

**LAW ON TRANSFORMING LAND USE PURPOSE TO
REALITY LAND USE PLANNING - PRACTICE IN
CAN THO, VIETNAM**

Le Van Duc¹, Nguyen Chi Dung², Nguyen Thanh Phuong³

^{1,2,3} Nam Can Tho University, Viet Nam

ISSN: 1533 - 9211

Abstract

The 2013 Land Law has had important renovation contents, in which: Specifying the content of the district's annual land use plan to serve as a basis for land recovery, land allocation, land lease, and land transfer. land use purposes associated with land use needs in the year of industries, fields and levels, suitable to the ability to invest and mobilize resources, overcome waste in land allocation and land lease to carry out investment projects. However, there are many difficulties, obstacles and inadequacies when changing land use purposes to implement the annual district-level land use plan, which need to be studied.

**CORRESPONDING
AUTHOR:**

Nguyen Thanh Phuong

KEYWORDS:

District-level planning,
Purpose of using land, land
use plans

Received: 08 April 2024
Accepted: 23 April 2024
Published: 02 May 2024

TO CITE THIS ARTICLE:

Le, V. D., Nguyen, C. D., & Nguyen, T. P. (2024). Law on transforming land use purpose to reality land use planning - Practice in Can Tho, Vietnam. *Seybold Report Journal*, 19(5), 23-32. DOI: [10.5110/77.1410](https://doi.org/10.5110/77.1410)

1. QUESTION

Land belongs to the entire people, and the State is the representative of the owner and uniformly manages it. The State exercises the rights of the owner through the decision on master plans and plans on land use; land recovery, land allocation, land lease, recognition of land use rights, permission to change the use purpose and stipulation of land use term; decide on land prices; policy decisions that regulate the value added from land that is not created by land users [2].

Since the 2013 Land Law was promulgated and took effect on July 1, 2014, the law on land has undergone many innovations, meeting more and more practical requirements, gradually creating a corridor. legislation for more rational, economical and efficient land management and use. Land use planning and plans are implemented in the direction of an integrated, interdisciplinary approach and become an important tool for the State to unify management, allocation and use of land. Land resources are exploited and used more effectively for socio-economic development, ensuring national defense, security and environmental protection; contribute to solving social problems, creating more equality among land users; initially overcome the situation of land allocation, lease, and change of land use purpose arbitrarily and rampantly.

The 2013 Land Law and guiding documents have created a legal basis for the change of land use purpose to implement the annual district land use plan. However, even though there are regulations on land use purpose change, the practice has revealed many weaknesses and mistakes such as: The change of land use purpose does not comply with the land use master plan and plan. approved; violating regulations on the authority to permit the change of land use purpose; organizations and individuals taking advantage of the change of land use purpose to commit acts of self-seeking, getting rich, making illicit profits, etc.

Can Tho city is one of the cities directly under the Central Government with the largest area and the economic - cultural - social center of the Mekong Delta. Can Tho city has a total natural area of 140,545 ha, of which the area used for different purposes is 133,387 ha. Can Tho City has made an annual land use plan according to the provisions of the Land Law and Circular No. 29/2014/TT-BTNMT. However, in the process of implementing the annual land use plan at district level, Can Tho city also encountered some difficulties and obstacles such as: Delay in planning development and approval; Inaccuracy and mismatch between land use indicators; The lack of transparency and openness in announcing the plan; Inconsistency and linkage between land use plan and other development plans; The lack of rationality and efficiency in land use.

In addition, the increasing demand for land use due to the increase in population, economic development, especially in the period of industrialization and modernization of the country, changing the purpose of land use gradually becomes one of the the regular needs of land users, and this is also a familiar concept in the field of land. However, the current legal regulations on conditions, processes and procedures for converting land use purposes in order to implement land use plans are still facing many difficulties and inadequacies.

This article focuses on analyzing the advantages, disadvantages and inadequacies of changing land use purposes in order to implement the annual district-level land use plan in Can Tho City. Thereby, the author proposes suitable solutions to the analyzed inadequacies in order to promptly remove difficulties and problems in the process of changing land use purposes in order to implement the daily land use plan. at district level, especially those related to the legitimate rights and interests of land users.

