

**THE GOVERNMENT**

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No. 17/2010/ND-CP

**SOCIALIST REPUBLIC OF VIET NAM**

**Independence - Freedom – Happiness**

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*Hanoi, March 04, 2010*

**DECREE**

**ON PROPERTY AUCTION**

**THE GOVERNMENT**

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

*Pursuant to the June 14, 2005 Civil Code;*

*Pursuant to the November 26, 2003 Land Law;*

*Pursuant to the June 3, 2008 Law on Management and Use of State Property;*

*Pursuant to the November 14, 2008 Law on Enforcement of Civil Judgments;*

*Pursuant to the July 2, 2002 Ordinance on Handling of Administrative Violations; and the April 2, 2008 Ordinance Amending and Supplementing the 2002 Ordinance on Handling of Administrative Violations;*

*At the proposal of the Minister of Justice,*

**DECREES:**

**Chapter I**

**GENERAL PROVISIONS**

**Article 1. Scope of regulation**

1. This Decree provides for property auction principles, order and procedures, auctioneers, property auction organizations, and state management of property auction activities.

2. This Decree applies to the auction of the following kinds of property:

a/ Properly for judgment enforcement under the law on judgment enforcement:

b/ Property being material evidences or means used in administrative violations which are confiscated into state funds under the law on handling of administrative violations;

c/ Security property subject to auction under the law on security transactions:

d/ State property subject to auction under the law on management and use of state property, property being land use rights in case the State allocates land and collects land use levy or leases land through auction under decisions of competent state agencies;

e/ Other property subject to auction under law.

3. Individuals and organizations that select professional auction organizations defined in Article 14 of this Decree for selling their own property shall comply with property auction principles, order and procedures provided in this Decree.

4. The sale of state property overseas or of special property in people's armed forces units is not regulated by this Decree but must comply with relevant laws applicable to such property.

**Article 2. Interpretation of terms**

In this Decree, the terms below are construed as follows:

1. Property auction means a form of public sale of property in which increasing bids are offered by two or more bidders according to the principles, order and procedures provided in this Decree. Offer of increasing bids means the offer of bids from lower to higher levels until the highest bidder is identified.
2. Auctioneer means a person possessing an auction practice certificate under this Decree.
3. Successful buyer of property at auction means the person who offers the highest bid compared to the reserve price. If nobody offers a bid higher than the reserve price, property may be sold at the reserve price.
4. Property put up for auction may include movables, real estate, valuable papers and property rights permitted for trading under law.
5. Bid difference means the minimum amount by which a bid must exceed the preceding bid. The property auction organization shall specify a bid difference suitable to each auction.
6. Persons having property put up for auction include property owners, persons authorized by property owners to sell property, persons responsible for delivering property for auction or individuals or organizations having the right to sell others' property under law.
7. Bidders include individuals or representatives of organizations qualified to bid for property at auction under this Decree and other relevant laws.

### **Article 3. Property auction principles**

1. Property auction must adhere to the principles of publicity, continuity, objectivity, honesty, equality, and protection of the lawful rights and interests of the involved parties.
2. All auctions must be conducted by auctioneers according to the property auction order and procedures provided in this Decree, except the case specified in Article 20 of this Decree and unless otherwise provided in laws and ordinances.

### **Article 4. Protection of lawful rights and interests of successful buyers of auctioned property**

1. The lawful rights and interests of successful buyers of auctioned property shall be protected under law. Competent state agencies shall, within the ambit of their tasks and powers, guarantee the lawful rights and interests of successful buyers of auctioned property.
2. In case a third party has a dispute over the ownership or use right of the auctioned property, such ownership or use right shall be determined under the civil law.
3. In case a competent state agency issues a decision partially amending or annulling all decisions concerning the to-be-auctioned property due to violations of law committed before the property is put up for auction while the auction of such property has been held strictly according to the order and procedures prescribed by law, such property will still come under the ownership or use right of its successful buyer.

Organizations or individuals that cause damage due to their fault shall pay compensation under law.

## **Chapter II**

## **AUCTIONEERS**

### **Article 5. Criteria for an auctioneer**

A Vietnamese citizen permanently residing in Vietnam who satisfies all the following criteria may work as an auctioneer:

1. Having good moral qualities;
2. Being a university graduate in law or economics;
3. Having completed an auction profession training course.

### **Article 6. Auction profession training**

1. Holders of university degree in law or economics may register to attend auction profession training courses with auction profession training establishments.
2. The duration of an auction profession training course is 3 months. Training contents include legal knowledge, professional ethics, auction practice skills, and probation at a professional auction organization. A person who completes the auction profession training program will be issued an auction profession training certificate by the auction profession training establishment.
3. The Ministry of Justice shall specify the framework program for auction profession training courses and auction profession training establishments.

