

**T**he people often use legal and negotiable documents but some cannot understand clearly the effect of each kind in life.

If civil and economic contracts are stipulated by the Ordinances on Civil and Economic Contracts then private contract is a means in private transaction concerning rights and duties of the two parties. The administrative contract on the contrary is a tool to work between public services with people on the base of public interests. In the both contracts, the way to set forth rights and duties is the same on the base of two sides' agreement. But in the administrative contract, the State has more rights than the people with the aim to manage the Civil Service and meet the public demand for the common interests. To implement the contract, the State unilaterally obtains many rights such as: changing articles in the contract, setting forth more or changing rights and duties of the both parties, putting an end to the contract unilaterally, giving up the use of contract in some cases.

Therefore in the form of negotiable documents, the private contract is made by two persons. It is not certified by the notary office as well as the People's Committee whereas the administrative contract when signed or approved by a competent official will become a kind of legal documents.

In addition, legal documents are also ones certified by administrative agencies. These papers are certified by an authorized or mandated official in compliance with law. They include various kinds such as marriage certificate, testament, contract, photocopies, etc.

Negotiable documents are signed by two parties and the signing is not witnessed by a notary. The signatures are the most important factor in a negotiable document because they are an evidence of the both parties' agreement. A document lacking signatures is useless and cannot be even used as an initial written evidence.

If the negotiable document is written by the third person, he/she must sign on it, if not, it is invalid.

The negotiable document is used as an evidence for those who signed together on it. This is also applied to the inheritor or the endorsee who enjoys the rights of those who signed on the document. As for the third person, the valid time of setting up the document is recognized since the day of registration or the day when both or one of makers of the document dies or the day which is certified by

## THE EFFECTS OF LEGAL AND NEGOTIABLE DOCUMENTS SHOULD BE DETERMINED IN THE ADMINISTRATIVE REFORM

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another document.

The effect of legal documents is that these papers are certified legally, and thus, they're trustworthy until there is accusation of their falseness. The effect of negotiable documents is of reliability, that is, the value of evidences. Negotiable documents are valid until there are evidences against them. Another effect is obligatory one, that is, the force to oblige the two parties to implement their agreement. Only with the second effect, negotiable documents are as valuable as legal ones. As for the third person, certified papers are valid since the date of certification. Negotiable documents are barely believable with the date of registration. If a legal document, for example, is certified on Feb 15, 1995 and a negotiable document is registered on March 1, 1995, then this negotiable document cannot be against the legal document certified on Feb 15, 1995, or otherwise this document is denied. Therefore it doesn't mean that once the negotiable document has not been denied yet, it is absolutely valid as a legal document in every aspect. Although the negotiable document has bilaterally obligatory effect as a legal document since it is a lawful effect of the contract, but as for trustful effect, the negotiable document is only valuable until there is an evidence against

it. In dealing with real estate, the legal document is necessary for registration in order to object to the third person. Thus, if trading papers are made in the form of negotiable documents, they cannot be used to register, that is, it cannot be against the third person. The legal consequence is anyone buying real estate cannot register, he/she will be turned down by the next buyer who registered earlier. As a result of this, at the moment some people buy houses, transfer the land-use right by means of negotiable documents illegally, these papers have not legal value when their holders dispute with each other.

As mentioned above, legal document is wholly different from negotiable one. The papers made by notary offices are also legal documents, but these papers are effective to some extent stipulated by

law. The legal documents made by the public notary office are considered guarantees firmer than other papers certified in compliance with law because they are more trustworthy in the signing of important contracts in the State sector and the private one as well.

In our country, many people still understand every document must be certified at the notary office. This is an obstacle to the administrative reform. The State should define what a legal document (certified by administrative agencies or notary offices) or negotiable one is.

The papers which need not be certified by the notary office and must be certified by an administrative agency should be clearly publicized. The photocopy of high school degree should be only certified by the ward-level People's Committee, not by the notary office, for instance. The Government also stipulates only contracts exceeding the amount of money defined by the Ministry of Finance must be certified by the notary office. The tasks of the notary office and other agencies in certifying documents should be made public.

To do so is to make good changes initially in the administrative reform and to help Vietnam take off in the region ■