

THE GOVERNMENT

DECREE No. 164/2004/ND-CP OF SEPTEMBER 14, 2004 ON DISTRAINT AND AUCTION OF LAND USE RIGHT TO ENSURE THE EXECUTION OF JUDGMENTS

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the October 28, 1995 Civil Code;

Pursuant to the November 26, 2003 Land Law;

Pursuant to the January 14, 2004 Ordinance on Execution of Civil Judgments;

At the proposal of the Justice Minister,

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of application

1. This Decree prescribes the distraint and auction of land use right to ensure the execution of to be-executed civil judgments and decisions.

2. The provisions of Chapter II and Chapter III of this Decree shall also apply to the distraint and auctioning of the right to use land with properties attached thereto to ensure the execution of to be-executed civil judgments and decisions according to the provisions of Clause 1 of this Article.

Article 2.- Land use right to be distrained or auctioned

Judgment debtors' land use right, which can, under the provisions of the land legislation, be

transferred, shall be distrained or auctioned to ensure the judgment execution in the following cases:

1. Such land use right shall be distrained under court decisions to ensure the judgment execution.

2. Land use right of judgment debtors shall be distrained or auctioned when the following conditions are met:

a/ Judgment debtors do not have other properties or have other properties, excluding residential houses, but their values are not sufficient for judgment execution;

b/ Judgment debtors possess the land use right certificates granted according to the provisions of the 1987 Land Law, the 1993 Land Law or the 2003 Land Law, or the residential house ownership and urban residential land use right certificates granted according to the provisions of the Government's Decree No. 60/CP of July 5, 1994, or one of the land use right papers prescribed in Clauses 1 and 2, or fall into one of the cases prescribed in Clauses 4 and 5, Article 50 of the 2003 Land Law.

3. Executors personally carrying out the judgment execution (hereinafter referred to as executors) shall have to determine the conditions for distraint or auction of land use right.

4. In cases where judgment debtors with the land use right fall into the cases prescribed at Point b, Clause 2 of this Article with part or whole acreage of their land lying under the planning and subject to land recovery by the State, but land recovery decisions have not yet been issued, such land use right shall still be distrained or auctioned.

Article 3.- Identification of papers evidencing the land use right to be distrained or auctioned

The identification of the papers mentioned at Point b, Clause 2, Article 2 of this Decree shall be as follows:

a/ Judgment debtors shall have to produce them to executors;

b/ In cases where judgment debtors fail to produce them, executors shall verify them at the People's Committees of communes, wards or district townships (hereinafter referred collectively to as commune-level People's Committees) or the land use right registries or agencies competent to manage such houses and land.

Article 4.- Land acreages left to judgment debtors

1. In cases where judgment debtors are laborers personally engaged in agricultural, forestry, aquacultural production or salt-making activities with their livelihood incomes earned largely from such production activities, and certified by the People's Committees of communes where exists the distrained land, the executors shall, upon the distraint, leave to judgment debtors a certain acreage of land for planting annual crops, land for planting perennial trees, production forest land, salt-making land, land for aquaculture or other agricultural land for production, except for cases where judgment debtors agree to have their full land use right distrained or auctioned.

2. Land acreage left to judgment debtors prescribed in Clause 1 of this Article shall be decided on the basis of the average per-capita food output of the latest five years in their respective localities according to the following specific conditions:

a/ In cases where judgment debtors are individuals or members of households, the land acreage to be left to them shall be equal to average land acreage for each laborer personally engaged in agricultural, forestry, aquacultural production or salt-making activities in communes, thus enabling them to produce food for their living in six months, for users of land for planting annual crops or salt-making land; or in twelve months for users of land

for planting perennial trees, production forest land, aquaculture land or other agricultural land;

b/ In cases where judgment debtors are households, the land acreage to be left to them shall be the total of land acreages left to the household members as prescribed at Point a, Clause 2 of this Article.

3. The provisions of Clauses 1 and 2 of this Article shall not apply to the following cases:

a/ Judgment debtors are not laborers personally engaged in agricultural, forestry, aquacultural production or salt-making and their main livelihood sources are not incomes from such production activities;

b/ The cases prescribed in Clause 1, Article 2 of this Decree.