### **Article 7. Persons who are not required to attend auction profession training or are entitled to a shortened auction profession training duration**

1. The following persons are not required to attend auction profession training:
  - a/ Professors, associate professors and doctors of law; professors, associate professors and doctors of economics; lawyers and executors.
  - b/ Principal verifiers in the court system and principal examiners in the procuracy system; principal inspectors; principal verifiers in judgment enforcement; principal officials; principal researchers and principal lecturers in law or economics;
  - c/ Senior verifiers in the court system and senior examiners in the procuracy system; senior inspectors; senior verifiers in judgment enforcement; senior officials and senior researchers in law or economics;
  - d/ Judges, procurators, investigators, auctioneers, notaries public and civil judgment enforcers.
2. Holders of university diplomas in law are entitled to a shortened legal knowledge training duration.

The Ministry of Justice shall specify the shortened auction profession training duration.

### **Article 8. Issuance of auction practice certificates**

1. A dossier of request for an auction practice certificate comprises:
  - a/ An application for the certificate;
  - b/ A curriculum vitae stuck with a photo and certified by a competent agency;
  - c/ A judicial record card;

d/ A copy of the university degree in law or economics;

e/ A copy of the auction profession training certificate, or evidencing paper for those not required to attend auction profession training specified in Article 7 of this Decree:

f/ Two 3 cm x 4 cm photos.

2. An applicant for an auction practice certificate shall send one dossier set to the Ministry of Justice and pay a fee under regulations. Within 15 working days after receiving a valid dossier, the Ministry of Justice shall issue an auction practice certificate to the applicant. In case of refusal, it shall notify in writing the reason to the applicant.

3. The auction practice certificate serves as a ground for practicing property auction.

#### **Article 9. Persons ineligible for issuance of auction practice certificates**

1. Cadres and civil servants; army officers and professional army men and defense workers in People's Army agencies and units: operational officers and non-commissioned officers and technical officers and non-commissioned officers in People's Public Security agencies and units, except cadres and civil servants who need auction practice certificates to work for property auction service centers.

2. Persons who have lost their civil act capacity or have it restricted.

3. Persons who are currently subject to penal liability examination or who have been convicted and are not entitled to criminal record remission.

4. Persons who are currently subject to other administrative handling measures or who have been subjected to other administrative handling measures but the duration after which they are regarded as not yet having subjected to such measures has not expired under the law on handling of administrative violations.

#### **Article 10. Re-issuance of auction practice certificates**

1. The holder of an auction practice certificate which is lost or unusably damaged may have it re-issued.

2. A dossier of request for re-issuance of a certificate comprises:

a/ An application for re-issuance of a certificate;

b/ The damaged certificate.

For a lost auction practice certificate, a competent agency's or organization's certification is required.

3. The procedures and time limit for re-issuance of an auction practice certificate are the same as those specified in Clause 2. Article 8 of this Decree.

#### **Article 11. Revocation of auction practice certificates**

1. The holder of an auction practice certificate may have it revoked in the following cases:

a/ Any of the cases specified in Article 9 of this Decree;

b/ He/she fails to regularly work at a property auction organization or no longer operates in the field of property auction;

- c/ He/she has not conducted any auction for one year, unless he/she can give a plausible reason;
- d/ He/she has been deprived of the right to use the certificate indefinitely under the law on handling of administrative violations;
- e/ He/she commits prohibited acts specified in Article 13 of this Decree.

2. The Minister of Justice may revoke auction practice certificates and shall specify procedures for such revocation.

#### **Article 12. Rights and obligations of an auctioneer**

1. To regularly work at a professional auction organization.
2. To personally conduct property auctions and take responsibility before law and the property auction organization for property auction.
3. To adhere to the property auction principles provided in Article 3 of this Decree.
4. To deprive of the bidding right of violators of property auction rules.
5. To be objective and impartial in conducting property auction.
6. To compensate under law for damage caused by his/her fault to the property auction organization.
7. To exercise other rights and perform other obligations provided for by law.

#### **Article 13. Prohibited acts of an auctioneer**

1. Leasing, lending or allowing other organizations or individuals to use his/her auction practice certificate for carrying out auction activities.
2. Receiving any sum of money or benefit from the person having property put up for auction other than the auction charge and expenses agreed in the contract, or abusing his/ her capacity as an auctioneer to gain other benefits from organizations or individuals.
3. Abusing his/her responsibilities and powers to collude with organizations or individuals for self-seeking purposes.

### **Chapter III**

#### **PROPERTY AUCTION ORGANIZATIONS**

#### **Article 14. Professional auction organizations**

1. Property auction service centers.
2. Property auction enterprises and enterprises which have different business lines including the provision of property auction services (below collectively referred to as property auction enterprises).

#### **Article 15. Property auction service centers**

1. A property auction service center (below referred to as center) shall be set up under a decision of the chairperson of a provincial-level

People's Committee. Each province or centrally run city may set up only one center.

