensation and support appropriately, statistics in the southern provinces show that about 57.5% of people use compensation and support for construction work to build a new house, and 8.72% buy furniture and spend for daily life. At that time, only 2.55% of people used the compensation money to support career change and finding new jobs. Therefore, after only a few years of spending all the supported money, without any means of production left, the people whose land was acquired fell into poverty (Minh, P., 2010).

2.2.2.2. Support for life stabilization and production when the State acquires land for socio-economic development purposes

In clause 3, Article 19 of Decree No. 47/2014/ND-CP, the support for life stabilization is as follows:

- a) People whose currently used agricultural land area is acquired from 30% to 70% can receive support for 6 months if they do not have to relocate and 12 months if they have to relocate. If they have to move to areas with challenging socio-economic conditions or poor socio-economic conditions, the maximum support period is 24 months.

In cases where more than 70% of the used agricultural land area is acquired, support will be provided for 12 months if the owners do not need to relocate and for 24 months if they have to reallocate; in cases of having to move to areas with challenging socio-economic conditions or poor socio-economic conditions.

- b) The acquired land acquisition area is determined according to each land acquisition decision of the competent People’s Committee. For complicated situations, the maximum support period is 36 months;

2.2.2.3. Regarding resettlement when the State acquires land for socio-economic development purposes

In many countries, land acquisition/expropriation, forced evictions, forcing people to move or be evicted from their residences for development and business projects (road construction, construction of factories, hydropower plants, industrial parks, urban areas) occur. Relocation risks harming the population’s right to housing and many other social rights (education, health, employment) (Tung, K. L., 2021). The seriousness of forced displacement from the place of residence has long been of concern to the international community.

2.3. Proposal to improve the law on land acquisition for socio-economic development purposes in Vietnam

To complete the land acquisition process for socio-economic development purposes, the author recommends improving the following:

Firstly, and acquisition cases have not clarified the “necessary” limit lawmakers have designed in the Constitution. Accordingly, the scope of land acquisition for socio-economic development purposes for national and public benefits is still broad and needs to be clarified. There are no provisions related to criteria for works and projects requiring land acquisition for socio-economic development purposes for national and public benefits. Regarding land acquisition in the vicinity of technical infrastructure works, construction, and embellishment of urban areas and rural residential areas, which has been stipulated in the 2013 Land Law, some shortcomings still need to be improved, such as non-specificity, lack of a legal basis for land acquisition according to planning and land use plans. Therefore, it cannot be implemented to create a clean land fund and organize auctions of land use rights for economic development purposes.

Secondly, land acquisition, compensation, support, and resettlement to carry out infrastructure works and the vicinity of infrastructure works have not been legalized as a basis for land acquisition for the implementation of economic and social development projects, which also means that the conditions, scope, and scale of the acquired land area, in this case, do not exist. In addition, there are no specific regulations on the organization assigned to carry out compensation and site clearance in the vicinity to auction land use rights. Therefore, the State has been unable to regulate the increased value of land due to infrastructure investment to increase budget revenue, ensure fairness between those whose land is acquired, and ensure urban aesthetics. The current land acquisition mechanism and policy still need some improvement and help. The legal provisions, such as land acquisition mechanism and policy for socio-economic development purposes for national and public interests, lack criteria for economic and social development works and projects that must be acquired for national and public interests; lack regulations on the State proactively acquiring land according to approved land use plans to create a “clean” land fund to auction land use rights to build works and projects for economic and social development for national and public interests.

Thirdly, there is no specific issue to help localities implement land acquisition in the vicinity of technical infrastructure projects, construction, and embellishment of urban areas and rural residential areas to auction land use rights for housing, commercial, service, production, and business projects: lacking specific regulations on the type of construction, project, scale, characteristics, and nature of each construction and technical infrastructure project, construction, and embellishment of urban areas and rural residential areas whose land in the vicinity is acquired; lacking regulations on criteria for determining the vicinity to be acquired land; lacking specified mechanisms and policies for management and use of land in the vicinity after acquisition in the Land Law.

