

JUNE 2024

# NEWSLETTER



LAC DUY & ASSOCIATES





**CASE LAW NO. 71/2024/AL  
ON SUSPENSION OF CASE  
SETTLEMENT DUE TO PREVIOUS  
RESOLUTION BY A COMPETENT  
STATE AUTHORITY AND NOT  
UNDER THE JURISDICTION OF  
THE COURT**



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**CASE LAW NO 72/2024/AL  
ABOUT DETERMINING  
INHERITED PROPERTY RIGHTS  
RELATED TO LAND USE IN  
CASES WHERE THE WILL  
DOES NOT SPECIFY THE  
EXACT LAND AREA**

06/2024

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Dear Clients,

**Lac Duy & Associates would like to send you the legal newsletter of June 2024 with some notable updates and articles as follows:**

- Case law No. 71/2024/AL on suspension of case settlement due to previous resolution by a competent state authority and not under the jurisdiction of the court
- Case law No. 72/2024/AL about determining inheritance being land use rights in case where the will does not specify the exact land area
- Legal documents in 06/2024



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## CASE LAW NO. 71/2024/AL ON SUSPENSION OF CASE SETTLEMENT DUE TO PREVIOUS RESOLUTION BY A COMPETENT STATE AUTHORITY AND NOT UNDER THE JURISDICTION OF THE COURT



### I. Source of the case law

Cassation decision No. 14/2022/DS-GDT dated April 28, 2022, issued by the Supreme People's Court regarding the case "*Dispute over land use rights and request for annulment of the decision on complaint resolution by the People's Committee*" between the plaintiff, Ms. Dang Thi Thu H, and the defendant, Ms. Nguyen Thi C, involving 04 (*four*) individuals with related rights and obligations.

### II. Position of the caselaw's content

Paragraphs 3, 4, and 6 of the "Court's Opinions" section.

### III. Summary of the case law's content

#### - *Case situation:*

This is a dispute over land use rights that has been resolved by a valid decision of a competent state authority. Subsequently, the plaintiff initiated a civil lawsuit and requested the annulment of the previously effective decision of the competent state authority. In this case, the plaintiff is not named on the disputed land use rights certificate.

#### - *Legal solution:*



This case has been suspended from settlement on the grounds that the matter has been resolved by a valid decision of a competent state authority, and therefore, it is not within the jurisdiction of the court.

#### **IV. Relevant legal provisions**

- Articles 34.1 and 34.2, point c, dd Article 192.1, point g, Article 217.1 of the Code of Civil Procedure 2015.
- Article 38 of the Land Law 1993 (corresponding to Article 136 of the Land Law 2003 and Article 203 of the Land Law 2013).

#### **V. Keywords of the case law**

"Not within the jurisdiction of the court"; "Resolved by a valid decision of a competent state authority"; "Suspension of case settlement."

#### **VI. Commentary on the case law**

The content of the case law includes the court's opinions regarding the dispute over land use rights: In the case of Mr. T's complaint requesting the return of land area that he had transferred to Ms. C on December 8, 1987, the District People's Committee issued a decision to reject this complaint, numbered 1627/QD.CT.UBH. When Mr. T continued to complain to the Chairman of the Provincial People's Committee, the Chairman also issued a decision on complaint resolution, numbered 4835/QD.CT.UBT, which affirmed the initial decision of the District People's Committee.

Therefore, this land dispute has been resolved by the enforcement of an administrative decision. Accordingly, the Dong Nai Provincial People's Court has suspended the case settlement in accordance with point c, Article 192.1, and point g, Article 217.1 of the Code of Civil Procedure 2015, which is entirely reasonable. The decision of the Higher People's Court in Ho Chi Minh City to annul the decision on the suspension of the civil case, numbered 55/2018/QDST-DS, issued by the Dong Nai Provincial People's Court on October 31, 2018, and transfer the case file to the Dong Nai Provincial People's Court for further settlement, is without basis according to the law.

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In conclusion, this case law demonstrates the unity and independence in the application of the law by competent state authorities regarding the same dispute. Specifically, after assuming jurisdiction over the case, if the matters have been resolved by a valid decision of a competent state authority, the court must decide to suspend the settlement of the civil case.



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**CASE LAW NO.72/2024/AL**  
**ABOUT DETERMINING INHERITANCE BEING LAND USE RIGHTS IN CASE**  
**WHERE THE WILL DOES NOT SPECIFY THE EXACT LAND AREA**



### **I. Sources of case law**

Cassation Decision No. 60/2022/DS-GDT dated December 19, 2022, by the Council of Judges of the Supreme People's Court regarding the civil case "Inheritance Dispute Over Land Use Rights" between the plaintiff, Ms. Nguyễn Thị G, and the defendant, Mr. Nguyen Van U, with 19 persons with related interests and obligations.

### **II. Position of case law content**

Paragraph No. 4, 5 and 8 of Section "Opinion of the Court".

### **III. Brief of case law**

- *Background:*

This case shows an inheritance dispute over land use rights among the heirs. Inheritance is determined according to the testator's legal will, which also defines the boundaries of the land with no disputes regarding these boundaries. However, the will does not point out the exact land area.

- *Legal solution:*



During the trial, the Court determined that the inheritance being land use rights is measured based on boundaries specified in the will.

#### IV. Legal basis

Article 624, 630 and 634 of the 2015 Civil Code.

#### V. Key words

“Inheritance”; “Legal will”, “Inheritance under will”; “Determining the land area by boundaries”.

#### VI. Our opinion

##### *1) Considering the legality of the Will*

During legal proceedings, the Court not only based the content as stated in the will but also considered various other related documents provided, such as family meeting minutes, testimonies from other children of the testator, and, importantly, the history of land management and usage.

