

SOME THEORETICAL AND LEGAL ISSUES CONCERNING THE ISSUANCE OF LAND USE RIGHT CERTIFICATES AND CERTIFICATES OF OWNERSHIP OF ASSETS ATTACHED TO LAND UNDER THE TWO-TIER LOCAL GOVERNMENT MODEL IN VIETNAM

Nguyen Le Huong Giang

Hanoi University of Natural Resources and Environment, Vietnam

ABSTRACT

The organization of local government under a two-tier model represents an important reform in the process of improving the state apparatus in Vietnam. This transformation not only affects the organizational structure of local governments but also directly influences state management activities in various sectors, including land administration. The issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land is a crucial component of state land management and serves as a legal basis for safeguarding the lawful rights and Binterests of land users. Based on an analysis of current legal regulations, this article clarifies several theoretical issues regarding the two-tier local government model, the concept and characteristics of the issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land, and examines the legal provisions governing this activity in the context of implementing the two-tier local government model. The article also evaluates the practical implementation of these regulations and proposes recommendations for improving the legal framework and enhancing the effectiveness of state land management in the current period.

Keyword: *Land Use Right Certificate; Ownership of Assets Attached to Land; Two-Tier Local Government.*

1. INTRODUCTION

Land is a special national resource, a primary means of production, and the spatial foundation for socio-economic activities. In the context where the State exercises the rights of the representative owner of all land on behalf of the people, the establishment and protection of land use rights through the mechanism of issuing Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land are of great significance for both the State and land users.

In recent years, the reform of the state organizational apparatus has been identified as one of Vietnam's key priorities in building a streamlined, effective, and efficient administrative system that meets the requirements of national development and national digital transformation. Before the implementation of the two-tier local government model, local governments in Vietnam were organized into three levels, namely

provincial, district, and commune levels. Although this model played an important role in local governance, practical implementation revealed several shortcomings, including overlapping functions and responsibilities among different levels of government, multi-layered administrative procedures, increased management costs, and prolonged processing times for citizens and businesses.

To address these limitations, Vietnam has gradually implemented a two-tier local government model by abolishing district-level administration and reorganizing administrative units in order to streamline the governmental structure, enhance governance effectiveness, and improve the quality of public service delivery. This transformation has resulted in adjustments to the authority, responsibilities, and coordination mechanisms among local state agencies in various sectors, including the issuance of Land Use Right

Certificates and Certificates of Ownership of Assets Attached to Land.

In this context, research on the theoretical and legal issues concerning the issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land under the two-tier local government model is of considerable significance. Such research contributes to clarifying the theoretical foundations for the implementation of land law and provides recommendations for improving the legal framework and enhancing enforcement effectiveness in the current period.

2. LEGAL REGULATIONS ON THE ISSUANCE OF LAND USE RIGHT CERTIFICATES AND CERTIFICATES OF OWNERSHIP OF ASSETS ATTACHED TO LAND UNDER THE TWO-TIER LOCAL GOVERNMENT MODEL

2.1. The Two-Tier Local Government Model

Arising from the need to streamline the state apparatus, improve administrative effectiveness and efficiency, and strengthen decentralization and delegation of authority, the two-tier local government model is organized on the basis of provincial-level and commune-level governments without district-level administrative units. This model represents a new stage in the reform of Vietnam's public administration system.

From a legal perspective, the two-tier local government model is a method of organizing state power at the local level whereby governmental functions, duties, and powers are primarily exercised by provincial and commune authorities in accordance with the allocation and decentralization prescribed by law.

This model possesses several fundamental characteristics: (i) the streamlining of local governmental structures; (ii) enhanced decentralization and delegation of authority to grassroots governments; (iii) increased autonomy and accountability of local authorities; and (iv) greater application of information technology and digital transformation in public administration.

From a legal standpoint, the two-tier local government model provides a foundation for reforming state management mechanisms, simplifying administrative procedures, improving public service delivery, and better protecting the lawful rights and interests of individuals and organizations during administrative processes.

2.2. Issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land

The issuance of Land Use Right Certificates is a legal institution that has evolved alongside the development of Vietnam's land legislation. From various forms of land use right documentation issued during different historical periods, the current legal framework has established a unified mechanism for land registration and certificate issuance.

According to Clause 21, Article 3 of the 2024 Land Law, "A Land Use Right Certificate and Certificate of Ownership of Assets Attached to Land is a legal document through which the State certifies the lawful land use rights and ownership rights over assets attached to land of land users and asset owners."