2.3.1. Solutions to improve planning and land use plans, determine the purpose of land acquisition for socio-economic purposes

It is necessary to improve the quality of planning and land use plans, which are the plans of local governments through detailing annual land use needs, specifically:

Firstly, it is necessary to detail the terms “economical and effective land use” and “adjacent land acquisition” to summarize the criteria for evaluating economy and efficiency in land use. The law needs a mechanism to protect land resources and prioritize using fertile agriculture land to achieve a safe threshold. Only land that cannot be improved will be reserved for non-agricultural development. It aims for economical and efficient use of resources (Cuong, V. H., 2022). Although in clause 61, Article 3 of the revised Draft Land Law updated on April 24, 2023, it is defined as “land adjacent to technical infrastructure works according to planning and land use plans”. However, the author believes this concept is still unclear and easily abused. In the end, this concept still does not clarify how much the surrounding area accounts for in the total area of the acquired land; the abuse of land acquisition of the surrounding area can significantly impact the rights and interests of the surrounding area’s legitimate land users. Therefore, the concept of surrounding areas needs to be generalized by lawmakers in a more specific way.

Secondly, the Land Law and its implementing documents must add provisions regulating the approval of the land use plan. In particular, the institution clearly states the time to appraise and approve land use plans. If the plan is not approved, how long is the adjustment time, and how is the mechanism to collect people’s opinions implemented? In this case, the law needs to be clarified. There should be separate sanctions for each organization and individual established when breaking the principles of compliance with the order and procedures for making and appraising land use plans. In addition, it is necessary to clarify the method of conducting criticism from the Land Use Plan Appraisal Council, the approval rate for the plan to be approved, and setting specific legal responsibilities of the members of the Appraisal Council with the results of the appraisal of the land use plan, so that the land use plan is honest and

objective. In particular, the Council must gather leading experts related to land and environment, etc., to improve the quality of the land use plan proposed from the beginning (Son, T. C., 2021).

Thirdly, a handling mechanism should be established where state agencies competent to organize planning do not carry out the survey process and record people's opinions when planning land use or the organization to collect people's opinions on the land use plan did not comply with the regulations on the consultation period of 30 days from the date the competent state agency decided to organize the consultation.

Fourthly, the mechanism for collecting opinions must be established in parallel with explanations from competent agencies. However, the 2013 Land Law does not stipulate an explanation after collecting opinions from the people, and the solution basing on the resolution procedure (direct or written explanation to the people). From there, the law needs to specifically design a separate law on accountability that exists in the Land Law in the direction of the current trend of local governments to pay more attention to external accountability in addition to vertical internal accountability, which means local governments must be more directly responsible to the people and organizations in society.

Fifthly, additional proposals to seek opinions from the people must be re-established when the process of adjusting land use plans is implemented. In addition, additional regulations on responsibility for announcing and publicizing plans, time, and roadmap for implementing land use plans should be added. At the same time, if the agency is responsible for publishing information about planning and plans but does not implement them or does not do so on time as prescribed, the head of the agency will be punished according to the provisions of the law. From the above analysis, amendments and supplements are necessary for a mechanism to ensure the legitimate rights and interests of the people towards a fair, democratic, and civilized society (Son, T. C., 2021).

2.3.2. Solutions to balance interests and ensure people's livelihoods after the State acquires land for socio-economic purposes

The problem is that most land acquisition cases are still compensated in money, while the law still allows compensation in land of the same value. Many opinions say: *"If the support is in the form of land, the locality must find the land for the people, but in the form of money, the People's Committee's burden is the lightest because the investor must take responsibility for paying money. The locality only has to issue a few related decisions and nothing else."* (Vo, H. D., 2019). Therefore, it is necessary to:

Firstly, to resolve this relationship, the Land Law and legal regulations related to compensation and site clearance need to be amended and supplemented in the following direction:

- i. To determine the principles for calculating land prices with land use fees when the State allocates or leases land to carry out projects to investors, in balance with the land price calculated for compensation when the State acquires land.
- ii. To more precisely recognize the right to request State agencies to consider and adjust compensation, support, and resettlement plans if the proportion of people not agreeing with the compensation, support, or resettlement plan is above 50% (or another reasonable rate).
- iii. Recognize the encouragement of project investors to "pay more" or "additionally support" for people whose land is acquired beyond the approved compensation, support, and resettlement plan. Accordingly, it is possible to consider deducting this cost from the land use fee the investor must pay or recognizing them as legal and valid project investment costs.
- iv. To add regulations on handling and regulating the added value (difference in land rent) arising from land in the area around the project fence. In particular, consideration should be given to the people whose land is acquired to benefit from this newly arising difference in land rent adequately.