2. Such center is a revenue-generating non-business unit having a head office, the legal entity status, seal and bank account. The center's director must be an auctioneer.

#### **Article 16. Property auction enterprises**

1. Property auction enterprises shall be set up and operate under the enterprise law and this Decree.

2. In addition to the conditions on setting-up and operation of enterprise of each type under the enterprise law, to provide property auction services, an enterprise must satisfy all the following conditions:

a/ Its representative at law must be an auctioneer;

b/ Having a head office, physical foundations and other equipment necessary for property auction activities.

3. Within 7 working days after obtaining a business registration certificate, an enterprise shall notify in writing its business registration to the provincial-level Justice Department of the locality where it is headquartered.

#### **Article 17. Rights of a professional auction organization**

1. To request the person having property put up for auction to provide adequate and accurate information and papers related to such property.

2. To request the successful buyer of auctioned property to pay for such property and fulfill other obligations stated in the contract on purchase and sale of auctioned property.

3. To request the person having property put up for auction to pay property auction charges and expenses and fulfill other obligations stated in the property auction contract.

#### **Article 18. Obligations of a professional auction organization**

1. To auction property according to the principles, order and procedures specified in this Decree and take responsibility for property auction outcomes.

2. To issue property auction rules in accordance with this Decree and relevant legal documents.

3. To deliver property assigned to them for preservation or management to its successful buyer; to request the person having property put up for auction to deliver such property to its successful buyer in case the latter is personally managing such property.

4. To provide adequate papers related to property put up for auction to its successful buyer.

5. To comply with the labor, tax, finance and statistics laws.

6. To keep books for monitoring auctioned property and property auction registries.

7. To pay compensation for damage caused by its auctioneers and other employees due to their fault during auction.

8. To perform other obligations stated in the property auction contract or the contract on purchase and sale of auctioned property.

9. To issue auctioneer's cards to auctioneers for use in performing their duties, with the details the same as those stated in their auction practice certificates.

10. To register a list of auctioneers and the modification and supplementation of such list with the provincial-level Justice Department of the locality where it is headquartered.

11. To report on its organizational apparatus and operation to the provincial-level Justice Department on a biannual and annual basis or upon request.

#### **Article 19. District-level property auction councils**

1. District-level property auction councils shall be set up under decisions of chairpersons of People's Committees of urban districts, rural districts, towns or provincial cities (below collectively referred to as district-level People's Committees) for auctioning property that is confiscated material evidences and means used in administrative violations under the law on handling of administrative violations.

2. A district-level property auction council consists of representatives of the agency competent to decide on property confiscation, the district-level Finance Division and Justice Division and relevant agencies.

#### **Article 20. Property auction councils in special cases**

A property auction council in a special case shall be set up for auctioning state property, property being land use rights of great value or involving complicated circumstances or when no professional auction organization can be hired to conduct auction.

A property auction council in a special case consists of representatives of the agency competent to decide on the property auction, finance agency and justice agency of the same level, and relevant agencies and organizations.

#### **Article 21. Rights and obligations of a property auction council**

1. A property auction council defined in Article 19 or 20 of this Decree has the following rights and obligations:

a/ The rights specified in Article 17 and the obligations specified in Clauses 1. 2. 3, 4. 6 and 8. Article 18, of this Decree;

b/ To sign contracts with a professional auction organization for assigning its auctioneer to run the Council's auctions, except property auction councils in special cases defined in Article 20 of this Decree;

c/ To perform the financial and statistical obligations under law.

2. District-level People's Committees shall biannually and annually report to provincial-level Justice Departments on the organization and operation of property auction councils they have set up.

A property auction council in a special case shall report in writing on the outcomes of each auction to the agency which has issued the decision to set up the council up and the provincial-level Justice Department of the locality where the council is set up.

3. The agency which has issued the decision to set up a property auction council shall settle complaints arising after the council dissolves and compensate for damage caused due to the fault of the council's auctioneers or members during auction.

The property auction council's auctioneers and members shall pay compensation under law for damage caused due to their fault to the agency which has issued the decision to set up the council.

## **Chapter IV**

### **PROPERTY AUCTION ORDER AND PROCEDURES**

#### **Article 22. Selection of property auction organizations**

Persons having property put up for auction may select a professional auction organization to auction their property in the forms provided in this Decree, unless otherwise provided for by law.

#### **Article 23. Determination of the reserve price of property put up for auction**

1. The reserve price of property put up for auction shall be determined before the signing of a property auction contract or before the delivery of the property for auction, unless otherwise provided for by law.