Article 5.- Distraint or auction of already mortgaged land use right

1. For land use right already lawfully mortgaged by judgment debtors to other persons before such judgment debtors receive judgment execution decisions, executors shall only distraint it or put it on auction in cases where the judgment debtors, besides their residential houses, have such land use right as their only property with value larger than the total money amount they must pay for the obligations secured with mortgage measure, obligations to pay money under executed civil judgments or decisions as well as expenses for distraint or auction of such land use right.

Lawful mortgagees of land use right shall be given priority to have their debts repaid before payment of other amounts subject to the judgment execution, except for cases where mortgagees and judgment debtors otherwise agree in compliance with law provisions.

2. For the land use right mortgaged by judgment debtors after they receive judgment execution

decisions or illegally mortgaged, executors may distraint such land use right to ensure the judgment execution. In these cases, land use right mortgagees may initiate lawsuits to request the court to settle disputes over the land use right mortgage.

Within three months after the date of distraint, if a land use right mortgagee does not initiate a lawsuit, the distrainted land use right shall be put on auction to ensure the judgment execution. In case of a lawsuit, the land use right shall be handled after the court judgment or decision on settlement of land use right mortgage dispute takes legal effect.

Article 6.- Land acreages to be distrainted and land use right distraint order

1. Executors shall be allowed to distraint or put on auction land use right with value sufficient for the judgment execution, judgment execution expenses and other money amounts which must be paid by judgment debtors.

2. Land use right of judgment debtors shall be distrainted first. In cases where land use right of a judgment debtor is insufficient for the judgment execution, his/her portion of land use right possessed jointly with other persons shall be distrainted.

Article 7.- Competence and responsibility for auctioning already distrainted land use right

1. Executors shall carry out the procedures for signing contracts on authorizing organizations with the property-auctioning function to auction the land use right according to the law provisions on property auction.

2. For localities where exists no organization with the property-auctioning function or where organizations with the property-auctioning function refuse to sign contracts on authorized land use right auction for judgment execution, executors shall conduct the land use right auction according

to the provisions of this Decree and the legislation on property auction.

Article 8.- Securing interests of auction winners or receivers of distrainted land use right

1. Legitimate rights and interests of auction winners and receivers of distrainted land use right shall be recognized and protected by law.

2. Auction winners, receivers of distrainted land use right or the ownership right over properties attached to land shall be granted land use right or property ownership right certificates according to law provisions.

For judgment debtors' land leased by the State, auction winners or receivers of land use right or the ownership right over properties attached to land may sign contracts for continued land lease according to the provisions of the land legislation.

Chapter II

DISTRAINT OF LAND USE RIGHT TO ENSURE THE JUDGMENT EXECUTION

Article 9.- Determination of land acreages to be distrainted

Before carrying out the land use right distraint, executors shall have to temporarily determine the land acreages to be distrainted. Land acreages to be distrainted shall be determined on the basis of calculating the following money amounts:

1. Money amount subject to the judgment execution;
2. Land use right value;
3. Land use levy and/or land rent;
4. Tax amounts on land use right, which must be paid by judgment debtors according to law provisions;
5. Judgment execution expenses and other amounts which must be paid by judgment debtors.

Article 10.- Council for land use right distraint

1. Before distraining land use right, the head of a judgment-executing agency must issue a decision on establishment of a council for land use right distraint which is composed of:

a/ An executor as its chairman;

b/ A representative of the land management agency under the People's Committee of the same level as its member;

c/ A representative of the financial agency of the same level as its member.

2. The council for land use right distraint shall assist the executor in determining the location, acreage and boundary of land plot to be distrained for the judgment execution.

Article 11.- Notification of land use right distraint

At least seven working days before the date of land use right distraint, executors must notify the land use right distraint according to the following regulations:

1. Notifying in writing the land use right distraint directly to judgment creditors, judgment debtors, mortgagees, receivers of capital contributed with the land use right, persons having rights and obligations related to the land use right, members of councils for land use right distraint, People's Procuracies of the same level and the People's Committees of communes where exists the to be distrained land;

2. Publicly announcing the land use right distraint on the local mass media and posting up the land use right distraint at the head offices of land-executing agencies and the People's Committees of communes where exists the to be distrained land.