Secondly, it is necessary to complete regulations on cases where project investors agree to transfer or receive a capital contribution of agricultural land use rights to implement non-agricultural projects, expressly:

- i. To amend and supplement regulations on costs deducted from land use fees payable to the State in cases where real estate project investors implement agreements to transfer or contribute capital rights to agricultural land use (regulations on deductible levels needing to be calculated based on balance with

state land use fees collected when changing land use purpose and/or supplementing the principle of partial compensation funds for organizing site clearance for project investors).

- ii. To review, amend, and supplement regulations in the Land Law, Housing Law, and related documents on implementing procedures for agreeing to transfer and receive capital contributions of agricultural land use rights to implement non-agricultural projects to ensure consistency among documents.

Thirdly, the completion of regulations on selecting investors to implement real estate projects and other regulations related to the relationship between procedures for selecting investors to implement real estate projects and procedures of approving the project investment policy, specifically:

- i. To add the case of “the winning investor selects the investor to implement the project” to the cases of land being allocated/leased by the state without auction in clause 2, Article 118 of the 2013 Land Law.
- ii. To make clear regulations on the relationship between procedures for selecting investors to implement real estate projects and procedures for approving project investment policies.
- iii. To allow the application of a mechanism to appoint investors to implement real estate projects in cases where the project land area does not have high commercial value.
- iv. To clear regulations on applicable procedures where investors have the right to use agricultural land/non-agricultural land other than residential land but need to adjust the approved project objectives into a housing project and the land use purpose into residential land.

Fourthly, in order to ensure land transfer on schedule, harmonizing community interests and the interests of land owners, the state will establish 2 legal mechanisms for compulsory land transfer:

- i. Consulting (agreeing) with this method, the person with land use rights will directly agree with the state on compensation and future benefits. It should be noted that the state will not determine the compensation price for land; instead, it will be decided by valuation consulting service organizations based on harmonizing the interests compared to the land price people receive, which can be transferred to the market.
- ii. The issue of coercion and forcing people to transfer land is within the limit of land price determination implemented by 2-3 independent valuation companies. Thereby, the law needs to have a mechanism to assign responsibility for valuation to an independent organization, eliminating the valuation task of the Provincial People’s Committee or the Valuation Council.

Fifthly, the benefit-sharing system is delineated regarding the level of damage; it will be divided into two mechanisms, which can share benefits in money or benefits in value (non-monetary benefits).

2.3.3. Solutions to improve compensation, support, and resettlement mechanisms when the State acquires land for socio-economic development purposes

The land price for compensation is still imposed and decentralized to the Provincial People’s Committee to decide with unclear qualitative criteria. Accordingly, to clarify this issue, it is necessary to pay attention to the following core issues:

Firstly, regarding the method of compensation when the State conducts land acquisition for socio-economic development purposes, it should be done according to the consultation process.

Accordingly, when it is necessary to use land for socio-economic purposes, public agencies will negotiate directly with the person whose land is acquired. When the consultation process fails, the State will consider coercive land acquisition measures.

Secondly, the compensation should be diversified in payment methods, which can be done in the form of land, cash, or bonds issued by the project investor.

The land price given must ensure harmony between the market price and the price set by the government. When calculating the housing compensation problem, the compensation is calculated according to the required conversion costs, in addition to some cases, such as places where it is difficult to change houses, where the conversion costs

are higher than the property value, and where the project owner buys for direct use instead of public and socio-economic development purposes.

Thirdly, the compensation for property damage when the State acquires land for socio-economic development must be determined by the actual damage of the person whose land is acquired. Accordingly, clause 3, Article 26 of the 2013 Land Law needs to be adjusted to “3. *When the State acquires land for defense and security and socio-economic development purposes for national and public benefits, land users will be compensated, supported, and resettled by the State according to actual damages*” instead of determining damages as prescribed by law as it is today.

