



Research Paper

Legal Issues Concerning Apartment Ownership Rights in Vietnam for Overseas Vietnamese

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I. INTRODUCTION

In recent years, the number of Vietnamese citizens residing abroad has continued to increase significantly. Along with rapid economic growth, accelerating urbanization, and the expansion of the real estate market, the demand for property ownership in Vietnam has become increasingly common among overseas Vietnamese. As a result, legal issues relating to apartment ownership rights have attracted growing attention and require more comprehensive consideration.

For many overseas Vietnamese, owning an apartment in Vietnam is not merely a practical housing need but also reflects their enduring connection with their homeland. Acquiring residential property allows them to preserve assets, establish a place of residence, and maintain long-term ties with local communities and the country as a whole. In practice, however, many face legal obstacles due to regulations that are not always clear or easy to implement. Although the 2014 Housing Law and subsequent amendments have introduced important improvements, inconsistencies among legal provisions and a lack of transparency have created challenges in enforcement.

One of the most significant concerns lies in the gap between legal regulations and the realities of the real estate market. While the Housing Law 2023 recognizes the right of overseas Vietnamese to own apartments in Vietnam, certain limitations remain regarding land-use rights, ownership quotas, and administrative procedures. These challenges become even more pronounced in a market where some real estate transactions lack transparency and may be vulnerable to legal manipulation. Overseas Vietnamese may encounter difficulties in proving ownership rights or completing transactions where the legal status of the property is unclear, particularly in projects that have not yet satisfied all legal requirements or are not subject to effective regulatory oversight.

In addition, the Vietnamese real estate market continues to face a number of structural challenges, including price instability and a shortage of affordable housing, especially in major urban centers. These factors create additional barriers for overseas Vietnamese seeking to purchase apartments. Insufficient regulatory intervention may also contribute to an imbalance between housing supply and demand, resulting in unequal access to housing resources.

CONTENT

1. General Theoretical Issues

1.1. The Concept of Apartment Ownership Rights

Under Vietnamese law, an apartment building is defined as a residential building consisting of two or more stories and multiple apartment units, with shared corridors, stairways, common facilities, and infrastructure systems serving households, individuals, and organizations. Apartment buildings may be constructed solely for residential purposes or for mixed-use purposes combining residential and commercial functions.

Apartment ownership rights belong to individuals or entities that legally own apartment property. Apartment owners include owners of apartment units as well as owners of other non-residential areas within the building. Private ownership in an apartment building comprises the area of an apartment unit or other independently owned spaces, together with equipment and facilities exclusively used within those areas. Common ownership includes the remaining areas of the building outside the privately owned sections, along with facilities and equipment intended for shared use by all owners and occupants.

Apartment ownership rights encompass several important aspects:

Right of Use: Apartment owners have the right to use their units for residential purposes or other lawful purposes, including leasing, selling, or gifting the property. This right also includes the ability to repair or renovate the apartment, provided that such activities do not adversely affect the common structure or safety of the building.

Right of Transfer: Owners are entitled to transfer ownership of their apartments through sale, donation, or inheritance in accordance with applicable laws. Any transfer must comply with statutory procedures and financial obligations, including the payment of taxes, registration fees, and other related charges.

Right to Participate in Building Management: Apartment owners have the right to attend and participate in residents' meetings to discuss issues relating to the management, operation, and maintenance of the apartment building. Through these mechanisms, owners can contribute to decisions regarding maintenance funds, repairs of common areas, and other matters affecting the shared living environment within the building.

Right of Inheritance and Gift Transfer: Ownership of an apartment may be inherited or transferred as a gift to another person. This right helps safeguard the interests of the owner in the event of death or when ownership is intended to be transferred to family members or other beneficiaries.

Right to Use Common Areas: Although an apartment is privately owned property, apartment owners are also entitled to use the common areas of the building, including corridors, staircases, elevators, gardens, and other shared facilities. The use of these common areas, however, must comply with the regulations and management rules applicable to the apartment building.

Obligations Relating to Common Property: Apartment owners are required to contribute to the maintenance and repair costs of common areas, as well as to expenses associated with security, sanitation, and the general operation of the building. These obligations reflect the responsibilities of each owner toward the residential community within the apartment complex.

Therefore, apartment ownership encompasses not only the right to use and manage a private residential unit but also a range of rights and obligations associated with common property, participation in building management, and compliance with housing regulations and other relevant legal requirements.

