

Role of the Government in Developing the Real Estate Market

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In the market economy, the government intervention has become more and more necessary and inevitable, especially in sensitive markets, such as the real estate one, because they involve the use and allocation of national resources. The role of government in the real estate market includes the following features.

1. Control over the land and real estate market

According to Vietnamese laws, the State is the representative of owner of the land, has right to use, and decide on the use, benefit from, and control the land. This task reflects in the following aspects:

- Deciding on the use and purposes of the use of land, making plans to use and grant land, and allowing changes in the purposes of the use of land according to the master plan.

- Issuing and implementing policies and regulations on the land and real estate market, including the land use right; supervising implementation of rights and duties of land users; granting, leasing and retrieving the land; ensuring national interests from the land; implementing policies on the land and investing in the land control.

- Developing and controlling the real estate market; creating the legal infrastructure for companies trading in real estates; investing in reclaiming land; building the infrastructure and housing; and setting price frame for the land use right and certain properties fixed to land.

- Keeping a close watch on implementation of the land policy and the master plans for the land use; and

- settling disputes over the land use.

- Controlling administration and public services relating to the land.

2. A legal infrastructure for the real estate market

- Immovables as commodities: Whether immovables become commodities

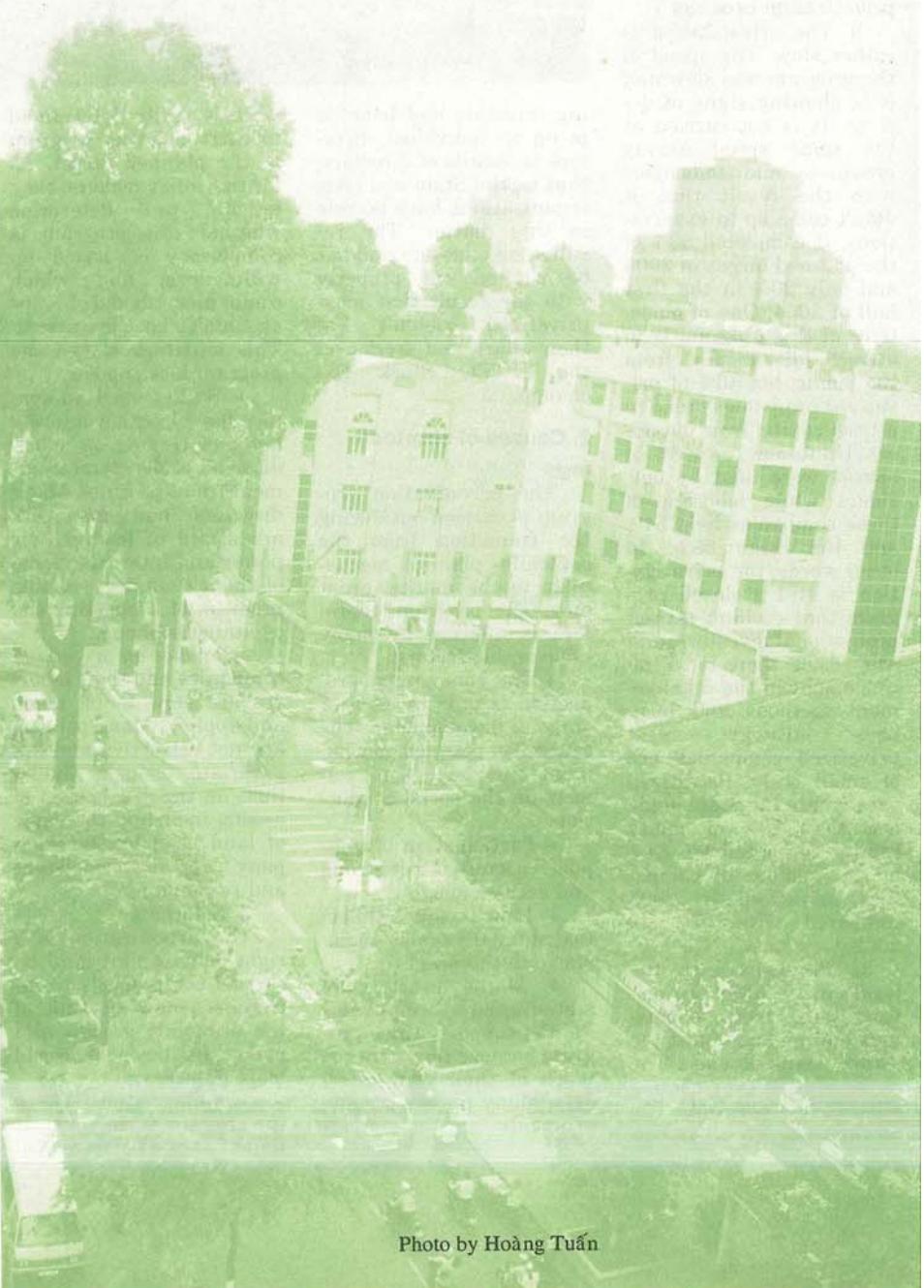


Photo by Hoàng Tuấn

depends on the law. There are two approaches to this kind of property. Some governments recognize land and immovables as privately-owned commodities that could be traded according to private agreements. Others consider the land as a public property and the trade on land illegal. However, countries of the second group all allow the trade in immovables and the land use right. Thus, commodities allowed to be traded on the real estate market vary over countries.