Article 12.- Distraint of land use right being common property

1. In cases where judgment debtors and persons sharing the land use right with them agree in writing on their respective land use right portion according to the provisions of the land legislation and such agreements are certified by the People's Committees of communes where the land exists or where their respective land use right portion can be determined, only land use right portions of judgment debtors shall be distrained.

2. Cases where judgment debtors and persons sharing the land use right with them fail to reach written agreements or executors cannot determine their respective land use right portions according to the provisions of Clause 1 of this Article shall be handled as follows:

a/ If judgment debtors are wives or husbands of persons sharing the land use right with them, executors shall guide them in requesting the court to divide the land use right being their common property according to law provisions.

Within three months after the date they are guided, if wives or husbands do not request the court to divide land use right being their common property, the land use right portions of judgment debtors to be distrained shall be the average land acreage of each party in their total land acreage;

b/ In cases where judgment debtors are household members and their land acreages cannot be determined, the judgment debtors' land use right portions to be distrained shall be the average land acreage of each household member.

3. In cases where judgment debtors' land use right is used to contribute capital before they receive judgment execution decisions, and such capital contribution with land use right does not establish a new legal person, the judgment debtors' land use right already contributed as capital shall be distrained or auctioned.

4. Where there exist properties of other persons

attached to the land of judgment debtors, the handling of such properties shall comply with the provisions of Article 21 of this Decree.

Article 13.- Distraint of land use right in cases where a judgment debtor has many land plots or land of various categories

1. In cases where a judgment debtor has many land plots or land of various categories with a value larger than the money amount subject to the judgment execution, including the land use right associated with properties, certain land plots or land categories shall be distrained at the request of such judgment debtor, if such request does not obstruct the judgment execution.

2. In cases where judgment debtors do not request the distraint of land plots or land categories according to the provisions of Clause 1 of this Article, executors shall, three working days after judgment debtors are notified to select land plots or land categories for distraint, have to make written records thereon and decide to distraint appropriate land plots or land categories to ensure the judgment execution.

Article 14.- Distraint of the right to use land currently rented, exploited or used by other persons

1. In cases where judgment debtors' right to use the land currently rented, exploited or used by other persons for land exploitation or use, judgment executors must notify the current tenants, exploiters or users of the land acreage, land plot, land category to be distrained and time of distraint at least 30 days before the time of distraint.

2. Where there exist properties of current land tenants, exploiters or users attached to land of judgment debtors, the interests of such current land tenants, exploiters or users shall be settled according to the provisions of Clause 2, Article 21 of this Decree.

Article 15.- Explanation about the right to lodge complaints about, or initiate lawsuits for disputes over, distrained land use right

Upon the distraint of land use right, if any dispute over the distrained land use right arises, executors shall still go on with the distraint but have to explain to the involved parties about the right to lodge complaints or initiate lawsuits to request competent State agencies defined in Clauses 1 and 2, Article 136 of the Land Law to settle land disputes. The explanation must be made in writing.

Past the time limit of three months after the date of distraint, if no complaint is lodged or no lawsuit is initiated, the already distrained land use right shall be handled for the judgment execution. If any one complains about or initiates lawsuit against the already distrained land use right, such land use right shall be handled for judgment execution only after the competent State agency issues a decision to determine that such land use right belongs to the judgment debtor.

Article 16.- Persons participating in land use right distraint

1. The land use right distraint must be carried out afield and in the presence of the following persons:

a/ Members of the Council for land use right distraint;

b/ Representative of the land use right registry of the locality where the to be-distrained land exists;

c/ Representative of the People's Committee of the commune where the to be-distrained land exists;

d/ Judgment debtor, judgment creditor, persons with rights and obligations related to the to be-distrained land use right or their lawful representatives.

2. In cases where the judgment debtor, persons with rights and obligations related to the to be-

distrained land use right or their lawful representatives, who have been notified of the distraint, are intentionally absent, the executor shall make written records on the intentional absence and still go on with the land use right distraint.

