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New regulations on penalties for land-related administrative violations



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On 19 November 2019, the Government has promulgated Decree No. 91/2019/ND-CP on the penalties for land-related administrative violations ("Decree 91"). This decree shall come into effect on 05 January 2020 and replace Decree No. 102/2014/ND-CP dated 10 November 2014 ("Decree 102"). Decree 91 not only instructs in more detail than Decree 102 but also supplement some notable features as follows:

1. Adding definition and penalties with respect to the act of "land destruction"

The term "land destruction" is defined in Law on Land 2013, however such term is not mentioned in Decree 102 and thus causing difficulties in applying penalties on the violation of land destruction.

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Acknowledging this limitation, Decree 91 has clearly defined the term “land destruction” and corresponding penalties for this violation.

Specifically, Clause 1 Article 15 Decree 91 regulates the action of deforming the land or reducing land quality, the monetary penalties are ranged from VND 2,000,000 to VND 150,000,000 based on the deformed area. The monetary penalties amount is applicable to individuals and shall be double in case the violation is committed by organizations. Furthermore, violating individual/organization is obliged to restore the land to condition prior the violation and the land shall be revoked in case such violator fails to abide the penalties.

2. Supplementing the remedial measures:

In Decree 102, the remedial measures are regulated scatteredly throughout the documents and mainly consisted of 03 (three) measures:



obliged to restore the land condition prior to the violations; obliged to return the unlawful gain; and obliged to return the received land. However, Decree 91 has elaborated in detail the remedial measures, specifically there are 17 (seventeen) remedial measures mentioned in Clause 3 Article 5 of this Decree (e.g. obliged to implement land-related administrative procedures, obliged to fulfil land-related financial duty, obliged to complete the construction investment according to the prevail regulation). Furthermore, Article 7 of Decree 91 has also specified

the corresponding methods to calculate the amount of unlawful gain for each violation.

3. Supplementing the statute of limitation

Currently, the statute of limitation on land-related administrative violation is in accordance with regulations of Laws on administrative violation 2012. Decree 91 has clearly regulated that the statute of limitation on land-related administrative violation is 02 years, and also specified the method to determine the beginning and ending of each violation.

Specifically, Clause 1 Article 15 Decree 91 regulates the action of deforming the land or reducing land quality, the monetary penalties are ranged from VND 2,000,000 to VND 150,000,000 based on the deformed area.

4. Supplementing the violation of organization investing in real-estate trading project (“Investor”) for not implementing the application procedure for Certificate of Land use rights, Ownership of house and other properties associated with land

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Previously, this violation and its penalties is regulated in Decree 139/2017/ND-CP dated 27 November 2017 (“Decree 139”). This regulation is replaced by Article 31 Decree 91, consequently, with respect to the Investor’s violation for not implementing the application procedure for Certificate of Land use rights, Ownership of house and other properties associated with land for the purchaser and/or lessee of house, construction works, the assignee of land use rights, or not provide or insufficiently provide documents to the before-mentioned individuals for self-implementation, depend on the violation duration (from 50 days to more than 12 months) and violation degree (from under 30 to more than 100 apartments, construction works, land lots), the monetary penalty maybe up to 1,000,000,000 per project.



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