



LEGAL NEWSLETTER

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Two important changes in the Law amending and supplementing a number of articles of the Law on Property Auction 2024

The Law amending and supplementing a number of articles of the Law on Property Auction 2024 ("**Law amending LPA 2024**"), passed on June 27, 2024, is the second amendment of the Law on Property Auction 2016, amended in 2023 ("**LPA 2016**"), which has brought many changes to the Law on Property Auction 2016. Of which, there are 02 important changes that affect auction activities: the addition of prohibited acts in property auctions and the addition of regulations on online auctions. In this article, TNTP will review the two main changes in the Law amending LPA 2024.

1. Supplementing prohibited acts in property auctions

Article 9 of the LPA 2016 stipulates prohibited acts in property auctions have been amended by the Law amending LPA 2024, supplementing prohibited acts for different groups of subjects participating in property auctions. Specifically as follows:



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For auctioneers: The Law amending LPA 2024 has amended and supplemented prohibited acts for auctioneers as follows:

- Making a false list of people registering to participate in auctions; making false records or fake records participating in property auctions; Colluding, connecting with the owner of the auctioned property, auction participants, price appraisal organizations, auction property appraisal organizations, other individuals and organizations to falsify information about the auctioned property, auction invitation documents, auction participation documents, lowering prices, raising prices, falsifying the results of the auction of assets; and
- Adding the act of leaking personal information of auction participants to the list of prohibited acts in property auction activities.

For auction organizations: In addition to similar changes to auctioneers, the Law amending LPA 2024 has also added 02 prohibited acts including:

- Falsifying documents or intentionally providing false information to falsify documents to participate in the selection of an organization to practice property auction; and
- Using the deposit of auction participants for any other purpose.

For the owner of the auctioned property: The Law amending LPA 2024 has amended and supplemented the following prohibited acts:

- Colluding with auctioneers, property auction organizations, individuals, other organizations to distort information about auctioned property, auction invitation documents, auction participation documents, lowering prices, raising prices, distorting property auction results;
- Receiving any amount of money, property or benefits from auctioneers, property auction organizations, auction participants to distort the results of selecting property auction organizations, property auction results;
- Adding the act of restricting individuals and organizations from participating in auctions in violation of the provisions of law.

For auction participants:

- Receive authorization to participate in the auction from another auction participant for the property in which he/she is also an auction participant; receive authorization to participate in the auction from two or more auction participants for the same property;
- Attend the auction in the case where the wife, husband, full brother, full sister, full sibling is also an auction participant for that property;
- Attend the auction in the case where the parent company, subsidiary, enterprises in which individuals, organizations or groups of individuals, organizations capable of controlling the activities of the enterprise according to the provisions of the law on enterprises are also auction participants for that property.

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2. Supplementing regulations on Online Auction

The Law amending LPA 2024 has supplemented regulations on online auction, a new form of property auction in addition to the conventional auction method.

2.1. General regulations on online auction

Clause 28, Article 1 of the Law amending LPA 2024 has supplemented Article 43a on general regulations on online auction as follows:

Online auctions are conducted through the National Property Auction Portal or the online auction information page. The construction, management and operation of the National Property Auction Portal and the online auction information page are carried out in accordance with the provisions of the law on information and communications, the law on e-commerce and the law on property auctions.

The costs of construction, management, operation, maintenance and upgrading of the National Asset Auction Portal are used from the state budget and other sources according to the provisions of law.

Property auction organizations, Property Auction Councils, organizations in which the State owns 100% of the charter capital established by the State Bank of Vietnam to handle bad debts of credit institutions organize online auctions through the use of the National Asset Auction Portal or use their own online auction information page or rent or use the online auction information page of other asset auction organizations.

The cost of using the National Asset Auction Portal, the cost of renting an online auction information page to organize an auction in the form of online auction is included in the cost of property auction.



Two important changes in the Law amending and supplementing a number of articles of the Law on Property Auction 2024

2.2. Regarding online auction procedures

Supplement Article 43b on online auction procedures as prescribed in Clause 28, Article 1 of the Law amending LPA 2024 as follows:

Property auction organizations, Property Auction Councils, organizations in which the State owns 100% of the charter capital established by the State Bank of Vietnam to handle bad debts of credit institutions shall carry out online auction procedures as prescribed in Article 43b, as well as regulations on property auction procedures and order under the Law on Asset Auction 2016.

Property auction organizations, Property Auction Councils, organizations in which the State owns 100% of the charter capital established by the State Bank of Vietnam to handle bad debts of credit institutions shall post the Auction Regulations and publicly announce the auction on the National Asset Auction Portal or online auction information page.

Auction participants register to participate in the auction, submit auction participation documents, bid on the National Asset Auction Portal or the online auction information page; pay a deposit according to regulations; view the auctioned property online or view the auctioned property directly according to the Auction Regulations.

The organization practicing the property auction assigns an auctioneer to conduct the online auction. The Property Auction Council, an organization in which the State owns 100% of the charter capital established by the State Bank of Vietnam to handle bad debts of credit institutions, assigns members to conduct the online auction.