Laws of any country also classify the land into the public and private land. The private land could be exchanged between private persons while the public land can't be for sale, or can only be exchanged according to special regulations. The trade in immovables must also comply with regulations about national defense or environment protection, etc. Some countries also limit the trade in immovables that have educational, cultural or historical meanings.

- Ways of trading immovables: All immovables must be registered and re-registered after transfer of the ownership. Governments refrain from intervening in the exchange of immovables and always collect taxes or fees from the transfer of immovables.

- State control over immovables: Government agencies relating to the land management undertake the following tasks:

+ Measuring, drawing map and keeping land registration,

+ Noting and updating changes in the land registration,

+ Granting title deeds to land owners,

+ Seeing to it that the land is used as required by law.

3. Policies to develop a healthy market for real estate

In Vietnam, the Government adopts policies to ensure land for peasant to grow plants, raise fish, produce salt and grow forest.

In addition, many policies are adopted to accelerate changes in the structure of industry and redistribute population in the process of modernization and industrialization. To supply jobs and ensure income for peasants who have no land, or only a small area of land, land dispossessed for the good of the community, many measures are taken to give vocational courses, supply soft loans and technical assistance and change the structure of agricultural production.

As for ethnic minorities, the Government provides them with land needed for their farming business according to the local master plan for the use of land. And more measures are taken to help them keep their land and make profit from the granted land.

Part of the stock of land in each district will be used for common interests or leased in special cases. Wrong use of land, especially the public one, will be corrected and punished if need be.

In urban areas, the Government makes plans to develop modern cities with good infrastructure, improves the plan for the land use and ensures it is observed. More rights and duties are delegated to municipal governments in order to help implement the master plan better. New mechanisms are adopted to establish cooperation between agencies controlling land, development plans, construction, housing and infrastructure.

Rental of public land will be determined by auction attended by developers. No public land in urban area is leased or granted to individuals. Developers must build apartment houses and other

works as decided by the master plan.

When farming land is used for urbanization as provided for by the master plan, local governments have rights to take back or buy the land use right. Local governments are also responsible for ensuring land needed for roads, waterways, irrigation systems, and power networks.

When developing industrial estates, some areas must be used for waste treatment plants and public works. Land needed for prospecting minerals must be ensured, and this land must be taken back after finishing prospecting and exploiting minerals.

As for the trade in immovables, the Government sets a price frame for each zone for a specific period (it could be adjusted to realities) and methods of pricing land. Local governments set and publicize prices of land applicable when granting, leasing, and taxing land; and paying compensation when dispossessing land and immovables. In the coming years, governmental agencies keep developing mechanisms for controlling the land price and pricing land according to developments of market forces and regulations about the land use rights.

The Government should determine the value of the land use right before granting or leasing and to state-owned companies, governmental bodies and civic organizations. Losses caused by wrong estimate of the land value must be handled according to laws.

The value of land leased to state-owned companies must be included in the book value of company assets. As for privatized companies, the value of land granted or leased is considered as capital paid by the State to the company (this value is not transferable.)

To regulate income from transfer of the land

use right and immovables, an income tax with progressive tax rates is applicable.

4. The role of the Vietnamese government in the development of the real estate market

The role of the Vietnamese Government in the real estate market is different in some way from those played by their foreign counterparts because the land is considered as a public property. Different aspects of its role are as follows:

- Because the State is a representative of the public owner of land, it should first grant rights to use land to individuals and organizations before thinking of developing the real estate market. This task hasn't been carried out well because all policies on land use are introduced as experiments. Thus, the development of the real estate market depends a lot on actions taken by the State.

- Due to the socialist orientation, the land policy gives some preferential treatment to the public and collective sectors, which also affects the development of the real estate market. At present, however, those two sectors fail to develop well as expected with the result that the Government had to give more encouragement to other classes, including providing them with land. This policy implies too many targets and potential contradiction, which could lead to abnormal changes in the market.

- After a long time of war and long period of transition, the real estate market wasn't managed well and land policies aren't consistent. In the coming years, the Government should carry out an overall reform in order to improve the situation, facilitate healthy development of the official real estate market and prevent speculations. ■