1.2. The Concept of Overseas Vietnamese

Under current Vietnamese law, the term “*Overseas Vietnamese*” refers to Vietnamese citizens and persons of Vietnamese origin who reside, work, and live permanently abroad. Specifically, overseas Vietnamese are individuals who have left Vietnam to establish long-term residence in foreign countries and possess legal documentation proving their lawful residency status in those countries. They may either retain Vietnamese nationality or have acquired the nationality of their host country.

The determination of overseas Vietnamese status is primarily based on the provisions of the Law on Vietnamese Nationality and other relevant legal instruments. In general, overseas Vietnamese may be classified into two categories:

- **Vietnamese citizens residing abroad**, namely individuals who retain Vietnamese nationality; and
- **Persons of Vietnamese origin residing abroad**, including individuals who previously held Vietnamese nationality and whose nationality at birth was determined according to the principle of jus sanguinis (bloodline), as well as their descendants who currently reside and live permanently outside Vietnam.

The concept of apartment ownership rights of overseas Vietnamese refers to the rights legally recognized under Vietnamese law that allow Vietnamese citizens living and working abroad (commonly referred to as the Vietnamese diaspora) to own apartment units in Vietnam. While these ownership rights are generally similar to those enjoyed by Vietnamese citizens residing within the country, they remain subject to certain specific legal conditions and restrictions prescribed by law.

2. Legal Regulations on Apartment Ownership Rights in Vietnam for Overseas Vietnamese and Their Practical Application

2.1. Legal Framework Governing Apartment Ownership Rights of Overseas Vietnamese in Vietnam

Vietnamese law clearly recognizes the housing ownership rights of overseas Vietnamese, including the right to own apartment units, with the objective of ensuring equitable treatment between residents living in Vietnam and Vietnamese citizens residing abroad in relation to real estate ownership.

For individuals holding a Vietnamese passport, the passport must remain valid and bear an immigration entry stamp issued by the competent Vietnamese immigration authority.

For individuals holding a foreign passport, the passport must also be valid and contain an entry verification stamp issued by the Vietnamese immigration authority. In addition, they must provide documents proving their Vietnamese nationality or confirming their status as persons of Vietnamese origin. Such documents may be issued by provincial or municipal Departments of Justice, Vietnamese diplomatic missions abroad, agencies responsible for overseas Vietnamese affairs, or other competent authorities in accordance with Vietnamese law. Where a foreign national possesses documentation confirming Vietnamese origin, that individual may choose only one applicable legal status—either as an overseas Vietnamese or as a foreign individual—for the purpose of determining housing ownership rights in Vietnam.

In cases where an overseas Vietnamese is not permitted to enter Vietnam but receives residential property through inheritance or gift transfer, ownership rights to such property will not be officially recognized. In such

circumstances, the individual must authorize another person or organization legally residing or operating in Vietnam to sell or transfer the property on their behalf.

The 2023 Housing Law and the 2024 Land Law introduce several significant changes concerning apartment ownership rights of overseas Vietnamese in Vietnam. Compared with previous legislation, these laws provide greater clarity and establish a more comprehensive legal framework. The amendments are intended not only to facilitate property ownership for overseas Vietnamese but also to promote fairness and stability within the Vietnamese real estate market.

First, overseas Vietnamese are eligible to own apartments in Vietnam provided that they fall within the categories permitted by law. They are no longer required to register residence at the location of the property being acquired. Under the 2014 Housing Law, overseas Vietnamese could obtain apartment ownership only through specific methods, such as purchasing or leasing commercial housing from real estate developers; purchasing, receiving as gifts, exchanging, or inheriting housing from households or individuals; or acquiring residential land-use rights within approved commercial housing projects for self-construction. The 2023 Housing Law simplifies these requirements considerably. Under the new regulations, overseas Vietnamese who are legally permitted to enter Vietnam are generally eligible to own housing in the country.

Second, ownership quotas for apartment units remain in place. Although the ownership rights of overseas Vietnamese have been expanded, specific limitations continue to apply in order to maintain market stability and ensure fairness. These restrictions are intended to prevent overseas Vietnamese, as well as foreign individuals or organizations with family relationships to overseas Vietnamese, from acquiring an excessive number of apartment units within residential developments, thereby protecting the interests of domestic residents, particularly in major urban areas where housing demand is high.

Third, enhanced mechanisms have been established to protect legitimate rights and regulate property transactions. Transactions involving the purchase, sale, transfer, or ownership of housing by overseas Vietnamese must comply with applicable legal requirements and be carried out through competent state authorities. These measures aim to increase transparency and reduce legal risks associated with apartment ownership and transfer transactions.

