

Establishing Usufruct Rights Under Statutory Basis in Vietnamese Law

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Abstract

The usufruct rights is a legal right that was imposed on the property of another person, and can only arise based on legal events prescribed by law, called the basis for establishing usufruct rights. The basis for establishing usufruct rights according to the laws of different countries is not entirely the same. In Vietnam, usufruct rights are established based on three legal bases: the basis prescribed by law, the basis of the agreement of the parties, or the basis of a will. This article studies the basis for establishing the right of usufruct according to the statutory basis, in current Vietnamese law (specifically the 2015 Civil Code). By using the methods of written law analysis, historical method, comparative legal method, and survey of the practical application of Vietnamese law, the article provides the content of positive law in Vietnam on the basis for establishing usufruct rights according to the law, aiming to introduce readers to the current legal status, point out the advantages and disadvantages of these regulations, select practical experiences of foreign law, and contribute to building solutions to improve the regulations on the basis for establishing usufruct rights according to the law in Vietnam today.

Keywords: *Usufruct Right, Basis for Establishing Usufruct Right, Establishing Usufruct Right According to Law, Property Right, Right to Use, Right to Reside, Right to Long-Term Housing Lease, 2015 Civil Code.*

Introduction

"Usufruct right means the right of a subject to exploit and enjoy benefits and income from a property under the ownership of another subject within a certain period of time" (the 2015 Civil Code, Article 257). To establish the usufruct right over someone else's property, the 2015 Civil Code (CC 2015) prescribes three different legal bases, including legal provisions, agreements between the parties, and testamentary provisions by the property owner. Research results show that the stipulation on the concept of usufruct right and the basis of establishing usufruct in current Vietnamese positive law only contain the general level mentioned above and have not been clarified and specified in related specialized regulations, especially the provisions on the basis for establishing usufruct rights prescribed by law according to general law (i.e., CC 2015). Although usufruct rights encompass various types across different legal fields, general law only specifies three bases for establishing these rights, without providing detailed provisions for each, nor any detailed regulations on the content, conditions, and legal consequences of each basis. This deficiency has complicated the process of understanding and applying the law, thereby limiting the effectiveness of law enforcement. This requires a study of the current state of the law and the practice of applying the law on the basis for establishing usufruct by law, focusing on identifying the deficiencies of these provisions, determining the theoretical and practical basis, and legislative experience of advanced legal systems in the world, and thereby proposing solutions to overcome them, such as specifying different types of usufruct rights in specialized laws and detailing the statutory bases for establishing usufruct rights to enhance these provisions, and to better protect the rights and interests of vulnerable family members and social welfare beneficiaries.

Research Basis and Methodology

Research Basis

The Concept and Classification of Usufruct Rights and Their Impact on The Establishment of Statutory Usufruct Rights

The establishment of statutory usufruct rights is one of the three bases for establishing usufruct rights under Vietnamese law. To clarify this regulation, assess the legal framework, and provide recommendations to address deficiencies, it is crucial to examine the origins, nature, and classification of usufruct rights across

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specialized legal fields. This helps clarify the statutory basis for establishing usufruct rights under general law (CC), as well as other statutory bases in relevant legal fields.