2. The reserve price of property put up for auction shall be determined as follows:

a/ For property put up for auction for judgment enforcement, their reserve price shall be determined under the law on enforcement of civil judgments;

b/ For property put up for auction that is material evidences or means used in administrative violations, their reserve price shall be determined under the law on handling of administrative violations: if the properly price cannot be determined under the law on handling of administrative violations, a council shall be set up for determining such price:

c/ For property that is material evidences to be auctioned under decisions of competent state agencies, their reserve price shall be determined under the penal, criminal procedure and other relevant laws;

d/ For state property put up for auction, their reserve price shall be determined under the law on management and use of state property;

e/ For property that is land use rights to be auctioned for allocation of land subject to land use levy or for land lease, their reserve price shall be determined under the land law;

f/ For property under the ownership of individuals or organizations that wish to have such property auctioned, these individuals or organizations shall determine its reserve price or authorize others to do so.

#### **Article 24. Assessment of property put up for auction**

1. Property put up for auction shall be assessed upon request or under law.

2. In case of assessment upon request, the assessment requester shall pay assessment expenses, unless otherwise agreed by the parties.

In case assessment is required by law, the person having property put up for auction shall pay assessment expenses, unless otherwise provided for by law.

#### **Article 25. Property auction contracts**

1. A property auction contract shall be signed between a property auction organization and a person having property put up for auction or his/ her representative.

For property that is material evidences or means used in administrative violations, the district-level property auction service center or property auction council shall, based on the property confiscation decision and property delivery record, conduct an auction without having to sign a property auction contract.

2. A property auction contract must be made in writing and contain the following principal details:

a/ Full name and address of the person having property put up for auction; name and address of the property auction organization;

b/ List and description of the property;

c/ The reserve price of the property;

d/ Time and place of the auction;

e/ Time limit, place and method of delivering the property for auction;

f/ Time limit, place and method of paying for property in case of successful auction;

g/ Auction charges and expenses in case of successful auction, or auction expenses in case of unsuccessful auction;

h/ Rights and obligations of the parties;

i/ Liabilities for contract breaches;

j/ Other details as agreed by the parties.

#### **Article 26. Signing of property auction contracts**

1. For the following kinds of property put up for auction, the parties to a property auction contract shall be determined as follows:

a/ For property used for judgment enforcement, such contract shall be signed by the judgment enforcer competent to dispose of such property and a professional auction organization;

b/ For state property, such contract shall be signed by a state agency competent to decide on the sale of state property under law and a property auction organization;

c/ For property under common ownership by integration, such contract shall be signed by co-owners or their representatives and a professional auction organization, unless otherwise agreed by the parties;

d/ For property under common ownership by shares, such contract shall be signed by the owner of the pail of property put up for auction or his/ her representative and a professional auction organization;

e/ For property used for pledge, mortgage or guarantee, such contract shall be signed by the person with the right to dispose of such property as agreed in the pledge, mortgage or guarantee contract or provided for by law and a professional auction organization;

f/ For property that is material evidences in legal proceedings, such contract shall be signed between the head of the agency competent to dispose of and a professional auction organization;

g/ For property under ownership of individuals or organizations, such contract shall be signed between these individuals or organizations or their authorized persons and a professional auction organization.–

2. When signing a property auction contract, the person having property put up for auction shall provide the property auction organization with a lawful certificate or another proof of the property ownership or sale right under law and take responsibility before law for such proof.

3. The property auction organization shall verify the accuracy of information on the origin, ownership and use right of property, which is provided by the person having property put up for auction.

#### **Article 27. Unilateral termination of property auction contracts**

1. The person having property put up for auction or a professional auction organization may unilaterally terminate a property auction contract under the Civil Code before the organization posts up and publicly notifies property auction information, unless otherwise provided for by law.

2. The party unilaterally terminating a contract shall notify such in writing to the other party and pay all actually arising expenses (if any).

#### **Article 28. Posting up and public notification of property auction information**

1. A property auction organization shall post up information on the auction of property being movables at the place of auction, the place of property display and the place where it is headquartered at least 7 days before conducting the auction, unless otherwise provided for by law.

For real estate, the property auction organization shall post up property auction information at the place of auction, the place where exists the real estate to be auctioned and the commune-level People's Committee of the locality where exists such real estate at least 30 days before opening the auction, unless otherwise provided for by law.

For property under ownership of individuals or organizations, the time limit for posting up property auction information may be shortened as agreed by the parties.

2. For to-be-auctioned property that is movables with their reserve price of 30 million dong or more or real estate, the property auction organization shall, simultaneously with posting up auction information, publicly notify such information at least twice at 3-day intervals in a central mass medium or a mass medium of the locality where exists property put up for auction. The deadline for public notification is specified in Clause 1 of this Article.

The public notification of information in the mass media also applies to to-be-auctioned property that is real estate with the reserve price of under 30 million dong if so requested by the person having such property.

3. Property auction information to be posted up and publicly notified includes:

a/ Name and address of the property auction organization;

b/ Time and place of auction; c/ List, quantity and quality of property put up for auction;

d/ Reserve price of the property;

e/ Place and duration of property display;

- f/ Place and time limit for reading the dossiers of the property;
- g/ Place and time limit for registering the purchase of the property;
- h/ Other necessary information relating to the property, including information to be publicly notified at the request of the person having the property.