The results of the online auction are publicly posted on the National Asset Auction Portal or the online auction information page and sent to the email address of the auction participant.

With the above changes, the Law amending the Law on Property Auction 2024 promises to change auction activities in a more modern direction, suitable for the era of digital technology development, while enhancing the responsibility of the subjects participating in auction activities, which can contribute to improving the legality, transparency and efficiency of property auction activities.

Law on the Organization of People's Court 2024

In the context of development and deep international integration, the need to adjust and improve the court system has become urgent. To meet the new requirements of judicial activities, the Law on the Organization of the People's Courts 2024 was enacted with several groundbreaking provisions, marking an important step in the reform of Vietnam's court system. This article will detail some new points of the Law on the Organization of the People's Courts 2024, focusing on the following main contents:

1. Collection of evidence in adjudication

One of the most noticeable aspects of the Law on the Organization of the People's Courts 2024 is the distinct provision on the collection of documents and evidence. Specifically, Article 15 of the Law stipulates that the court shall guide, request, and assist relevant agencies, organizations, and individuals in collecting and submitting documents and evidence in administrative, civil cases, and other cases as prescribed by law. Furthermore, Article 15 also stipulates the activities of receiving, examining, and appraising the documents and evidence by the court to resolve the cases. This new regulation aims to ensure that the process of collecting evidence is carried out more efficiently, contributing to the protection of the rights of parties involved in litigation.



Law on the Organization of People's Court 2024

2. Establishment of specialized courts

Another major change in the Law on the Organization of the People's Courts 2024 is the establishment of specialized first-instance courts to handle specific and complex cases. These specialized courts will include:

Specialized Administrative Court: This is the first instance court that specializes in resolving disputes related to administrative decisions made by state agencies, ensuring the legitimate rights of individuals and organizations affected by unreasonable or unlawful administrative decisions.

Specialized Intellectual Property Trial Court: This court is established to resolve at first instance disputes relating to cases including intellectual property disputes, including copyrights, related rights, trademarks, patents, and violations of intellectual property rights, especially in the context of the growing digital economy and international integration.

Specialized Bankruptcy Trial Court: This court has the function of accepting and resolving cases at first instance related to the bankruptcy of enterprises, ensuring the rights of related parties and supporting the restructuring process and resolution of financial disputes when enterprises are unable to repay their debts.

In addition to the function of first instance trial of specific disputes under its jurisdiction, the Law on the Organization of the People's Courts 2024 also stipulates the roles of the specialized first instance courts in: (i) Issuing enforcement decisions on judgments and rulings regarding administrative intellectual property cases that have become legally effective as prescribed by law; (ii) Imposing administrative sanctions on acts that obstruct judicial proceedings as prescribed by law; (iii) Summarizing trial practices and proposing case law; (iv) Identifying and recommending constitutional and legal issues in regulatory documents during case adjudication, and; (v) Providing legal interpretation in case adjudication.

The establishment of these specialized courts not only meets the diverse needs of modern society but also helps improve the quality of adjudication, ensuring that complex cases are handled by judges with expertise in specific fields.

3. Raising the standards and benefits for judges

The Law on the Organization of the People's Courts 2024 introduces higher standards regarding the competency, morality, and experience required of judges. The process of selecting and appointing judges will be conducted through rigorous assessments of legal knowledge, practical experience, and moral character, ensuring that only qualified and reputable individuals are entrusted with this position.

Moreover, the law also enhances the benefits for judges, clearly outlining salaries, allowances, and working conditions to ensure that judges can focus on their judicial duties. This not only contributes to improving the quality of adjudication but also minimizes negative factors such as corruption or abuse of power in the course of their work.

Law on the Organization of People's Court 2024

4. Innovating the supervision and inspection mechanism for court activities

Article 21 of the Law on the Organization of the People's Courts 2024 provides for a new mechanism of supervision and inspection of court activities. Instead of relying solely on the supervision from state agencies, the new law expands the scope of supervision, allowing the public to participate in supervising court activities.

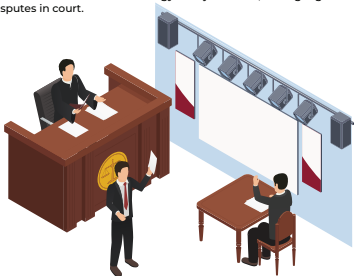
This not only creates positive impacts on judicial practices but also enhances transparency, helping the public gain more trust in the judicial system. The new oversight mechanism will also help promptly detect and address errors and violations in judicial activities, thereby improving the effectiveness of the court system.

5. Promoting the application of information technology in adjudication

In the context of the Fourth Industrial Revolution, the application of information technology in judicial activities has become essential. The Law on the Organization of the People's Courts 2024 introduces specific regulations on promoting the use of information technology in court operations.

Specifically, the law introduces the concept of online trials, allowing trials to be conducted even when litigants cannot appear directly in court. This aligns with the trend of modern technology development, enabling litigants to protect their legitimate rights and interests without having to attend in person, thus saving time and costs for both the court and litigants, especially in cases involving foreign elements.