Usufruct rights regulation found its roots from the cultural Roman Law, which began forming before the 2nd century BC, and was completed by the 1st century AD. According to Max Kaser (1984, pp. 148–149), “Ususfructus probably arose during the third century B.C., and perhaps even before the turning away from the agricultural economy”, while Giovanni Pugliese said that the definition of usufruct right can be understood as “a right of using and enjoying the property of another person” in the 1st Century AD at latest (Giovanni Pugliese, 1965-1966, p.527). The term usufruct originated etymologically from the Latin expression “ususfructus”, including the elements of “usus” which means to use and “fructus” (Philippe Malaurie, Laurent Aynès, 2005, p.250 -6) which means to enjoy the fruits, respectively. It can be determined that usufruct combines two property rights: the right to use certain property and the right to enjoy the benefits derived from it, although the property itself belongs to another party. The term usufruct likely originated in the book of Roman Law called Digest. Digest is a clear summary of Roman Law, organized under the Praetor’s Edict, systematized by jurist Julian during Emperor Hadrian’s reign, with usufruct rights defined in books 7 and 8 of Digest (View more: David Johnston, 2015, p.283). Given that, usufruct is defined as “Usus fructus est ius alienis rebus utendi fruendi salva rerum substantia” (The Latin Library et al). The connotation of the usufruct concept has been accepted and adopted in many CCs worldwide, such as in Vietnam (2015 CC, Article 257 and onward), France (French CC, Article 578 and following), Canada (Quebec CC, Article 1122 and onward), the United States (Louisiana CC, Article 533 and onward), Thailand (Thai Civil and Commercial CC, Article 1417 and onward), and China (2020 Chinese CC, Article 323 and onward)...

In Vietnam, usufruct rights were first recorded in the Hong Duc Code in the 15th century, recognizing specific rights such as parental usufruct over the inheritance of deceased children, spousal usufruct over a deceased spouse’s inheritance, and usufruct rights granted by the state as rewards for land reclamation and public reporting of land misuse (Le Minh Hung, 2024). Vietnamese usufruct law continued through various legal codes until it was interrupted in 1975. During the 1975-2015 period, civil codes in 1995 and 2005 did not include usufruct rights, but they were reintroduced in the 2015 Civil Code, marking significant progress toward a legal framework more aligned with social needs and practical realities. The reintroduction in 2015 established a legal foundation for recognizing, protecting, and enforcing usufruct rights in a broad and comprehensive manner.

However, if usufruct rights are only defined generally, they remain abstract and do not translate into specific rights. Therefore, recognizing the diversity of usufruct rights and their distinctions requires further legal specificity in related legal frameworks and specialized fields. Research into Roman law and Vietnamese law shows that usufruct rights can take different forms, including general usufruct (usufructus), using rights (usus), residence rights (habitatio), and long-term land lease rights (jus perpetuum) (Nghiem Xuan Viet, 1974; Nguyen Ngoc Dao, 1994, pp. 91-2). Currently, Vietnamese law lacks regulations on specific types of usufruct rights in specialized fields. While this approach unifies the concept of usufruct rights, it limits legal practice and reduces the likelihood of recognizing usufruct-like rights that objectively exist in society, such as those related to family law, inheritance law, land law, forestry law, and mineral resources law.

Theoretically, the classification of specific usufruct rights enriches the recognized usufruct right types, deepens the concept’s content, while providing a legal basis for recognizing unique usufruct rights in specialized fields, and ensures that the concept aligns with practical needs. Additionally, specifying unique usufruct rights impacts the development of statutory bases for each type. Therefore, studying the foundations for establishing usufruct rights requires grounding in specialized legal frameworks for specific usufruct types.

Overview of Statutory Usufruct Right Bases

According to current Vietnamese law, the basis for establishing usufruct rights is specified in Article 258 of the 2015 CC, which allows usufruct rights to be established through one of three bases: statutory law, mutual agreement, and testamentary will (unilateral intention of the testator). This article focuses on

statutory law as the basis for establishing usufruct rights.

A statutory basis for establishing usufruct rights generally refers to factual events recognized by law as the legal basis that grants a subject usufruct right over someone else's property under certain conditions. Terminologically, *statutory usufruct right bases are specific legal events anticipated by law. When these events occur, usufruct rights automatically arise without the need for the involved parties' consent.* These statutory bases are clearly defined in the CC or other laws and take effect only when the specified events occur.

There is an intrinsic relationship between usufruct rights, their classification, and their statutory establishment. The basis for establishing usufruct rights is essential to their existence. Usufruct rights can only exist and be legally effective if they are legally established on a concrete legal basis. If usufruct rights exist in practice without legal establishment, they lack legal validity because they lack a legal basis for recognition and enforcement. Thus, the basis for establishing usufruct rights is a critical legal issue, a fundamental component of the usufruct rights framework, without which usufruct rights, even if practically existing, would lack a foundation for legal recognition.