2. SOME CONCEPTS OF LAND USE PURPOSE AND LAND USE PLAN

2.1. Concept of land use change and land use plan

a. Change the purpose of land use

The 2013 Land Law does not provide a specific concept of land use conversion. Based on the provisions given regarding the case of change of land use purpose. From that, we can understand the concept of change of land use purpose as follows: Change of land use purpose is a change in land use purpose compared to the original land type by administrative decision in case of change of land use purpose. land use purposes must obtain permission or land registration in case the permission of the competent State agency is not required.

The State decides on land use purposes through land use planning, land use plans and permits the change of land use purposes. Because this is the content of regulations on the right to represent the owner of land, including deciding on land use purposes.

Regarding the concept of land use purpose change, the 2013 Land Law does not have a specific regulation, but only mentions the grounds for changing the land use purpose, the cases in which the land use purpose is changed requires permission and does not require permission. need to obtain permission from the competent state agency.

Accordingly, the following concept can be given: Change of land use purpose is a change in land use purpose compared to the original land type by administrative decision in case of change of land use purpose requiring permission. or the registration of land in the absence of permission from a competent State agency.

The State decides on land use purposes through land use planning, land use plans and permits change of land use purposes .

The permission to change the land use purpose must be consistent with the grounds specified in Article 52 of the 2013 Land Law, in which: Having an annual district-level land use plan approved by a competent state agency. in accordance with the provisions of the law and the land use demand shown in the investment project, the application for land allocation, land lease, change of land use purpose . The application for change of land use purpose must be approved by a competent state agency in accordance with Articles 57 and 59 of the 2013 Land Law.

The order and procedures for permitting the change of land use purpose shall comply with the provisions of Articles 68 and Article 69 of the Government's Decree No. 43/2014/ND-CP dated May 15, 2014 detailing the implementation of a Articles of the Land Law, Circular No. 30/2014/TT-BTNMT dated June 2, 2014 of the Ministry of Natural Resources and Environment providing for documents on land allocation, land lease, change

of land use purpose, collection land recovery (amended and supplemented in Circular No. 33/2017/TT-BTNMT dated September 29, 2017 of the Ministry of Natural Resources and Environment).

In case the land user is permitted by a competent state agency to change the land use purpose, the land user must fulfill financial obligations as prescribed by law; the land use regime, rights and obligations of land users shall be applied according to the type of land after the use purpose is changed in Clause 2, Article 57 of the 2013 Land Law.

b. Land use plan

The 2013 Land Law defines the concept of a land use plan as follows:

“Land use plan is the division of land use planning over time for implementation in the land use planning period.”

So the land use plan is the detailed content of the land use planning in order to concretize the land use planning in specific periods. Therefore, the Land Law 2013 stipulates that “The period of land use planning at the national and provincial levels and the planning period for land use for defense and security land is 5 years. The district-level land use planning period is made annually. Thus, instead of making and implementing for 5 years as prescribed in the 2003 Land Law, now the land use planning is prepared and implemented annually at the district level.

Based on the annual district-level land use plan approved by the provincial-level People's Committee, the competent authorities will conduct land allocation, land lease, land recovery and conversion of land use purposes, land use for land users, also known as implementation of a land use plan [5].

3. ADVANTAGES AND DIFFICULTY OF IMPLEMENTING THE TRANSFER OF LAND USE FOR IMPLEMENTATION OF LAND USE PLAN IN CAN THO CITY, VIETNAM

3.1. Advantages of changing land use purposes to implement land use plans in Can Tho city

Based on the approved master plans and plans on land use, the People's Committees of districts have allowed the change of land use purpose over time, minimizing the situation of changing the land use purpose outside the country. planning and planning on land use, limiting the arbitrary conversion of agricultural land, especially rice land to non-agricultural purposes, contributing to food security, ensuring urban land use effective.

Taking the initiative in setting aside land fund for the development of industries and fields to meet the demand for land use for infrastructure construction, the construction of industrial parks and clusters, tourist areas and residential areas, contributes to the promotion of land use. promote economic development and stabilize the social situation. Land use planning and planning also contribute to creating jobs and solving local social security problems.