The issuance of certificates possesses several essential characteristics: (i) it is an exercise of state authority; (ii) it is conducted in accordance with legally prescribed procedures; (iii) it creates legal evidentiary value regarding land use rights and ownership rights over assets attached to land; and (iv) it is closely linked to land registration activities and the development of land databases.

The issuance of certificates plays a vital role in protecting the lawful rights and interests of land users, facilitating land-related civil transactions, and enhancing the effectiveness of state management over land and land-attached assets.

2.3. Legal Regulations Governing the Issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land under the Two-Tier Local Government Model

The legal framework governing the issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land under the two-tier local government model comprises a system of legal norms regulating social relations arising during land registration, the establishment of land use rights, ownership rights over assets attached to land, and the implementation of certificate issuance within a local government structure consisting of provincial and commune levels.

The scope of regulation includes provisions concerning eligible subjects, competent authorities, conditions for issuance, procedures

for issuance, and the financial obligations of land users. These groups of regulations are closely interconnected and collectively form a unified legal basis aimed at protecting the lawful rights and interests of land users while enhancing the effectiveness of state land management in the context of the two-tier local government model.

First, the law specifically identifies the subjects eligible to be granted certificates in order to determine the categories of persons and organizations whose land use rights and ownership rights over assets attached to land may be recognized by the State. According to Article 4 of the 2024 Land Law, land users include domestic organizations, religious organizations, affiliated religious organizations, Vietnamese citizens, overseas Vietnamese who are Vietnamese citizens, residential communities, foreign diplomatic organizations, persons of Vietnamese origin residing abroad, and foreign-invested economic organizations. In addition, with respect to houses and other assets attached to land, applicants must satisfy ownership requirements prescribed by the 2023 Housing Law and other relevant legal documents. The accurate identification of eligible subjects is essential for ensuring the legality of land use rights and ownership rights and for facilitating civil transactions related to land.

Second, the law stipulates the authority to issue certificates in order to determine which state agencies are responsible for issuing, reissuing, renewing, correcting, or revoking certificates in accordance with legal provisions. Within the framework of the two-tier local government model, regulations concerning authority have undergone significant adjustments to accommodate the abolition of district-level administration. Responsibilities relating to land administrative procedures have been redistributed among provincial authorities, commune-level authorities, and land registration agencies to ensure that administrative procedures are conducted effectively, smoothly, and consistently with the objectives of administrative reform.

Third, the law prescribes conditions for the issuance of certificates in specific circumstances. These conditions constitute important legal grounds for the State to recognize land use rights. Such requirements include possessing documents evidencing land use rights or demonstrating stable and long-term land use without disputes,

compliance with land-use planning and plans, and satisfaction of other conditions stipulated by the 2024 Land Law. Regarding assets attached to land, applicants must also prove their lawful ownership of such assets in accordance with specialized legislation.

Fourth, the law establishes procedures for certificate issuance to ensure transparency, consistency, and accountability throughout the processing of applications. These provisions regulate the entire process, including dossier submission, verification of dossier validity, examination of land origins and current land use status, determination of financial obligations, updating information in cadastral records and land databases, issuance approval, and delivery of certificates to land users. In the context of digital transformation and the implementation of the two-tier local government model, these procedures have increasingly been simplified through the application of information technology, the reduction of intermediary stages, and the enhancement of public access to administrative services.

Fifth, the law prescribes the financial obligations of land users when applying for certificates. These obligations include land use fees, land rental fees (where applicable), registration fees, dossier appraisal fees, and other charges and fees prescribed by law. Fulfillment of these obligations is not only a prerequisite for completing the certification process but also serves as a mechanism through which the State regulates benefits derived from land resources and ensures fairness in land exploitation and utilization.

Therefore, the legal framework governing the issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land under the two-tier local government model comprehensively regulates issues relating to subjects, authority, conditions, procedures, and financial obligations. It constitutes an important legal foundation for safeguarding land users' rights while contributing to more effective state management of land resources within a streamlined, modern, and efficient local governmental structure.

3. PRACTICAL IMPLEMENTATION OF THE LAW ON THE ISSUANCE OF LAND USE RIGHT CERTIFICATES AND CERTIFICATES OF OWNERSHIP OF ASSETS ATTACHED TO LAND UNDER THE TWO-TIER LOCAL GOVERNMENT MODEL

3.1. Practical Demand for the Issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land under the Two-Tier Local Government Model

In recent years, public demand for land registration and the issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land has increased significantly. Economic and social development, urbanization, changes in land-use structures, and the growing number of land-related civil transactions have transformed certificates into one of the most important legal documents for individuals, households, and organizations.