#### **Article 29. Registration of participation in property auction**

1. A bidder shall pay an auction participation charge and a deposit. The auction participation charge complies with the law on charges and fees.

The deposit shall be agreed by the property auction organization and the person having property put up for auction, which must be between 1% and 15% of the reserve price of the property put up for auction. Such deposit shall be paid to the property auction organization.

2. A bidder may authorize in writing another to participate in the auction on his/her behalf.

3. In case a bidder who has paid a deposit succeeds in buying the auctioned property, such deposit will be subtracted from the purchase price. If he/she fails to buy the property, such deposit shall be returned to him/her after the auction finishes, unless otherwise provided for by law.

4. In case a registered bidder has paid a deposit but does not participate in the auction and this is not a force majeure case, such deposit will belong to the property auction organization, unless otherwise agreed by the parties.

#### **Article 30. Persons disallowed to participate in property auction**

1. Persons having no civil act capacity, persons having lost their civil act capacity or having it restricted or persons unable to perceive or control their acts at the time of auction.

2. Persons working in property auction organizations or places of auction and their parents, spouses, children and siblings; persons directly assessing or valuing property and their parents, spouses, children and siblings.

3. Persons authorized by property owners to sell such property; persons issuing decisions to confiscate property being material evidences or means used in administrative violations; persons competent to decide on the sale of state property; persons signing contracts to hire property auction organizations for auctioning state property; and individuals and organizations having the right to sell others' property under law.

4. Persons not entitled to buy auctioned property under law, including:

a/ Persons disallowed to buy property put up for auction for judgment enforcement under the law on enforcement of civil judgments;

b/ Persons ineligible to buy property, for some kinds of property specified by law.

5. Persons disallowed to be transferred land use rights: persons ineligible for allocation of land subject to land use levy or for land lease by the State under the land law.

#### **Article 31. Display and examination of property put up for auction**

1. For to-be-auctioned property being real estate, bidders may personally examine the property from the time information on such property is posted up and publicly notified till 2 days before the opening date of the auction.

2. For to-be-auctioned property being movables, at least 2 days before the opening date of the auction, the auctioneer shall create conditions for the bidders to examine such property. On property or property samples, the name of the person having the property and information on such property must be shown.

### **Article 32.- Auction place**

A property auction may be held at the head office of the property auction organization, the place where exists the property or another place as agreed by the property auction organization and the person having the property put up for auction.

### **Article 33. Forms of auction**

The property auction organization may select any of the following forms of auction for conducting an auction:

1. Call auction;
2. Auction through casting bids;
3. Other forms agreed by the person having property put up for auction and the property auction organization.

### **Article 34. Order of conducting a property auction**

1. A property auction must be conducted continuously in the following order:

a/ In opening an auction, the auctioneer shall introduce him/herself and his/her assistant: announce the rules of the auction and the list of persons registering to buy property put up for auction and call the roll for identifying the bidders; introduce each property put up for auction; recall the reserve price; notify the bid difference and the maximum interval between bids (if any); and answer questions raised by the bidders;

b/ The auctioneer shall ask the bidders to offer bids. After a bid is offered, the auctioneer shall publicly announce it to the bidders:

c/ After the auctioneer has repeated thrice the highest bid. if nobody offers a higher bid. he/she shall announce the successful buyer of the auctioned property. After such announcement, this buyer will be regarded as having accepted to sign a contract on purchase and sale of the property.

In case the announced highest bid is lower than the reserve price, the auction will be regarded unsuccessful.

In case of auction through casting bids, if two or more persons offer the same highest bid. the auctioneer shall conduct another auction between these persons to select a successful buyer. If no one has offered a higher bid. the auctioneer shall organize a draw to for select a successful buyer.

2. The proceedings of an auction must be recorded in a minutes, which must bear the signatures of the auctioneer conducting the auction, the minutes maker, a bidder and a person attending the auction (if any).

3. The outcomes of a property auction shall be recorded in the property auction register. In case of successful auction, the auctioneer conducting the auction shall make a contract on purchase and sale of the property put up for auction.

4. The property auction organization shall, on a case-by-case basis or at the request of the person having property put up for auction, invite concerned organizations and individuals to attend the auction.

### **Article 35. Contracts on purchase and sale of property put up for auction**

1. A contract on purchase and sale of property put up for auction is valid for certifying the purchase and sale of property put up for auction and serves as a legal ground for the transfer the ownership or use right of such property.