3. Representatives of People's Procuracies of the same level shall be invited to participate in the supervision; adjoining land users shall be invited to witness the land use right distraint.

Article 17.- Determination of locations, acreages and boundaries of land plots to be distrained

Upon the land use right distraint, papers evidencing the land use right of judgment debtors shall serve as basis for determining locations, acreages and boundaries of land plots to be distrained.

The land use right distraint must be recorded in writing with locations, acreages and boundaries of distrained land plots clearly stated and with signatures of members of the distraint council and persons defined at Points b, c and d, Clause 1, Article 16 of this Decree. In cases where judgment creditors or their lawful representatives, judgment debtors, persons with rights and obligations related to distrained land use right are absent or refuse to sign the written records, such absence or refusal must be clearly stated in written records.

Article 18.- Valuation of distrained land use right

The valuation of land use right already distrained to ensure the judgment execution shall be conducted according to the following regulations:

1. The already distrained land use right shall be valued according to agreements among judgment creditors, judgment debtors and persons sharing land use right with judgment debtors in

case of distraint of common land use right. Time limit for the involved parties to reach an agreement on price shall not exceed five working days after the land use right is distrained.

2. In cases where the involved parties make no agreement or fail to reach an agreement on the value of distrained land use right, executors shall, within fifteen days after the land use right is distrained, have to set up a council for valuation of distrained land use right, being composed of the following members:

a/ An executor as its chairman;

b/ A representative of the financial agency of the same level as its member;

c/ A representative of the land management agency under the People's Committee of the same level as its member;

d/ A representative of the land use right registry of the same level as its member;

e/ The representative of the relevant specialized agency (if any), as a member.

Within seven working days after being set up, the valuation council shall have to conduct the valuation of distrained land use right.

At least three working days before the valuation, executors must notify in writing the valuation of land use right to the People's Procuracy of the same level; notify the judgment debtors, judgment creditors, persons with rights and obligations related to distrained land use right of the working time and place of the valuation council for their comments on the valuation.

Basing itself on the actual price for land use right transfer in the locality under normal conditions at the time of valuation, the valuation council shall decide on price of distrained land use right, which, however, must not be lower than the price prescribed by the provincial People's Committee for application at the time of valuation. In cases

where the actual price for land use right transfer in the locality cannot be determined, the valuation council shall decide on the price of distrained land use right according to the land price prescribed by the provincial People's Committee for application at the time of valuation. For land leased by the State, its use right shall be valued according to the land rent rate prescribed by the provincial People's Committee for application at the time of valuation as well as the lawful and valid expenses for ground clearance compensation and leveling (if any).

3. Land use right value already determined according to the provisions of Clauses 1 and 2 of this Article shall serve as the reserve price when the land use right is auctioned.

Article 19.- Settlement of complaints about land use right valuation

Within seven working days after the date of valuation, any complaints about land use right valuation shall be settled according to the following regulations:

1. In cases where the valuation council's chairman is an executor, who is not the head of a judgment-executing agency, such executor shall settle complaints and reply in writing to complainants within fifteen days after receiving the complaints. If the complainants further lodge their complaints, the head of the judgment-executing agency where the executor is working shall settle the complaints and reply the complainants in writing within thirty days after receiving the complaints. Complaint-settling decisions of the head of the judgment-executing agency shall be effective for implementation.

2. In cases where the valuation council's chairman is the head of the district-level judgment agency, he/she shall settle the complaints and reply the complainants in writing within fifteen days after

receiving the complaints. If the complainants further lodge their complaints, the head of the provincial-level judgment-executing agency shall settle and reply the complainants in writing within thirty days after receiving the complaints. Complaint-settling decisions of the head of the provincial-level judgment-executing agency shall be effective for implementation.

3. In cases where the head of the provincial-level judgment-executing agency personally acts as the valuation council's chairman, he/she shall settle complaints and reply the complainants in writing within fifteen days after receiving the complaints. If the complainants further lodge their complaints, the director of the Civil Judgment Execution Department under the Justice Ministry shall settle the complaints and reply to the complainants in writing within thirty days after receiving the complaints. Complaint-settling decisions of the director of the Civil Judgment Execution Department shall be effective for implementation.