The Law on the Organization of the People's Courts 2024 brings numerous new points aimed at enhancing the quality and efficiency of the court system in Vietnam. These changes improve the independence, transparency, and responsibility of the judicial system and respond to the increasingly diverse needs of today's society. The establishment of specialized trial courts, along with the application of information technology in adjudication, are highlights that facilitate the resolution of disputes in court.



The applicable law for resolving international sale contract disputes at Vietnamese courts

An international sale contract ("**ISC**") is an agreement for the sale and purchase of goods with foreign elements, where one party acts as the seller and the other as the buyer. The seller has obligations related to the delivery of goods, transferring ownership to the buyer, and receiving payment; conversely, the buyer is obligated to pay the seller, receive the goods, and obtain ownership as agreed. The nature of ISC is a civil relationship, but it is more unique due to foreign elements. Therefore, the law applied to resolve disputes related to ISC is more diverse and complex.

1. Procedural law applied to resolve International Sale Contract disputes in Vietnamese courts

According to Clause 3, Article 2 of the Civil Procedure Code 2015, the procedures for resolving civil disputes with a foreign element must follow the regulations set out in the Civil Procedure Code 2015. If there are international treaties to which Vietnam is a signatory provide otherwise, the provisions of such international treaties shall apply.

Thus, given its nature as a civil relationship with foreign elements, the procedural law applied to resolve ISC disputes in Vietnamese courts can either be Vietnamese procedural law or foreign procedural law as stipulated in the international treaty to which Vietnam is a party. Specifically:

If an international treaty of which Vietnam is a member stipulates the application of foreign procedural law, Vietnamese courts will apply the foreign procedural law to conduct proceedings in Vietnam. However, the application of foreign law must not contravene Vietnamese legal principles. For example, Clause 1 Article 7 of the Treaty Between The Socialist Republic of Vietnam and The Russian Federation on Mutual Legal and Judicial Assistance in Criminal and Civil Matters, effective in 2012 provides: *"When carrying out a request for legal assistance, the requested authority shall apply the law of its nation. At the request of the requesting authority, the requested authority may apply the procedural rules of the Requesting Party, provided that those rules are not contrary to the law of the Requested Party"*.

Aside from cases where foreign procedural law is applied according to international treaties, disputes related to ISC that fall under the jurisdiction of Vietnamese courts will be resolved according to Vietnamese procedural law.

The applicable law for resolving international sale contract disputes at Vietnamese courts

2. Substantive law applied to resolve International Sale Contract disputes in Vietnamese courts

When resolving disputes related to ISC, the court must consider issues related to the legal personality of the parties to enter into the contract and the substantive content of the contract.

2.1. Applied law to determine the legal personality of Parties to enter into an International Sale Contract

According to Articles 673 and 676 of the Civil Code 2015, the legal personality of the parties is determined as follows:

For natural person: The legal personality of a natural person shall be determined according to the law of the country of which he/she holds nationality. A foreigner in Vietnam shall have a legal personality in the same manner as a Vietnamese citizen unless otherwise provided by the law of Vietnam.

For juridical persons: The legal personality of a juridical person and the responsibilities of a juridical person and its members pertaining to its obligations shall be determined in accordance with the law of the country of which such juridical person holds nationality. The nationality of a juridical person shall be determined according to the law of the country in which such juridical person was established. Where a foreign juridical person establishes or performs civil transactions in Vietnam, its legal personality shall be determined in accordance with the law of Vietnam.



The applicable law for resolving international sale contract disputes at Vietnamese courts

2.2. Applied law to resolve issues related to the content of the International Sale Contract

According to Article 683 of the Civil Code 2015, parties may agree to select the applied law for ISC. In case the parties fail to agree or cannot reach an agreement, the law of the country with which such ISC is most closely connected shall apply.

Application of the law chosen by the Parties: The general principle for determining the applicable law for the dispute is to prioritize the law chosen by the parties. Therefore, Clause 1 Article 683 of the Civil Code 2015 allows Parties to agree on the law they wish to apply to resolve disputes. Furthermore, contracting parties in ISC may agree to change the applied law provided that such change does not affect the rights and interests of a third party before changing, otherwise agreed by the third party.

Application of the law of the country with which such contract is closely associated: If the Parties do not choose the applicable law, the law of the country with which such ISC contract is most closely connected will apply. According to Point a Clause 2 Article 683 of the Civil Code 2015, the law of the country with which the contract is most closely connected is the law of the country where the seller being a natural person resides or the seller being a juridical person is established. However, Clause 3 Article 683 of the Civil Code 2015 allows for the application of the law of another country if there is evidence that the law of that country has an association with the contract more closely than the country specified in Clause 2.

Thus, when resolving disputes related to ISC where the parties have not agreed on the applicable law, the chosen law could be Vietnamese law or foreign law, depending on which law is closely associated with ISC.

Above is the article ***“The applicable law for resolving international sale contract disputes at Vietnamese courts”***. TNTP hopes that the article is helpful to readers.

Sincerely,

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