Within the context of the two-tier local government model, public expectations extend beyond merely obtaining certificates. Citizens increasingly seek simplified administrative procedures, shorter processing times, and improved accessibility to public services. The transfer of certain authorities from district-level administrations to commune-level governments has enabled citizens to complete administrative procedures closer to their places of residence, thereby reducing travel costs and waiting times.

The transition from a three-tier local government structure to a two-tier model has substantially increased the role of commune-level authorities in land administration procedures. Under the new system, many tasks previously performed or coordinated at the district level have been delegated to communes, particularly activities related to dossier reception, verification of land use origins, inspection of land use status, and coordination with land registration agencies during certificate issuance procedures. This development imposes substantial requirements on the professional qualifications, administrative skills, and technological competencies of commune-level cadastral officials.

However, practical experience indicates considerable disparities in human resource quality among localities. In many mountainous, remote, and newly merged administrative units, the number of cadastral officials remains limited

despite a continuously increasing workload. Moreover, many officials are required to perform multiple administrative functions simultaneously, resulting in excessive workloads during the processing of land-related dossiers. Shortages of specialized personnel have in some cases prolonged processing times beyond statutory limits, thereby directly affecting the lawful rights and interests of land users.

Furthermore, the implementation of electronic land databases and online public services requires commune-level officials to possess adequate skills in operating specialized software systems. Nevertheless, digital transformation has progressed unevenly across localities, resulting in limitations in data utilization and electronic dossier processing. This remains one of the major factors affecting the efficiency of certificate issuance procedures during the nationwide implementation of the two-tier local government model.

3.2. Practical Implementation of the Law on the Issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land under the Two-Tier Local Government Model

The implementation of the two-tier local government model has brought about significant changes in the organization and execution of activities relating to the issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land. On the one hand, the streamlining of the administrative apparatus and the enhancement of decentralization and delegation of authority to grassroots governments have increased the proactiveness of commune-level authorities in handling land-related administrative procedures. On the other hand, this mechanism has facilitated the reception, processing, and return of administrative results in a manner that is closer and more accessible to citizens.

Prior to the implementation of the two-tier local government model, the process of issuing certificates often involved the participation of numerous agencies at different administrative levels, particularly the intermediary role of district-level authorities in receiving, examining, and submitting applications to competent authorities for consideration and approval. In some cases, the existence of multiple

administrative layers prolonged processing times, increased compliance costs for citizens, and reduced the efficiency of state management. Following the transition to the two-tier model, many responsibilities formerly assigned to district-level authorities have been transferred to commune-level governments and land registration agencies. This has contributed to shortening administrative procedures, reducing intermediary stages, and enhancing the accountability of agencies directly responsible for handling administrative matters.

In practice, commune-level authorities have assumed an increasingly important role in certificate issuance activities. In addition to receiving applications and guiding citizens through administrative procedures, commune-level authorities are also responsible for verifying the origin of land use, determining the current status of land use, examining disputes, and collecting other relevant information. These tasks are crucial to the decision-making process regarding certificate issuance. Assigning greater responsibilities to commune-level authorities enables them to capitalize on their advantages as the level of government closest to citizens, possessing a comprehensive understanding of local natural conditions, land management history, and actual land-use situations. As a result, many cases involving stable land use with incomplete documentation or complex land-use histories can be verified more rapidly and accurately.

Furthermore, the implementation of laws governing certificate issuance is increasingly linked to the development of land databases and the promotion of digital transformation in state administration. Many localities have introduced online application systems, digitized cadastral records, and gradually integrated land information with other specialized databases. The application of information technology has improved transparency in administrative procedures, minimized the risk of document loss, and facilitated citizens' access to information and land-related services.

Nevertheless, the practical implementation of laws governing certificate issuance under the two-tier local government model continues to face numerous challenges. First, the rapid transfer of responsibilities from district-level authorities to commune-level governments has placed substantial pressure on local cadastral officials.

While the volume of land-related dossiers continues to increase, the number of specialized personnel remains insufficient in many localities, particularly in mountainous, remote, and newly merged administrative units. This situation directly affects both the efficiency and quality of dossier processing.