Methodology

To clarify the legal content of the statutory basis for establishing usufruct rights in current Vietnamese law, this article employs legal analysis, using logical legal inference and a systematic approach to the relationship between general law (CC) and other relevant laws (family law, housing law...) to analyze the lack of clarity in usufruct-like rights not yet formally recognized, and allowing us to ascertain whether these rights should be considered usufruct rights under statutory bases.

The article also uses historical and comparative law methods to analyze Vietnam's legal context, comparing current provisions with past Vietnamese law and laws in some other countries, and assess the actual similarity of certain rights to usufruct rights, as well as analyzing deficiencies in current law, reasoning about causes, and proposing solutions as a theoretical and practical foundation for improving Vietnam's legal framework on statutory bases for usufruct rights.

Additionally, the article includes surveys on the practical application of law in Vietnam to accurately identify the legal status, building a practical basis for assessing the shortcomings of positive law and proposing corresponding solutions, thereby providing practical data for the author's recommendations when making proposals for improving the law.

Result and Discussion

The affection of the regulations on the concept, classification of usufruct rights and the principle of "statutory property rights" to the basis of establishing usufruct rights according to law.

As analyzed in subsection 1.1 of this article, there is a dialectical relationship between the concept and classification of usufruct rights and the basis for establishing usufruct rights. There will be no legal basis and there is no needs for additional provisions nor legal basis to establish usufruct rights if the CC and related laws do not include specific regulations on special types of usufruct rights other than the general concept and classification provided by the CC. Contrariwise, usufruct rights will not be recognized or guaranteed in practice if there is no appropriate legal basis corresponding to each type of usufruct rights that exists. Therefore, to ensure that the legal basis for establishing usufruct rights is comprehensive, complete, and systematic; it is crucial to have specific regulations addressing different types of usufruct rights across various legal fields. Currently, usufruct rights are only addressed in a general sense within the 2015 CC. In practice, there are similar rights to usufruct rights that are not yet recognized by the law.

In principle, the establishment and implementation of ownership rights and other property rights are governed by the CC and other related laws (CC 2015, Clause 1, Article 160). This follows the principle of 'legal property rights' (Hoang Thi Thuy Hang, 2013, p.13). Ownership and usufruct rights must be legally stipulated; otherwise, those rights are not guaranteed to be recognized as usufruct rights. Consequently, without legal recognition, there is no

basis to implement the legal framework for usufruct rights to resolve conflicts that may arise.

Assessing the current laws may reveal that certain aspects of the legal basis for establishing usufruct rights in specialized legal fields have been overlooked and require solutions for improvement. Based on similar rights outlined in the CC and related legislation, the author suggests that the list of usufruct rights should be expanded and categorized into specific types, each corresponding to relevant legal areas, such as:

(i) The current CC only contains general provision of usufruct rights lacking recognition of special usufruct rights. This limitation restricts many individuals' ability and opportunity to utilize property to meet essential living needs and fails to adequately protect the rights of disadvantaged family members. Therefore, it is necessary to incorporate special usufruct rights, including the right to use (allowing the use, exploitation, and enjoyment of property benefits for living purposes only, without permission to sell, produce, or conduct business for profit), and the right to residency (permitting the use of housing solely for oneself and family members, without the right to transfer or sublease the property, or the right to profit from it).

(ii) Currently, Vietnam lacks regulations on usufruct rights within the realm of marriage and family law. While courts may allow a spouse to 'reside' in three months following a divorce, if they have no other accommodation or face difficulties in securing one, this does not constitute a true usufruct right. Consequently, usufruct regulations cannot be applied to resolve legal conflicts in such cases. Furthermore, the lack of other types of usufruct rights in this case limits the protection available to disadvantaged family members. Therefore, it is essential to introduce regulations that include usufruct rights related to marriage and family, ensuring a right of residence for spouses who face housing difficulties post-divorce.