Article 20.- Temporary assignment of distrained land acreages for management, exploitation and use

The temporary assignment of distrained land acreages for management, exploitation or use shall be made according to the following regulations:

1. If distrained land acreages are currently managed, exploited or used by judgment debtors, executors shall temporarily assign such distrained land acreages to such judgment debtors for continued management, exploitation or use.

In cases where the distrained land acreages are currently managed, exploited or used by other organizations or individuals, such distrained land acreages shall be temporarily assigned to such organizations or individuals for continued management, exploitation or use.

2. In cases where judgment debtors or

organizations or individuals prescribed in Clause 1 of this Article refuse to accept the temporary assignment of distrained land acreages for management, exploitation or use, executors shall temporarily assign such land acreages to other organizations or individuals for management, exploitation or use.

3. The temporary assignment of distrained land acreages for management, exploitation or use must be recorded in writing, clearly stating:

a/ Current land use state;

b/ Duration of temporary assignment of land for management, exploitation or use, land acreages, land categories, number of land plots, number of maps;

c/ Specific rights and obligations of persons temporarily assigned to manage, exploit or use land.

4. In the duration of temporary assignment of distrained land for management, exploitation or use, temporary assignees must not convert, transfer, lease, sub-lease, donate or bequeath the land use right, mortgage, guarantee or contribute capital with the land use right; must not alter the actual land use state and must not use land in contravention of the purposes prescribed by the land legislation.

Article 21.- Handling of properties attached to land upon land use right distraint

Upon the distraint of judgment debtors' land use right, if there exist properties attached to land, such properties shall be handled according to the following regulations:

1. In cases where such properties are owned by the judgment debtors, the land use right and properties attached to such land shall be distrained;

2. In cases where such properties are owned by other persons, they shall be handled as follows:

a/ For properties which have existed before the

judgment debtors receive judgment execution decisions, executors shall request the property owners to voluntarily relocate such properties and return land use right to the judgment debtors. In cases where the property owners fail to voluntarily relocate their properties, the executors shall guide the property owners and the judgment debtors in reaching written agreements on the mode of property handling. Within fifteen days after being guided, if they fail to reach written agreements, the executors shall organize the distraint for auctioning of such properties together with land use right.

If the property owners are land lessees or receivers of capital contributed with the land use right from the judgment debtors without forming new legal persons, the property owners shall be entitled to further sign land rent contracts or contracts on capital contribution with land use right with auction winners or receivers of land use right for the remaining duration of the contracts they have signed with the judgment debtors. In this case, the executors shall have to notify the auction participants or persons designated to receive land use right of the right of owners of properties attached to land to further sign contracts.

b/ For properties which exist after the judgment debtors receive judgment execution decisions, the executors shall request property owners to voluntarily relocate such properties in order to return the land use right to the judgment debtors. Fifteen days after being requested, if the property owners fail to relocate properties or such properties cannot be relocated, the executors shall organize the distraint for auctioning thereof together with the land use right.

Particularly for properties existing after the distraint, if the property owners fail to relocate their properties or the properties cannot be relocated, they shall be dismantled. The executors shall organize the property dismantlement, except for

cases where the land use right receivers or auction winners agree to purchase such properties.

c/ Persons whose properties are attached to land of judgment debtors shall be refunded the proceeds from the sale of such properties or receive back properties if they are dismantled, but shall have to bear the expenses for distraint, valuation, auctioning or dismantlement of such properties.

3. For properties being pre-harvest short-term crops or livestock or properties involved in a unfinished closed production cycle, the executors shall, after the distraint, handle them for judgment execution only when they are ripe for harvesting or the closed production cycle finishes.

Article 22.- Reception of distrained land use right

The pre-auction reception of land use right already distrained or valuated, including land use right with properties attached to land shall be handled as follows:

1. In cases where judgment debtors agree to let judgment creditors receive the land use right already distrained for judgment execution and judgment creditors agree to receive such land use right, the executors shall make written records on such agreement, issue decisions recognizing the receipt of distrained land use right by the judgment creditors for carrying out procedures for granting land use right certificates to land use right receivers according to the provisions of the land legislation.