Fourth, the new legislation seeks to encourage investment and support market development. Although ownership limitations remain, the 2023 Housing Law reflects a broader policy of encouraging overseas Vietnamese to participate in Vietnam's real estate market. The new provisions are designed to create a more favorable environment for apartment ownership while ensuring the sustainable development of the housing sector. The innovations introduced by the 2023 Housing Law and the 2024 Land Law have significantly improved the legal framework governing apartment ownership by overseas Vietnamese. At the same time, they contribute to the establishment of a transparent, equitable, and stable real estate market in Vietnam. These regulations not only provide greater opportunities for overseas Vietnamese to acquire apartment property in their homeland but also support the long-term development of the domestic real estate sector.

2.2. Practical Issues in the Application of Laws Governing Apartment Ownership by Overseas Vietnamese in Vietnam

Although significant reforms have been introduced through the 2023 Housing Law and the 2024 Land Law, the practical implementation of regulations governing apartment ownership by overseas Vietnamese in Vietnam continues to face several notable challenges. These limitations not only create difficulties for overseas Vietnamese seeking to exercise their ownership rights but also reduce the effectiveness of existing legal policies, particularly in the context of a rapidly evolving and increasingly complex real estate market.

One of the most significant issues concerns the management and supervision of apartment ownership by overseas Vietnamese. Under the 2023 Housing Law, overseas Vietnamese are permitted to own residential property in Vietnam provided that they are eligible to enter the country. In the case of detached houses, villas, or townhouses located within an area equivalent in population size to a ward-level administrative unit, overseas Vietnamese may purchase, lease-purchase, receive as gifts, inherit, and own no more than 250 housing units. Ownership is generally limited to a period of 50 years, although extensions may be granted upon request in cases involving purchase, lease-purchase, inheritance, or gift transfers.

Despite these provisions, the legal framework lacks a comprehensive mechanism for effectively monitoring and managing ownership by this group. In practice, supervising ownership quotas remains challenging due to the absence of a centralized database and effective tools for tracking real estate transactions involving overseas Vietnamese. As a result, transparency in ownership records cannot always be guaranteed, making it more difficult for state authorities to enforce the law consistently and effectively.

A second limitation relates to land ownership rights. The 2024 Land Law clearly stipulates that overseas Vietnamese may own apartment units within condominium buildings but do not enjoy independent ownership rights over land. This restriction may create practical difficulties when owners wish to transfer, mortgage, or otherwise utilize their property in commercial transactions. The absence of full land ownership rights may limit

the benefits associated with property ownership and create an imbalance in the exercise and enjoyment of property rights.

Another challenge lies in the administrative procedures associated with property ownership. Although current regulations are intended to facilitate housing ownership by overseas Vietnamese, administrative processes remain relatively complicated. Procedures involving ownership registration, payment arrangements, property transfers, and registration of changes in real estate ownership are not always implemented in a coordinated and transparent manner among relevant authorities. Consequently, property owners may experience lengthy processing times, additional costs, and legal risks arising from procedural errors or non-compliance. Furthermore, limited transparency regarding real estate projects can make it difficult for overseas Vietnamese to evaluate investment opportunities and complete transactions with confidence.

A fourth concern involves the enforcement of ownership quota regulations within apartment buildings. In practice, project developers often lack effective mechanisms for accurately monitoring and reporting the proportion of units owned by foreigners and overseas Vietnamese. This creates difficulties in determining whether ownership limits have been exceeded and may give rise to disputes, complaints, and uncertainty during property transactions.

The uneven development of Vietnam's real estate market also presents a considerable challenge. While the legal framework has become more accommodating toward overseas Vietnamese, the market itself remains characterized by fluctuations and high housing prices, particularly in major urban centers such as Hanoi and Ho Chi Minh City. As a result, many overseas Vietnamese find it difficult to access housing at reasonable prices. Although government authorities have implemented measures to encourage investment and real estate transactions, the persistent shortage of affordable housing, especially affordable apartment units, continues to be a major obstacle for those wishing to acquire residential property in Vietnam.

In addition to issues relating to procedures, market conditions, and ownership quotas, the lack of transparency in certain real estate transactions remains a significant concern. Property transactions in Vietnam may be affected by problems such as fraud, misrepresentation, and other unlawful practices. Because overseas Vietnamese often do not reside permanently in Vietnam, they may be particularly vulnerable to fraudulent schemes. In practice, many have encountered situations involving unclear property titles, uncertified sale contracts, or housing projects that have not fully satisfied legal requirements. Such circumstances expose buyers to substantial financial losses and legal uncertainties.