In addition, land databases in many localities have not yet been fully developed or synchronized. Cadastral records created during different periods using different surveying methods often contain inconsistencies, incomplete information, or have not been fully digitized. These shortcomings complicate the verification of land origins, the updating of land-use changes, and the processing of first-time certificate applications. For localities that have recently undergone administrative restructuring, the integration of data and the reorganization of land record management systems pose even greater challenges.

Moreover, coordination mechanisms among commune-level authorities, land registration agencies, and other specialized agencies are not always effective. Certain procedures require the involvement of multiple agencies, including tax authorities, construction authorities, and natural resources and environment agencies, leading in some cases to delays in dossier transfers and prolonged processing periods. This demonstrates that administrative streamlining alone cannot immediately resolve all difficulties associated with land law enforcement. Rather, it is necessary to continue improving coordination mechanisms, enhancing human resource quality, and accelerating digital transformation within the land administration sector.

Overall, the practical implementation of laws governing the issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land under the two-tier local government model has achieved encouraging initial results in simplifying administrative procedures, strengthening the initiative of grassroots governments, and improving citizens' access to public services. Nevertheless, to ensure the effective operation of this model and fully realize its advantages, further efforts are required to improve the legal framework, enhance the capacity of implementing personnel, and establish a unified and modern land database system nationwide.

4. RECOMMENDATIONS

First, improving the decentralization mechanism in certificate issuance activities in accordance with the spirit of the 2025 Law on the Organization of Local Government

The 2025 Law on the Organization of Local Government establishes the principle that the allocation of authority must clearly define the scope, duties, and powers of each level of government while preventing overlap and duplication among state agencies.

However, in the field of issuing Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land, several existing regulations remain largely based on the former three-tier local government structure. Consequently, it is necessary to continue reviewing the provisions of the 2024 Land Law and its implementing regulations to ensure compatibility with the two-tier local government model, particularly with respect to matters involving land origin verification, the settlement of backlogged applications, and the handling of complex cases.

Second, establishing a power-control mechanism for certificate issuance activities at the commune level

One of the fundamental principles of the 2025 Law on the Organization of Local Government is that decentralization must be accompanied by accountability and effective power-control mechanisms.

As commune-level authorities are entrusted with greater responsibilities in land administration, the risk of errors or abuse of power may increase if adequate supervisory mechanisms are not in place. Therefore, regulations concerning inspection, supervision, post-audit review, and legal accountability of competent authorities in the certificate issuance process should be strengthened. At the same time, legal provisions should clearly specify compensation liability, administrative liability, and disciplinary responsibility for cases in which unlawful issuance of certificates causes damage to the State or to land users.

Third, shifting from an administrative dossier management approach to a digital land data governance model

The essence of the two-tier local government model lies not only in streamlining the administrative apparatus but also in building a modern administration characterized by the application of information technology and digital transformation in state management.

Accordingly, the improvement of laws governing certificate issuance should be integrated into the broader process of developing a unified land information system and land database in accordance with Government Decree No. 101/2024/ND-CP. Instead of relying primarily on the circulation of paper-based dossiers among administrative agencies, Vietnam should gradually establish a land governance model based on digital data, ensuring that land information can be shared, accessed, and updated in real time. This is not only a requirement of administrative reform but also a necessary condition for the effective operation of the two-tier local government model in practice.

5. CONCLUSION

The organization of local government under the two-tier model constitutes a significant reform in the ongoing process of restructuring the state apparatus in Vietnam. Changes in the organizational structure of local government affect not only the general methods of state administration but also the field of land management, particularly the issuance of Land Use Right Certificates and Certificates of Ownership of Assets Attached to Land.

Through an examination of the provisions of the 2024 Land Law, the 2025 Law on the Organization of Local Government, and related implementing regulations, it can be observed that the legal framework governing certificate issuance under the two-tier local government model has gradually been improved in a manner that promotes decentralization and delegation of authority, enhances the initiative of grassroots governments, and increases the efficiency of administrative services provided to citizens.

However, practical implementation continues to raise several issues requiring further study and improvement, including the allocation of authority among relevant agencies, mechanisms for controlling power in certificate issuance activities, and the establishment of a synchronized and unified land information system. In the context of national digital transformation, improving the

legal framework toward a digital-data-based land governance model is considered an inevitable requirement for ensuring the effective implementation of the two-tier local government model, enhancing the quality of state land management, and better protecting the lawful rights and interests of land users.

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