2. In cases where judgment debtors share land use right with other persons, the latter shall be given priority to receive the distrained land use right at the set price prescribed in Article 18 of this Decree. The time limit for exercising the priority right prescribed in this Article shall be three months after the land use right is valuated.

Within the time limit for exercising the priority right, if the persons sharing the land use right with

the judgment debtors request in writing to receive the distrained land use right and pay fully for the land use right reception, the executors shall make written records on the land use right reception, issue decisions recognizing the receipt of the distrained land use right by the persons sharing the land use right for carrying out the procedures for granting land use right certificates to the land use right receivers according to the provisions of the land legislation.

Chapter III

AUCTION OF LAND USE RIGHT FOR JUDGMENT EXECUTION

Article 23.- Time limit for carrying out procedures to authorize the auction of distrained land use right

1. In cases where judgment creditors refuse to receive the land use right or judgment debtors disagree to let judgment creditors receive the land use right for judgment execution, including land use right with properties attached to land, the executors shall, within ten working days after the date of valuation, have to carry out procedures for signing contracts on auctioning authorization with organizations having the property-auctioning function for auction of the land use right, except for cases prescribed in Clause 2 of this Article.

2. Past the time limit for exercising the priority right prescribed in Clause 2, Article 22 of this Article, if the persons sharing the land use right with the judgment debtors do not request in writing to receive the distrained land use right, the executors shall, within ten working days after the expiry of the time limit for exercising the priority right, have to carry out the procedures for signing contracts on auctioning authorization with organizations having the property-auctioning function for the auction of land use right.

Within the time limit for exercising the priority right, if the persons sharing the land use right with the judgment debtors request in writing not to receive the land use right, the executors shall, within ten working days after receiving such written requests, have to carry out the procedures for signing contracts on auctioning authorization with organizations having the property-auctioning function for the auction of land use right.

3. For localities where no organizations with the property-auctioning function have been established, the executors shall, within the time limit prescribed in Clauses 1 and 2 of this Article, have to conduct the auction of land use right to ensure the judgment execution according to law provisions on property auction and the provisions of this Chapter.

Article 24.- Notification of the auction of distrained land use right

1. Before opening an auction of land use right, executors shall have to publicly announce and post up the auctioning date and venue, land location, category, grade, acreage and current state, reserve price of the to be-auctioned land use right at the head office of the judgment-executing agency and the People's Committee of the commune where the distrained land exists and shall have to notify such in writing to the People's Procuracy of the same level, the judgment debtor, judgment creditor, and persons with rights and obligations related to the judgment execution.

2. Time limit for and mode of notification of land use right auction shall comply with law provisions on property auction.

Article 25.- Reception back of already distrained land use right

One working day before an auction of land use right is opened, the judgment debtor may receive back the land use right if he/she fully pays money

amount for the judgment execution and expenses actually arising from the distraint and preparation for such land use right auction.

The executors must issue decisions on release of land use right distraint within five working days after the judgment debtors fully pay money amounts for the judgment execution and other payable amounts according to law provisions.

Article 26.- Auction of already distrained land use right

1. Persons entitled to participate in auctions of already distrained land use right must fall into the cases eligible to receive the land use right according to the provisions of the land legislation.

2. Land use right shall be sold to the person who offers the highest price, which, however, must not be lower than the reserve price.

In cases where no auctioneer offers price higher than or equal to the reserve price or where no one responds to the land use right auction after it is announced three times, such auction shall be considered unsuccessful. Within 10 working days after unsuccessful auction, executors shall organize the revaluation according to the provisions of Clause 2, Article 18 of this Decree and along the direction of price decrease prescribed in Article 48 of the Ordinance on Civil Judgment Execution for continued auction of land use right.

3. If after two times of price decrease, the distrained land use right remains unsold, the executors shall request the judgment creditors to receive the land use right at the last decreased price for judgment execution. If the judgment creditors agree to receive the land use right for judgment execution, the executors shall make written records and issue decisions recognizing the receipt of such land use right for carrying out the procedures for registering and granting land use right certificates to the judgment creditors

according to the provisions of the land legislation.