Fourthly, from the above issue, the principle when the State acquires land for socio-economic development purposes should be changed to “fair price”, that is, the price at which land users can create equivalent assets to the property acquired at another similar location and an amount of benefit brought about by the development project. In developed countries such as Korea, Brazil, etc., when land is needed for community purposes, the state will pay most of the compensation through land bonds. This experience limits paying people in cash simultaneously without orienting their spending, impoverishing people by using compensation money for the wrong purpose.

Fifthly, with experience in land acquisition for public purposes, according to the 2000 Law on land acquisition for public projects and compensation in Korea, it is also necessary to delineate compensation cases when the State acquires land in two cases in Vietnam:

Firstly, the State will be responsible after land acquisition is used for national defense and security purposes, railway projects, roads, airports, hydroelectric plants, dams, schools, libraries, and museums. Compensation, through consultation, is carried out through public agencies agreeing with the person whose land is acquired on the compensation plan and method.

Secondly, after land acquisition is used for house construction projects, infrastructure construction in new urban areas, and housing areas for rent or transfer..., the investor will make compensation. According to this principle, the investor (project implementer) will compensate the landowner and related individuals for damages caused by land acquisition or land use. The project owner does not determine the compensation issue, forcing the land value assessment to be assigned to at least two valuation agencies. Accordingly, investors can compensate in two forms: full payment or installment. According to the full payment method, the investor pays a lump sum (cash or company shares), buys insurance for this object, and means that the two parties will no longer have any obligations; on the contrary, installment requires the investor, in addition to compensation, to create a livelihood for people who lose land through accepting them into the workplace when the project is completed and is responsible for training those who lose land according to each location to suit future work (Tuyen, Q. N., 2012).

Through the above analysis, the author believes that the law should have specific adjustments:

- i. An independent price appraisal organization must determine the determination of land price for calculating compensation following the law on prices. The authority to decide the land price for compensation should be assigned to someone other than the Chairman of the Provincial People’s Committee because this will need more objectivity (the person responsible for compensation decides the compensation price).
- ii. To intervene when the investor cannot agree with the land user in the planning area to implement the investment project. Suppose the rest is not negotiated, and the reality shows an unreasonable demand from the land user. In that case, the State needs to intervene by “compulsory transaction,” meaning land acquisition.

Fifthly, there still needs to be consensus on the level of support for training, job change, and job search in cases where the State acquires agricultural land from households and individuals directly engaged in agricultural production. The level of support is mainly in the provinces and centrally-governed cities according to the agricultural land price in the land price list for each type of agricultural land or general support for all types of agricultural land (1-5 times the price of agricultural land) or by each commune and district level.

In terms of policy, it is necessary to diversify forms of support. People whose land is acquired will receive vocational training support according to their needs, vocational training advice, free job placement advice at employment service centers, and support for foreign language training costs if they work abroad under contract. At the same time, priority

is given to borrowing capital from the Bank for Social Policies for vocational training, job search, and labor export under contract. Diversify forms of ensuring livelihoods for people whose land is acquired: monetary support, job search support, and capital loans. Open more financial management and investment classes in parallel with vocational training and job search classes (Lang, T. N., 2021).

Sixthly, regarding the resettlement support mechanism, it is recommended that the 2013 Land Law amend clause 4, Article 86 as follows: "If land compensation is not enough to buy a minimum resettlement rate, the State will support to afford a minimum resettlement rate". This proposal contributes to removing overlapping inadequacies from two regulations that need to be consistent with each other. Through the research process, the author found that no documents specifically regulate the time for handing over land and housing for resettlement. From the above issue, it is necessary to supplement regulations on the time set for handing over resettlement land and houses as follows: "Resettlement land and houses are handed over before the resettled person must hand over the land, no later than 2 months from the date the person whose land is acquired hands over the land to the organization in charge of compensation and site clearance".