In the Will dated May 16, 1998, made by Mr. M and Mrs. B and signed by their children, including the defendant as well as certified by local authorities, Mr. M and Mrs. B expressed their intention to give Ms. G a land area of 1.5 hectares (the inheritance).

After Mr. M’s death, in the family meeting minutes dated June 15, 2004, and the Will dated September 9, 2006, which are certified by local authorities, it was shown that at the time of making the will and during the family meeting, none of Mr. M and Mrs. B’s children opposed their decision on giving Ms. G the entire disputed land. It was acknowledged that since Ms. G had lived with her parents when she was young, the parents and siblings agreed to let her manage the land for the purpose of worshiping their parents.

According to Article 624 of the Civil Code 2015, Mr. M and Mrs. B expressed their intention to transfer their property to Ms. G after their death. Additionally, pursuant to Articles 630 and 634 of the Civil Code 2015, the Will dated May 16, 1998, and the Will dated September 9, 2006 were made



when the testator were competent, lucid, not deceived, threatened, or coerced; the contents of the wills did not violate any prohibitions of the law, did not contravene social ethics, and adhered to the legal form requirements. The wills were witnessed by others and were confirmed by the local authorities. Therefore, both wills were legally valid.

The plaintiff stated that he was given the land by Mr. M and Mrs. B since 1998, and on November 15, 2000, he was issued a land use right certificate by the People's Committee of C district. However, Mr. U lacked evidence to prove that his parents gifted him the land. Furthermore, the People's Committee of P district (formerly being C district) issued Announcement No. 1922/UBND on October 23, 2019, stating that Mr. U's land use certificate file was lost. Therefore, it is no basis for the plaintiff's request that the Court to compel Ms. G to return the land and house. Consequently, the Court dismissed this request.

## *2) Determining the Land Area in the Inheritance*

In Section 4 of the Court's Opinion, the Court determined that in the Will dated May 16, 1998, Mr. M and Mrs. B acknowledged Ms. G's portion of land with an area of 1.5 hectares but did not specify the exact area. However, in this will, the testator clearly described the boundaries of the land: Front facing N Canal, East (rear) adjacent to Nguyen Van L1, North adjacent to Ly Tung H1, West adjacent to Quach Van M2. Currently, there is no dispute regarding these boundaries of the land.

In the Civil Judgment of First Instance No. 04/2019/DS-ST dated April 16, 2019, the Provincial People's Court of Ca Mau determined the land area (inheritance) based on actual measurement to be 35,180.7 square meters. The Civil Appeal Judgment No. 646/2019/DS-PT dated December 13, 2019 upheld the Civil Judgment of First Instance No. 04/2019/DS-ST. The cassation decision No. 60/2022/DS-GĐT dated December 19, 2022 also upheld the Civil Appeal Judgment No. 646/2019/DS-PT of the High People's Court in Ho Chi Minh City. Through these judgments and decisions, the Court has established a new precedent for application in trials: in cases where the will does not specify the exact land area, determining the inheritance as land use rights with a defined area based on actual measurement according to the specified boundaries in the will.



## LEGAL DOCUMENT IN 06/2024

NO	EFFECTIVE DAY	NAME
<b>COMMERCE</b>		
1	June 01, 2024	Circular 02/2024/TT-BKHCN regulating the management of product and goods traceability, issued by the Minister of Science and Technology.
<b>ENTERPISE</b>		
1	June 10, 2024	Decree 45/2024/ND-CP amending Decree 39/2019/ND-CP on the organization and operation of the Small and Medium Enterprise Development Fund.
<b>INVESTMENT</b>		
1	June 15, 2024	Circular 07/2024/TT-BKHDT guiding the standard dossier forms, evaluation reports, appraisal reports, inspection reports, and implementation status reports on bidding activities, issued by the Minister of Planning and Investment.
<b>IMPORT - EXPORT</b>		
1	June 07, 2024	Circular 08/2024/TT-BCT amending circulars in the field of import and export, issued by the Minister of Industry and Trade.
<b>LABOUR - WAGES</b>		
1	June 05, 2024	Circular 03/2024/TT-LDTBXH guiding the content of implementing livelihood diversification, developing poverty reduction models, and supporting workers going to work abroad under contracts under the National Target Program on Sustainable Poverty Reduction for the period 2021-2025, issued by the Minister of Labor, Invalids and Social Affairs.



2	June 21, 2024	Circular 04/2024/TT-LDTBXH regulating the Statistical Indicator System of the Labor, Invalids and Social Affairs sector, issued by the Minister of Labor, Invalids and Social Affairs.
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### CRIMINAL RESPONSIBILITY

1	June 18, 2024	Resolution 02/2024/NQ-HDTP guiding the application of the provisions in Article 313 of the Criminal Code, issued by the Supreme People's Court.
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### STATE FINANCE

1	June 01, 2024	Circular 07/2024/TT-BCT regulating the method of determining electricity prices and electricity purchase and sale contracts, issued by the Minister of Industry and Trade.
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### TRANSPORTATION

1	June 01, 2024	Circular 05/2024/TT-BGTVT amending Circulars related to the road transport sector, road transport support services, vehicles and drivers, issued by the Minister of Transport.
2	June 01, 2024	Circular 10/2024/TT-BGTVT amending Circulars on the management of maritime transport routes from the mainland to islands within Vietnam's sea areas, issued by the Minister of Transport.
3	June 10, 2024	Decree 44/2024/ND-CP regulating the management, use and exploitation of road transport infrastructure assets.

### NATURAL RESOURCES - ENVIRONMENT

1	June 01, 2024	Circular 07/2024/TT-BCT prescribing the method for determining electricity generation prices and power purchase contracts, issued by the Minister of Industry and Trade.
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