The grant of land use right certificates to households, individuals and organizations in the district has contributed to exploiting and supplementing the housing and land fund,

urban development for the city, and changing the appearance of the city. city, attracting investment and increasing business efficiency for real estate businesses.

Land management agencies have made efforts to reform administrative procedures in granting certificates of land use rights, ownership of houses and other land-attached assets, and conversion of land use purposes. Land use has shortened the time to pay the result is a job worthy of recognition.

3.2. Difficulties in carrying out the change of land use purpose to implement the land use plan in Can Tho city

The implementation of the adjustment of land use planning and annual land use planning by the People's Committees of districts is still slow, of limited quality, the feasibility is not high, the management of plannings and plans is still slow. Land use after being approved is not good, leading to violations of land use master plans and plans in land allocation, land lease, and land use purpose change.

The implementation of inspection and examination of the implementation of master plans and plans on land use and handling of violations caused by failure to properly implement master plans and plans on land use has not been carried out regularly.

- For example: In 2018, the People's Committee of Ninh Kieu district conducted an inspection on land use in the area once. However, the handling of violations in the improper implementation of the master plan, the land use plan is not decisive and thorough, leading to the formation of 04 natural residential areas in 2018 in An Binh ward, Ninh Kieu district. development with an illegal leveling and installation area of 10,300 m², divided into 145 plots. This situation occurred because some ward People's Committees lacked responsibility in land management and construction did not resolutely handle violations in a timely manner. Many cases of issuing handling decisions lacked inspection, did not resolutely coerce, did not create deterrence for the remaining violations. [4]

The advisory agencies have not properly implemented the provisions of the Land Law for the cases of changing the purpose from agricultural land to residential land, have not yet proposed solutions to prevent the division of parcels, subdivision, and land conversion. Concession of land use rights to form residential areas spontaneously contrary to the policy of the city.

- For example, the People's Committee of Ninh Kieu district has changed the purpose of land use for many households and individuals (08 cases) in some wards in the district, not based on the use plan. annual land use purpose, leading to change of land use purpose not in accordance with the target or without the target compared with the land use plan approved by the City People's Committee, violating the provisions of Article 52 of the Land Law 2013 on the basis for land use purpose change. In which, it is worth noting that there are a number of land plots for conversion with a large area, in particular, there are cases of transfer with a very large area, causing serious consequences, showing signs of abuse or abuse of position. authority to permit the change of land use purpose contrary to the provisions of Article 229 of the Penal Code 2015: "Crime of violating regulations on land management" [4].

Many people face many difficulties when carrying out the change of land use purpose, due to the overlapping and inconsistent management of land use planning and plans by agencies and functions.

- For example, the case of Ms. Tran Thi Tu (address of Area 6, An Khanh ward, Ninh Kieu district, Can Tho city) is a legal user of land plot No. 3240, area 78.4m² and land plot No. 3241, area 75.7m², type of land for perennial crops, and map sheet No. 35 An Khanh ward. During the land use process, Ms. Tu has fully fulfilled the obligations of residential land use tax for the 2 land plots. In September 2019, Ms. Tran Thi Tu made an application to the People's Committee of An Khanh ward to register the land use demand in 2020 for the land plot No. 3240 and land plot No. 3241. The People's Committee of An Khanh ward has made a list of households. has registered to change the land use purpose to residential land for transfer to competent authorities for consideration and settlement. After registering the land use demand, Ms. Tu applied to change the land use purpose from land for perennial crops to residential land for the two above-mentioned land plots, but was not considered and resolved by the Department of Natural Resources and Environment of Ninh Kieu district. regulations because it is assumed that the location of 2 land plots is affected by planning.

- Notably, in the process of learning about the registration procedure for land use purpose change, Ms. Tu received written replies from the Department of Natural Resources and Environment and the Department of Construction with different planning information for the location. The arrangement of land plot No. 3240 and land plot No. 3241 is as follows: On March 31, 2020, the Department of Natural Resources and Environment issued Document No. 466/PTNMT to reply to Ms. Tu saying that, based on Decision No. 385/QD-UBND dated 2/ March 2020 of the People's Committee of Can Tho City on the approval of the land use plan for 2020 of Ninh Kieu district, the location of the two above-mentioned land plots in the planning has the function of traffic land and public entertainment area. . Therefore, there are not enough conditions to change the land use purpose.