If the judgment creditors refuse to receive the distrained land use right, the executors shall issue decisions on distraint release and return such land use right to the judgment debtors.

4. Judgment debtors must bear expenses for distraint and/or unsuccessful auction of land use right, except for cases where they enjoy exemption or reduction thereof.

Article 27.- Settlement of proceeds from land use right distraint or auction

Proceeds from land use right distraint or auction shall be settled according to the priority order prescribed in Articles 51 and 52 of the Ordinance on Civil Judgment Execution, after subtracting the land use levy, land rent, land use tax, tax on incomes from land use right transfer and other taxes and fees related to the land use right which must be paid by the judgment debtors according to law provisions.

The remainders shall be refunded to the judgment debtors.

Article 28.- Granting of land use right certificates to auction winners or receivers of already distrained or auctioned land use right

1. Executors shall have to compile dossiers for granting land use right certificates and send them to the land use right registry for granting land use right certificates to auction winners or receivers of already distrained or auctioned land use right for judgment execution according to the provisions of the land legislation.

2. In cases where the papers on the distrained land use right defined at Point b, Clause 2, Article 2 of this Decree cannot be recovered that fall into the cases prescribed at Point b, Clause 1, Article 3 of this Decree, executors shall have to send written justifications of reasons for failure to recover such

land use right papers to the land use right registry.

Within seven working days after receiving the written justifications from executors, the land use right registry shall have to verify the dossiers and send written reports thereon to the People's Committees competent to grant the land use right certificates.

Within three working days after receiving reports of the land use right registry, the competent People's Committees shall request in writing the judgment debtors to submit papers evidencing the distrained land use right, and concurrently send such written requests to the People's Committees of communes where exists the distrained land for being posted up at the offices of such commune-level People's Committees.

Within thirty days after written requests are issued, the judgment debtors shall have to submit papers evidencing the distrained land use right at the land use right registry.

In cases where the judgment debtors fail to submit papers evidencing the distrained land use right, the land use right registry shall, within five working days past the requesting time limit, request the competent People's Committees to issue decisions to cancel the papers evidencing the distrained land use right of the judgment debtors and carry out the procedures for granting land use right certificates to auction winners or receivers of land use right according to the provisions of the land legislation.

Article 29.- Forcible transfer of land use right to land use right auction winners or land use right receivers for judgment execution

1. In cases where judgment debtors, current land managers, exploiters or users fail to voluntarily transfer the land use right to land use right auction winners or land use right receivers for judgment execution, the executors shall issue decisions to

compel such judgment debtors, land managers, exploiters or users to transfer land use right to land use right auction winners or land use right receivers for judgment execution.

2. In cases where persons compelled to transfer the land use right are intentionally absent though having been notified of the coercion decisions, the executors shall still effect the coercion decisions prescribed in Clause 1 of this Article for transfer of the land use right to land use right auction winners or land use right receivers for judgment execution.

3. The handling of properties existing on the distrained or auctioned land shall comply with the provisions of Articles 21, 22 and 26 of this Decree.

In cases where involved parties refuse to receive the properties, executors shall have to make written records clearly stating the quantity, category and current conditions of each type of property, and hand over such properties to organizations and individuals having conditions for preservation or consign them into storehouses of the judgment-executing agencies for preservation, then notify places and time for reception back of such properties to their owners. If property owners do not come to receive back properties, such properties shall be handled according to the provisions of Clauses 3 and 4, Article 54 of the Ordinance on Civil Judgment Execution.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 30.- Implementation effect

1. This Decree takes effect 15 days after its publication in the Official Gazette.

2. The ministers, the heads of the ministerial-level agencies, the heads of the Government-attached agencies and the presidents of the People's Committees of the provinces and centrally-

run cities shall have to implement this Decree.

Article 31.- Implementation guidance

The Justice Minister shall have to guide the implementation of this Decree.

On behalf of the Government

Prime Minister

PHAN VAN KHAI