2. A contract on purchase and sale of property put up for auction contains the following principal details:

a/ Name and address of the property auction organization:

b/ Full name of the auctioneer conducting the auction;

c/ Full name and address of the person having property put up for auction;

d/ Full name, address and number of the identity card of the successful buyer of the property;

e/ Time and place of auction:

f/ Property put up for auction;

g/ Reserve price of the property;

h/ Selling price of the property;

i/ Time limit, method and place of payment for the auctioned property;

j/ Time limit and place of handover of the auctioned property to its successful buyer in accordance with the property auction contract, unless otherwise agreed by the involved parties;

k/ The parties' liabilities for breaching their obligations.

3.3. A contract on purchase and sale of auctioned property shall be signed by the property auction organization and the successful buyer of the property. For property whose purchase and sale contracts are subject to notarization or registration under regulations, these contracts must comply with such regulations.

4. A contract on purchase and sale of property put up for auction shall be made in at least 4 copies, each of them shall be kept by the property auction organization and sent to the successful buyer of the property, the person having the property put up for auction and the state agency competent to register the ownership and use right of property. In case the property put up for auction is real estate, a copy of such contract shall be sent to the tax agency.

### **Article 36. Rights and obligations of successful buyers of auctioned property**

1. The rights and obligations of a successful buyer of auctioned property shall be determined from the time the auctioneer announces such buyer.

2. A successful buyer of property put up for auction has the following rights and obligations:

a/ To fully pay for the property to the property auction organization;

b/ To receive the bought property and exercise all rights and perform all obligations indicated in the contract on purchase and sale of the property;

- c/ To be issued by a competent agency a certificate of ownership or use right of the property;
- d/ Other rights and obligations provided for by law.

### **Article 37. Auction of property with a sole bidder**

1. The auction of property with a sole bidder does not apply to property specified at Point d, Clause 2, Article 1 of this Decree.
2. Upon the expiration of the time limit for registration of participation in an auction, if only one person registers to buy the auctioned property or more than one person register to participate in the auction but only one of them actually participates in the auction and offers a bid at least equal to the reserve price, the property put up for auction shall be sold to such person if so agreed by the person having such property. In this case, the sale of property shall be effected only after information on such property has been posted up and publicly notified and such property has been displayed and no complaint is lodged about the auction order and procedures until the property sale decision is made.
3. When selling property under Clause 2 of this Article, the auctioneer responsible for property auction shall make a minutes on the sale of property, write the outcomes in the property auction register and make a contract on purchase and sale of the property.

A minutes on the sale of property must describe the process of auction with a sole bidder and the agreement of the property owner, and bear the signatures of the auctioneer, the minutes maker, the property owner and the successful buyer of the property.

### **Article 38. Withdrawal of offered bids**

1. At an auction, if the person having offered the highest bid withdraws the bid before the auctioneer conducting the auction announces the successful buyer, such auction will still continue, starting from the immediate lower bid already offered. If nobody further bids, the auction will be regarded unsuccessful.
2. The bid-withdrawing person shall be deprived of his/her right to further offer bids and not be refunded the paid deposit, which will belong to the property auction organization.

### **Article 39. Refusal to buy auctioned property**

1. At an auction, when the auctioneer conducting the auction has announced the successful buyer of property but this buyer refuses to buy it, such property shall be sold to the person offering the immediate lower bid if such bid plus the deposit at least equals the bid offered by the refusing person.

For an auction conducted in the form of casting bids, in the above case, if 2 or more persons offer the same immediate lower bid, and such bid plus the deposit at least equals the bid offered by the person refusing to buy property, such property shall be sold to any of these persons after the auctioneer organizes a draw to select the successful buyer.

In case the immediate lower bid plus the deposit is smaller than the bid offered by the person refusing to buy property, the auction will be regarded unsuccessful.

2. In case the person offering the immediate lower bid refuses to buy property, the auction will be regarded unsuccessful.

3. The deposit made by the person refusing to buy property specified in Clause 1 of this Article will belong to the person having property put up for auction.

**Article 40. Return of property put up for auction in case of unsuccessful auction**

In case of unsuccessful auction, the property auction organization shall return the property to its owner within 3 working days from the date of unsuccessful auction, unless otherwise agreed by the parties or provided for by law.

**Article 41. Time limit, method and place of payment for. and handover of. auctioned property**

1. The time limit, method and place of payment for auctioned property shall be agreed by the property auction organization and the successful buyer of the property in the contract on purchase and sale of the property, unless otherwise provided for by law.

2. The time limit and place of handover of auctioned property shall be agreed by the property auction organization and the successful buyer of the property in the contract on purchase and sale of the property, unless otherwise provided for by law.

**Article 42. Redemption of auctioned property**

1. A person having property put up for auction may only redeem the auctioned property if so agreed by its successful buyer.

2. The redemption of auctioned property complies with the Civil Code's provisions on property purchase and sale contracts.

**Article 43. Property auction charge and expenses**

1. In case of successful auction, unless otherwise provided for by law, the person having property put up for auction shall pay to the property auction organization the following charge and expenses:

a/ Auction charge under the law on charges and fees;

b/ Actual and reasonable expenses for property auction as agreed by person having property put up for auction and the property auction organization.

