

LegalNews

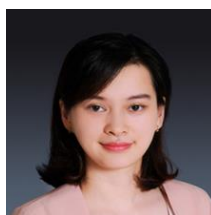
Vol 3, Issue 29 Apr 2020

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NEW REGULATIONS ON REGISTRATION OF THE MORTGAGE OF LAND USE RIGHT AND ASSET ATTACHED WITH LAND



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On 25 November 2019, Ministry of Justice issued Circular No. 07/2019/TT-BTP guiding some of regulations on registration of the mortgage of land use right and asset attached with land ("Circular 07"). Circular 07 specifically guide a number of provisions of Decree No. 102/2017/ND-CP, and replace Joint Circular No. 09/2016/TTLT-BTP-BTNMT dated June 23, 2016.

Circular 07 supplements one additional circumstance required for registration of mortgage of land use right ("LUR") and assets thereon that is mortgage of the investment project for construction of residential housing or the investment project for construction of work constructed without residential housing, other investment project for construction as prescribed by law. Procedure of such mortgage registration shall be akin to registration of

mortgage of LUR and in-future residential housing and construction work thereon.

In addition, Circular 07 introduces several new regulations on mortgage registration of LUR which are common property with the Land registration authority. The Article 12 of Circular 07 set out several special circumstances in mortgage registration of LUR by the Land Registration Authority as below:



(i) for mortgage of LUR being common property of husband and wife, but ownership certificate thereof names either husband or wife, both information of husband and wife shall be included in mortgage agreement as the mortgagor;

(ii) for mortgage of LUR being common property of the family household but ownership certificate thereof only names head of the family household, both name of the head of and other members commonly holding LUR shall be named in mortgage agreement as the

mortgagor. In case a number of members of a family household or group of land users require a mortgage registration for their LUR, such person must carry out the procedures for division of LUR and the procedures for separation of the parcel of land for purpose of issue the LURC before registering the mortgage; and

(iii) for mortgage the LUR having the ownership certificate just names proprietorship, the full name of the owner of the proprietorship or the name of owner of the proprietorship and the his/her spouse shall be included in mortgage agreement as the mortgagor.

Circular 07 also stipulates on two cases of transition of the mortgage registration of property rights connected with residential housing purchase and sale contract as below.

Circular 07 specifically guide a number of provisions of Decree No. 102/2017/ND-CP, and replace Joint Circular No. 09/2016/TTLT-BTP-BTNMT dated June 23, 2016.

Firstly, the mortgage registration of property rights arising from residential housing purchase and sale contract shall transit into mortgage registration of in-future residential housing. Secondly, the mortgage registration of property rights, which arising from residential housing purchase and sale contract, shall transit into the mortgage registration of formed residential housing (house accepted and put into use). In the latter case, there would be two circumstances (i) deregistration of mortgage of property rights arising from residential housing purchase and sale contract at the registration agency for secured transactions, and then registering the mortgage of land use right and residential house at the Land Registration Authority; or (ii) transiting the registration for mortgage of property rights arising from residential housing purchase and sale contract into the registration for mortgage of formed residential housing.

Circular 07 takes effect from January 10, 2020.

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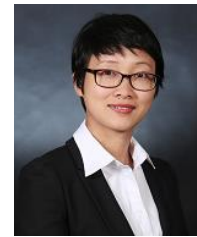
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