- Meanwhile, in Document No. 1558/SXD-QHKT dated June 2, 2020 of the Department of Construction on providing urban planning information, said that the location of the two land plots mentioned above has not yet had detailed planning and regulations. approved zoning plan. Accordingly, the Ninh Kieu district subdivision planning project is in the process of completing the appraisal process (expected to be approved in the third quarter of 2020). After the subdivision planning project is approved, the Department of Construction will announce the planning according to regulations [3].

Dossier, order and procedures for change of land use purpose are incomplete or inadequate as prescribed in Article 69 of Decree No. 43/2014/ND-CP dated May 15, 2014 of the Government. detailing the implementation of a number of articles of the 2013 Land Law and Article 6 of the Circular No. 30/2014/TT-BTNMT dated June 2, 2014 of the Ministry of Natural Resources and Environment on regulations on land allocation and lease documents. land, change of land use purpose, land recovery.

The collection of opinions on land use planning and plans is specified in Article 43 of the 2013 Land Law and Article 8 of Decree No. 43/2014/ND-CP dated May 15, 2014 of the Government on the implementation of the Land Law. In 2013, the People's Committee of Ninh Kieu district also did not comply with regulations.

In fact, violations in land management occur mainly in the following three groups of issues:

(1) Violations in surveying, measuring, making cadastral maps, current land use maps and land use planning maps; investigation and assessment of land resources; survey construction land prices. The status of a parcel of land, a land plot is shown on many types of maps, many map sheets with information about the number of plots, areas, and different types of land are very common.

(2) Violations in management of master plans and plans on land use. In the case of a project, the planning adjustment or planning adjustment to legalize the land acquisition occurs in some localities.

(3) Violations in land registration, granting and revocation of land use right certificates; manage land allocation, land lease, land recovery, change of land use purpose; compensation, support and resettlement upon land recovery. This is a group of problems that still exist, have limitations and are the main cause of many and increasing complaints.

4. CAUSES FOR DIFFICULTY AND RECOMMENDATIONS

The causes of the above limitations and weaknesses are mainly due to:

There has not been a high consensus on awareness about a number of issues related to land management and use in the socialist-oriented market economy, especially about the importance and meaning of total ownership. People on land are represented by the State as the owner and uniformly managed. Awareness of policies and laws on land is sometimes incorrect and incomplete. The awareness of a part of officials and people to obey the law on land is still limited. Land has historical, diverse, complex and sensitive origins.

Land policies and laws still have many limitations, shortcomings, overlaps, and inconsistencies, affecting management efficiency, creating loopholes for many individuals and organizations to take advantage of, corrupt and take advantage of causing loss and waste of state property [2].

So, land has been allocated to land users before the State formulates and approves master plans and plans. Therefore, there should be specific regulations to ensure that the rights of land users when having land in the land use plan are not restricted. On the basis of understanding the causes leading to the above inadequacies, we recommend the following solutions:

4.1. Renovate and improve the quality of land use planning and plans

National master plans, as well as land use master plans, and master plans on sectors and fields that use land, must be consistent, unified, synchronous, closely linked, and mutually promote each other for development. Land use master plans and plans are made at the national, provincial and district levels to meet the requirements of implementing the strategy for rapid and sustainable socio-economic development; ensuring national defense

and security; environmental protection, adaptation to climate change. The content of land use planning must combine criteria of land types associated with space, land use zoning, and natural ecosystem, showing information to each land parcel. The determination of land use norms must be suitable to the needs of land use, avoiding waste in land allocation, management and use. Clearly and closely stipulating the approval and issuance of annual land use plans. The State shall ensure sufficient resources for elaboration of land use plannings and master plans on sectors and fields that use land.

4.2. Completing regulations on land use purpose change

Strengthen the management and strictly control the change of land use purposes, especially land for rice cultivation, protection forest land, special-use forest land, production forest land being natural forests, and land of enterprises. State divestment, equitization and multi-purpose land use; strengthen decentralization and decentralization along with inspection and supervision, and speed up the reform of administrative procedures in land use purpose change.

