**PROCESSES AND PROCEDURES FOR SETTLEMENT OF LAND DISPUTES**

Land dispute is one of the popular disputes in practice. However, the process of settling a land dispute does not simply stop at the parties submitting an application to the Court to settle the dispute but must go through stages as prescribed by Law on Land. Here is some information to help the Clients have the most general view of the processes and procedures for resolving land disputes.

1. **What is a land dispute?**

Pursuant to Article 3.24 of Law on Land 2013, Land dispute means a dispute involving the rights and/or obligations of land users between two or more parties in a land relationship.

It is necessary to distinguish between land disputes and land-related disputes to determine the correct procedure in the dispute settlement. Land disputes can be understood as disputes that determine who has the right to use the land.

Disputes related to land use rights can be disputes over common property such as land use rights between husband and wife upon divorce or disputes over transactions of land use rights, housing, etc.

1. **Procedures for settling land disputes**

The settlement of land disputes will be resolved through several stages according to the provisions of Articles 202 and 203 of Law on Land 2013. Specifically, the dispute settlement will go through the following basic stages:

**Stage 1: Conciliation at the grass-roots level**

When a land dispute occurs, the State encourages parties of a land dispute to conciliate by themselves or to resolve the land dispute by conciliation at the grass-roots level, but this conciliation is not mandatory for the parties.

**Stage 2: Conciliation at the people's committee of the commune**

This is a mandatory procedure that the parties must perform. However, people's committee of the commune will not automatically conciliate but the parties must submit a request to settle the land dispute according to the provisions of Article 88 of Decree 43/2014/ND-CP of the Government.

The composition of the conciliation session includes the participation of the disputing parties, members of the Land Dispute Mediation Council and persons with related interests and obligations. The time limit for conciliation shall not exceed 45 days from the date receiving a written request for settlement of a land dispute.

**Note:** The conciliation is only conducted when the disputing parties are present. In case one of the disputing parties is absent for the second time, the conciliation is considered unsuccessful.

Conciliation results:

* In case of successful conciliation: the dispute ends.
* In case of unsuccessful conciliation or after successful conciliation, at least one of the parties changes their mind about the conciliation result: Commune People's Committee mades minutes of unsuccessful conciliation, the parties submit an application to the higher competent authority to settle the dispute.

**Stage 3: Submiting an application to the dispute settlement agency**

**Case 1:** The concerned party has a certificate or one of the types of documents stipulated in Article 100 of Law on Land 2013 and the dispute is about assets attached to the land, it shall be resolved by a people's court;

**Case 2:** The concerned parties do not have a certificate or one of the types of documents stipulated in Article 100 of Law on Land 2013, the concerned parties shall only be permitted to choose either of two forms of resolution of the land dispute as follows:

* To submit a request for resolution of the land dispute to the competent People's Committee
	+ The district people's committee shall resolve such dispute in case it is a dispute between family households, individuals and communities of citizens;
	+ The chairman of the provincial people's committee shall resolve such dispute in the case of a dispute where one party to the dispute is an organization, religious establishment, Vietnamese residing overseas or foreign invested enterprise.
* To initiate legal action at the competent people's court in accordance with law on civil proceedings;

The parties need to correctly identify the competent authority to accept the application to avoid the application being returned because of not within its jurisdiction.

**Stage 4: Appealing the dispute settlement decision**

Pursuant to Clause 3, Article 203 of Law on Land 2013, the parties can make a complaint after receiving the dispute settlement decision of the People's Committee, the agency competent to settle complaints is prescribed as follows:

* If the concerned parties disagree with the decision on resolution, they shall have the right to lodge a complaint with the chairman of the provincial people's committee or initiate a legal action at the people's court in accordance with law on administrative proceedings;
* If the concerned parties concerned disagree with the decision on resolution, they shall have the right to lodge a complaint with the Minister of Natural Resources and Environment or initiate a legal action at the people's court in accordance with law on administrative proceedings.

In the case of lawsuits at Court, the parties need to comply with the provisions of the Civil Procedure Code 2015, which means after the first-instance judgment is issued, the parties have the right to appeal the judgment in the appellate procedure.

**ADK & Co Vietnam Lawyers Law Firm**