2. In case of unsuccessful auction, the person having property put up for auction shall pay to the property auction organization actual and reasonable expenses specified at Point b. Clause 1 of this Article, unless otherwise agreed by the parties or provided for by law.

3. For property auctioned for judgment enforcement, in case of unsuccessful auction, the judgment enforcement agency shall pay property auction expenses to the property auction organization.

4. For property being material evidences and means used in administrative violations, in case of unsuccessful auction, the finance agency shall pay auction expenses to the district-level property auction service center and property auction council in accordance with law.

**Article 44. Charges for the service of completing procedures for ownership or use right transfer and other services related to property put up for auction (below collectively referred to as service charges)**

1. Organizations and individuals that wish and have the service of completing procedures for ownership or use right transfer and other services related to property put up for auction provided by property auction organizations shall pay service charges to such organizations.
2. Service charge rates shall be agreed by the parties on the basis of necessary and reasonable expenses and market prices.

**Article 45. Management and use of property auction charge and expenses, service charges and other revenues**

1. Property auction charge and expenses, service charges and other revenues of property auction service centers shall be managed and used under the law on charges and fees and financial regulations applicable to non-business units with revenues.
2. Property auction charge and expenses, service charges and other revenues of property auction enterprises shall be managed and used under the law on charges and fees and financial regulations applicable to enterprises.
3. Property auction expenses of property auction councils specified in this Decree shall be managed and used under the Finance Ministry's guidance.

**Article 46. Issuance of certificates of ownership or use right of auctioned property**

1. Competent state agencies shall issue property ownership or use right certificates to successful buyers of property put up for auction.
2. The time limit for issuing a certificate of ownership or use right of auctioned property complies with regulations applicable to such kind of property.
3. Based on written certifications of auction outcomes, competent agencies shall issue land use right certificates and house and land-attached asset ownership certificates to successful buyers of property put up for auction in accordance with the land law.

**Article 47. Liability for the value and quality of auctioned property**

Property auction organizations are not liable for the value and quality of auctioned property, unless they fail to fully and accurately notify bidders of necessary information relating to the value and quality of auctioned property under property auction contracts.

**Article 48. Cancellation of property auction outcomes**

1. Property auction outcomes shall be cancelled in the following cases:
  - a/ When it is so agreed by the person having property put up for auction, the successful buyer of property and the property auction organization, unless otherwise provided for by law. For property auctioned for judgment enforcement, the judgment debtor's agreement is also required.
  - b/ When the property auction contract or contract on purchase and sale of property put up for auction is declared to be null and void by the court or cancelled under the civil law:
  - c/ When they are cancelled under decisions of persons with sanctioning competence under the law on handling of administrative violations and Clause 3, Article 56 of this Decree.
2. When the property auction outcomes are cancelled under this Article, the parties shall restore the original state of the received property and return it to one another; property which cannot be

returned in kind must be returned in cash. The damage-causing party shall pay compensations under law.

#### **Article 49. Re-conducting of auctions**

1. In case of unsuccessful auction, property put up for auction shall be handled under law or the agreement between the person having such property and the property auction organization.

For property being material evidences or means used in administrative violations, after two price reductions, if the auction still fails, the property auction organization shall return the property to the agency competent to issue confiscation decisions for liquidating the property under the law on handling of administrative violations. Each price reduction must not exceed 10% of the reserve price of property put up for auction.

2. The order and procedures for re-conducting an auction are the same as those for the first-time auction.

### **Chapter V**

#### **STATE MANAGEMENT OF PROPERTY AUCTION**

##### **Article 50. Responsibilities of the Ministry of Justice**

The Ministry of Justice is an agency assisting the Government in performing the unified state management of property auction organization and operations nationwide and has the following tasks and powers:

1. To elaborate and submit to competent state agencies for promulgation or promulgate according to its competence legal documents on property auction organization and operations, and guide their implementation.
2. To promulgate, manage, and guide according to its competence the use of, forms of documents and papers in property auction, books for monitoring auctioned property and property auction registers; to promulgate the form of auctioneer's card.
3. To stipulate the framework programs for auction profession training courses and auction profession training establishments.
4. To issue, revoke and re-issue auction practice certificates.
5. To examine and inspect property auction organization and operations according to its competence.
6. To summarize and annually report to the Prime Minister on property auction organization and operations.
7. To implement international cooperation in property auction.
8. To perform other tasks and exercise other powers assigned by the Government.
9. To perform other tasks and exercise other powers provided for by law.

##### **Article 51. Responsibilities of the Ministry of Finance**

1. To guide financial regulations applicable to property auction operations.
2. To guide the determination of the reserve price of to-be-auctioned property being state property or material evidences or means used in administrative violations.

3. To provide general guidance on rates and the management and use of the fee for issuance of auction practice certificates and the auction charge which are state budget revenues under the law on charges and fees.