Seventhly in resolving disagreements in land acquisition for socio-economic development purposes, it is realized that the District People's Committee mainly handles the settlement of complaints in the land sector for the first time and the People's Committee for the second time. One of the new provisions in clause 3, Article 66 of the 2013 Land Law is to allow provincial-level People's Committees to acquire land directly or authorize district-level People's Committees to acquire land in case the acquired land area subjects under the jurisdiction of the Provincial and District People's Committees. On this basis, it is found that most localities have applied the measure of authorizing the district-level People's Committee to implement land acquisition directly. It indirectly affects the competence to settle complaints specified in the 2011 Law on Complaints, expressly if the People's Committee of the province authorizes the People's Committee of the district to acquire land. When there are disagreements, the People's Committee of the district will be the subject of the first settlement, and the People's Committee of the province will be the subject of the second settlement. From the above issue, it can be seen that the case has been resolved encapsulated within the locality because if there is no authorization mechanism, in some cases, there will be participation in the second complaint settlement of the Minister of Natural Resources and Environment (Hien, T. P, 2018b). Through the authorization mechanism, it has partly disabled the complaint resolution mechanism from the minister. To solve this situation, the author believes there should be specific adjustments in clause 3, Article 66 of the Land Law. Accordingly, any entity with the right to allocate land will automatically acquire and enforce the acquisition of the subjects to whom it has allocated land instead of implementing the current authorization mechanism for land acquisition.

Eighthly, regarding the subjects of complaints and lawsuits of land acquisition, realizing that the subject of complaints is expanding in scope, there are still certain limitations. For example, the specific land price for compensation calculation is an individual administrative decision. However, the reality shows that no Court has implemented measures of asset valuation and asset valuation for decisions on land acquisition, compensation, support, and resettlement under the guidance of the Chief Justice of the Supreme People's Court.

In addition, the 2011 Law on Complaints and the 2015 Law on Administrative Procedures still do not have specific provisions defining who people have the right to complain or sue. For example, in the 2011 Law on Complaints, when determining that the object of the complaint is an administrative decision, the law has not clearly defined the characteristics of this type of decision but only approved the wording clause in clause 8 of Article 2 of this 2011 Law on Complaints. In contrast, when determining the plaintiff in the 2015 Law on Administrative Procedures, many provisions, such as Articles 3, 30, and 115 without specified provisions, must be passed. Some opinions say that the plaintiff must infer for himself the subject he has the right to sue indirectly in Article 30. Accordingly, if the Court has the right to handle any issue, the people will have the right to sue the corresponding content.

2.3.4. Build institutions to clarify the responsibilities of judicial agencies in controlling and monitoring land acquisition purposes

The entire people own land, and the State represents the owner and uniformly manages it so that the State can take back the land at any time, and the compensation value for land taken back is also paid by the State. The decision resulted in increased land complaints and corruption (CAP, 2011).

Vietnam needs to build institutions to clarify the responsibilities of judicial agencies in controlling and monitoring land acquisition purposes, gradually expanding the Court's authority, allowing the Court to carry out asset valuation measures, asset value appraisal for complaints against decisions on land acquisition, compensation, support and resettlement, and at the same time allowing the Court to have the right to decide on the land acquisition for socio-economic development purposes, although this has been hinted at in Resolution No. 18-NQ/TW dated June 16, 2022, it still needs to be institutionalized in the draft Land Law (amended).

3. CONCLUSION

The article raised and resolved the following issues:

First, when the State acquires land for socio-economic development purposes, the land price calculated for compensation “must match the prevailing land price on the market”. Accordingly, the law needs to clarify the time to determine specific land prices so that the land compensation price will be closer to the market price.

Second, land acquisition cases have not clarified the “necessary” limits lawmakers have designed in the Constitution.

Third, land acquisition, compensation, support, and resettlement to carry out infrastructure works and the vicinity of infrastructure works have yet to be legalized. Therefore, the State has not been able to regulate the increased value of land due to infrastructure investment to increase budget revenue and has yet to ensure fairness among those whose land is acquired.

Fourth, there needs to be more specific mechanisms and policies to implement land acquisition for projects, and it is necessary to supplement regulations on handling assets invested in land, authority, valuation methods, and determination of the remaining value of assets invested in land.

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