4.3. Accelerating administrative reform, digital transformation and capacity building for state management of land

Promote digital transformation in the field of land use and management; allocate reasonable resources to build and complete on schedule the national land information system and database; ensure centralized and unified management, operation, connection and sharing of information from central to local levels. Compulsory registration of land use rights and all land changes, and have specific and synchronous sanctions to prevent transactions that are not registered at state agencies [2].

Consolidate and perfect the system of land management agencies at the central and local levels to ensure leanness, stability, consistency, effectiveness and efficiency; promote the application of modern technology in land management. To step up decentralization and decentralization in the exercise of the right to represent the entire people's ownership of land, to unify management in the direction of improving local responsibilities and to closely inspect, supervise and control the central government; reducing focal points, reducing intermediaries, associated with administrative reform, reducing troubles and negatives. Continue to improve and improve the capacity of public service organizations in the field of land. Having an investment mechanism, remuneration policy, training, fostering and capacity building, and qualifications of cadres and civil servants in the land management sector; upgrade facilities and equipment to meet modern management requirements [2]

Amending and supplementing in the direction of simplifying administrative procedures when changing the purpose of using land for rice cultivation, protection forest land, and special-use forest land to another purpose, associated with a mechanism for strict control.

4.4. Completing regulations on land use purpose change

Amend and supplement regulations to create favorable conditions for land users to change land use purposes according to planning and law. Creating conditions for direct producers to flexibly change the crop structure on the rice-growing land fund according to the market but without changing the topography, soil structure, degradation and soil pollution in order to be able to convert. return to rice cultivation when necessary. Prescribing criteria for assessing economic, social and environmental efficiency when selecting land use planning plans, investment projects using land, projects with conversion of the purpose of using rice land or forest land protection, special-use forests, projects using land used by state agencies and units, projects on sea encroachment.

Conflicts of Interest

The authors have disclosed no conflicts of interest.

Author's Affiliation

Le Van Duc¹, Nguyen Chi Dung², Nguyen Thanh Phuong³

^{1,2,3} Nam Can Tho University, Viet Nam

COPYRIGHT

© 2024 The Author(s). This is an open-access article distributed under the terms of the Creative Commons Attribution 4.0 International License (CC-BY 4.0), which permits unrestricted use, distribution, and reproduction in any medium, provided the original author and source are credited. See <http://creativecommons.org/licenses/by/4.0/>. Seybold Report is a peer-reviewed journal published by Seybold Publications.

HOW TO CITE THIS ARTICLE

Le, V. D., Nguyen, C. D., & Nguyen, T. P. (2024). Law on transforming land use purpose to reality land use planning - Practice in Can Tho, Vietnam. *Seybold Report Journal*, 19(5), 23-32. [DOI: 10.5110/77.1410](https://doi.org/10.5110/77.1410)

REFERENCES

- [1] Government Electronic Newspaper. <https://baochinhphu.vn/chuyen-muc-dich-su-dung-dat-can-ap-dung-nhung-quy-dinh-nao-102220618145332551.htm>. What regulations should be applied to change land use purpose? Accessed on Wednesday, August 24, 2022.
- [2] Resolution No. 18-NQ/TW, dated June 16, 2022, the Fifth Conference of the Central Committee of the Party, term XIII, on continuing to renovate and perfect institutions and policies, and improve effectiveness and efficiency. land management and use, creating a driving force for our country to become a high-income developed country.
- [3] <https://thanhtra.com.vn/xa-hoi/doi-song/cong-dan-bi-lam-kho-khi-dang-ky-chuyen-muc-dich-su-dung-dat-169164.html>. Article: Citizens are "made difficult" when registering for change of land use purpose?. Accessed at 06:39, Tuesday, August 4, 2020.
- [4] Notice of conclusion No. 772/TB.KL-TTr dated May 9, 2022 of Can Tho City Inspector on change of land use purpose, transfer of land use right, grant of Certificate of land use right and right owning houses and other properties attached to land under the jurisdiction of the People's Committee of Ninh Kieu district.
- [5] Phan Trung Hien and Nguyen Tan Trung (2016). Advantages and disadvantages when making and implementing annual district land use plans. Journal of Science Can Tho University. Can Tho university.
- [6] National Assembly, 2013. Land Law 2013, dated November 29, 2013