4. To perform other tasks and exercise other powers provided for by law.

#### **Article 52. Responsibilities of ministries, ministerial-level agencies and government-attached agencies**

Within the ambit of their tasks and powers, ministries, ministerial-level agencies and government-attached agencies shall coordinate with the Ministry of Justice in the state management of the auction of property under their management.

#### **Article 53. Responsibilities of provincial-level People's Committees**

1. Provincial-level People's Committees shall perform the state management of properly auction operations in their localities and have the following tasks and powers:

a/ To decide on the appointment and relief from duty of directors of property auction service centers;

b/ To assure payrolls, physical foundations and working conditions for such centers under regulations applicable to revenue-generating non-business units;

c/ To set specific rates of the auction charge for application in their localities, pursuant to resolutions of provincial-level People's Councils and the law on charges and fees;

d/ To examine, inspect, and handle violations related to property auction organization and operations in localities according to their competence;

e/ To annually report to the Ministry of Justice on property auction organization and operations in localities for summarization and reporting to the Prime Minister;

f/ To perform other tasks and exercise other powers provided for by law.

2. Provincial-level Justice Departments shall assist provincial-level People's Committees in performing the state management of property auction in localities, and have the following tasks and powers:

a/ To guide local property auction organizations in property auction operations;

b/ To formulate a scheme on the roadmap for converting property auction service centers to operate as enterprises, for provinces and centrally run cities with two or more property auction enterprises, submit it to provincial-level People's Committees for approval and organize the implementation of the scheme after it is approved;

c/ To examine, inspect, and handle violations related to property auction organization and operations in localities according to their competence;

d/ To annually or extraordinarily report on property auction organization and operations in localities to provincial-level People's Committees and the Ministry of Justice;

d/ To perform other tasks and exercise other powers under decisions of chairpersons of provincial-level People's Committees or authorization of the Minister of Justice.

#### **Article 54. Handling of violations of property auction organizations, auctioneers and bidders**

1. Property auction organizations which violate this Decree shall be administratively sanctioned; if causing damage, they shall pay compensation under law.
2. Auctioneers who violate this Decree shall, depending on the nature and severity of their violations, be disciplined, administratively sanctioned or examined for penal liability.
3. Bidders that violate this Decree shall, depending on the nature and severity of their violations, be administratively sanctioned or examined for penal liability; if causing damage, they shall pay compensation under law.
4. Acts of administrative violation and the forms, competence and procedures for handling administrative violations in property auction comply with the law on handling of administrative violations in judicial and other relevant domains.

## **Chapter VI**

### **IMPLEMENTATION PROVISIONS**

#### **Article 55. Transitional provisions**

1. Property auction service centers and property auction enterprises set up before the effective date of this Decree may continue their operation under this Decree.

Enterprises having registered to provide property auction services and wishing to auction property of the kinds specified in Clauses 2 and 3. Article 1 of this Decree must satisfy all the conditions specified in Article 16 of this Decree.

2. To auction land use rights, land fund development organizations set up under the land law shall sign contracts with professional auction organizations defined in Article 14 of this Decree.
3. Auctioneer's cards issued under Decree No. 05/2005/ND-CP have the same legal validity as auction practice certificates.

#### **Article 56. Effect**

1. This Decree takes effect on July 1, 2010, and replaces the Government's Decree No. 05/2005/ND-CP of January 18, 2005, on property auction.
2. The provisions on the property auction order, procedures and guidance in the following documents cease to be effective:
  - a/ Point d and e. Clause 2, Article 44 of the Government's Decree No. 159/2007/ND-CP of October 30, 2007, on the sanctioning of administrative violations in forest management and protection and forest product management;
  - b/ Clause 4. Article 62 of the Government's Decree No. 181/2004/ND-CP of October 29, 2004, on the implementation of the Land Law;
  - c/ Articles 7 thru 11, and the provisions on auction councils under Clause 1, Article 12 of the Prime Minister's Decision No. 216/2005/QD-TTg of August 31, 2005, on the auction of land use rights for allocation of land subject to with land use levy or for land lease.
3. To add the remedy "cancellation of property auction outcomes" for administrative violations "failure to comply with regulations on posting up and public notification of property auction information" under Point a. Clause 1. Article 29 of Decree No. 60/2009/ND-CP, on the sanctioning of administrative violations in the judicial domain.

4. Other property auction-related provisions which are contrary to this Decree are all annulled.

**Article 57. Implementation responsibility**

1. The Ministry of Justice shall assume the prime responsibility for, and coordinate with concerned ministries and branches in, guiding the implementation of this Decree.

Ministers, heads of ministerial-level agencies, heads of government-attached agencies and chairpersons of provincial-level People's Committees shall implement this Decree-

**ON BEHALF OF THE GOVERNMENT  
PRIME MINISTER**

**Nguyen Tan Dung**