Finally, tax policies and transaction-related fees constitute another important factor affecting the implementation of property ownership rights. Issues relating to personal income tax on property transfers, property-related taxes, and various transaction fees may create difficulties for property owners, especially those who are unfamiliar with Vietnam's tax system and administrative procedures. For many overseas Vietnamese, navigating these requirements can be both time-consuming and complex, thereby affecting their ability to fully exercise their property rights.

3. Recommendations for Improving the Legal Framework Governing Apartment Ownership Rights in Vietnam for Overseas Vietnamese

To improve the legal framework governing apartment ownership rights in Vietnam for overseas Vietnamese, several measures should be introduced to address existing shortcomings, facilitate property ownership, protect legitimate rights and interests, and promote the sustainable development of the real estate market.

One of the key issues that requires improvement is the transparency of regulations concerning ownership rights. Although the 2023 Housing Law introduced significant reforms, provisions regarding the ownership ratio of overseas Vietnamese in apartment buildings remain insufficiently clear. This lack of clarity has resulted in inconsistencies in implementation and supervision. To address this issue, competent authorities should establish a unified and accessible information system to monitor housing ownership transactions involving overseas Vietnamese. Such a system would not only ensure compliance with ownership limits but also prevent the abuse of property ownership rights and safeguard the interests of other property owners.

In addition, administrative procedures related to apartment ownership should be further streamlined and simplified. Overseas Vietnamese continue to encounter various difficulties when carrying out legal procedures involving the purchase, transfer, or mortgage of residential properties. To facilitate these transactions, relevant authorities should develop a transparent and efficient process, particularly regarding ownership certification and the resolution of property-related disputes. Furthermore, establishing legal advisory and support centers specifically designed for overseas Vietnamese would provide timely and reliable assistance, enabling them to navigate legal requirements more effectively.

Another important issue concerns land ownership rights. Under current legislation, overseas Vietnamese are permitted to own apartments but are not granted ownership rights over land. However, given the increasing demand for real estate ownership, especially in major cities such as Hanoi, Ho Chi Minh City, and Da Nang, restrictions on land ownership may create inequalities in the exercise of property rights. Several countries allow

their citizens living abroad to retain or acquire land ownership rights in their homeland. Therefore, Vietnam may consider reviewing and adjusting its regulations regarding land ownership for overseas Vietnamese in a manner that reflects practical needs while safeguarding national interests.

Moreover, financial incentives and tax support policies should be considered to encourage overseas Vietnamese to invest in residential property in Vietnam. Many countries have introduced preferential schemes to support their citizens in acquiring property in their home countries. Vietnam could draw lessons from these experiences by implementing appropriate financial policies, such as reducing transfer taxes or granting exemptions from certain property-related taxes in specific circumstances. Such measures would facilitate property ownership for overseas Vietnamese and encourage greater participation in the domestic real estate market.

Another crucial aspect is the establishment of a transparent legal environment to protect the legitimate rights of apartment owners. Since overseas Vietnamese often reside abroad and may not regularly monitor developments in Vietnam, they are particularly vulnerable to risks associated with non-transparent real estate transactions, including fraudulent transfers and incomplete legal information regarding properties. Therefore, stronger monitoring and enforcement mechanisms should be implemented to combat fraud in real estate transactions. At the same time, authorities should ensure greater transparency in the disclosure of information relating to the real estate market, especially for projects involving overseas Vietnamese buyers.

Finally, to enhance the effectiveness of law enforcement and better protect the rights of overseas Vietnamese, a coordinated mechanism should be established among government agencies, real estate developers, and legal advisory organizations. Such cooperation would facilitate the timely resolution of legal issues, ensure the protection of legitimate interests, and contribute to the development of a fair, transparent, and efficient real estate market.

II. CONCLUSION

Overall, Vietnam's current legal framework has made considerable progress in establishing a solid legal basis for overseas Vietnamese to own apartments in the country. Nevertheless, a number of challenges and legal obstacles remain unresolved. Although the 2023 Housing Law introduced several positive reforms, particularly by simplifying legal procedures and enhancing transparency, uncertainties regarding ownership quotas for overseas Vietnamese in apartment buildings continue to create difficulties in implementation and supervision.

The analysis presented in this paper demonstrates that improving the legal framework governing apartment ownership rights for overseas Vietnamese requires comprehensive and coordinated efforts from relevant authorities. The development of a transparent, coherent, and equitable legal system will not only protect the legitimate rights and interests of overseas Vietnamese but also contribute to the sustainable development of Vietnam's real estate market. Such improvements would benefit overseas Vietnamese seeking property ownership in their homeland while simultaneously supporting national economic development, particularly in the context of increasing international integration and growing demand for real estate investment among overseas Vietnamese communities.

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