(iii) There are cases in Vietnamese inheritance law related to the inheritance of property, but these laws do not adequately protect the usufruct rights of widows, widowers, or their parents. While current regulations impose certain limitations on the division of inheritance, these provisions do not fully constitute usufruct rights and fail to adequately protect the heir's ability to benefit from their relative's inherited property. Therefore, it is necessary to introduce provisions that recognize usufruct rights for family members (such as parents, spouses, children, and other relatives) within reasonable terms and in accordance with legal conditions.

(iv) Vietnamese law does not provide clear provision on the usufruct rights of individuals who are using and benefiting from reclaimed land that has not yet been recognized for use, or land reclaimed but not yet physically taken over. Although the Land Law recognizes the general rights of land users, including the rights to "Enjoy the fruits of labor and investment results on legally used land" (Land Law 2024, Clause 2, Article 26), "Enjoy benefits when the State invests in protecting, improving and developing agricultural land" (Land Law 2024, Clause 3, Article 26), the nature of these rights aligns with usufruct rights to land. Therefore, the Land Law 2024, while permitting the use and enjoyment of land, does not explicitly classify these rights as usufruct rights. Therefore, it is essential to add clear provisions recognizing these rights as a form of usufruct rights in the Land Law.

The need to supplement regulations in accordance with the law to establish special usufruct rights in relevant legal fields.

The basis for establishing usufruct rights consists of events that, when occurring in reality, allow individuals to establish usufruct rights over another person's property in accordance with the law. For instance, Article 258 of the CC 2015 stipulated that usufruct rights can be established through legal provisions, negotiations, or by will. The legal consequence of a specific basis for establishing usufruct rights is forming a civil legal relationship, in this case, the legal relationship involves usufruct rights. This binds the parties involved and leads to certain legal consequences.

However, 'the basis of establishment' refers to the creation and condition for holding a right, rather than the method or means of executing that right. This represents a legal scenario where, under specific conditions, a person is granted the right to use and enjoy another's property. In other words, the State grants this right to ensure that the person can live according to their circumstances, facilitate optimal property management, and maintain stability in civil relations (Nguyen Van Cu, Tran Thi Hue (Editor-in-Chief), 2017, p. 422).

Currently, Vietnamese law only provides general regulations regarding the basis for establishing usufruct rights,

lacking specific regulations related to other legal fields. The absence of detailed regulations for special usufruct rights, along with corresponding provisions for their establishment, indicating the need for improvement in the Vietnamese legal system. The following sections will outline specific solutions:

Introduce Supplementary Legal Provisions For The Establishment of Usufruct Rights in the Context of Marriage and Family Law:

As noted in subsection 2.1, current Vietnamese law lacks specific regulations on usufruct rights in the field of marriage and family law. This shortcoming requires regulations on the basis for establishing usufruct rights in this area. For instance, in cases where, after divorce, one party faces significant economic hardship and lacks the conditions for independent housing, they are permitted to reside in the separate property of the other party (Law on Marriage and Family 2014, Article 63). In fact, before being formally recognized in the 2015 CC, usufruct rights had already appeared in certain practical forms, such as property owners granting usage rights to relatives, typically direct descendants or grandchildren, without allowing those relatives to sell or otherwise dispose of the property. Reflecting this reality, some opinions argue that when usufruct rights are established by law (in fields such as marriage, inheritance, or for vulnerable individuals requiring "protection" or policy-based support), they should apply to individuals closely related to the property owner, including parents, spouses, and children. These individuals, who share a blood, marital, or foster relationship with the owner, should have the right to utilize the property to meet essential daily living needs (Nguyen Thi Phuong Hai, 2017, cited documents, p. 57)."

According to Article 274 of Saigon CC, "During the marriage, the father enjoys the property of the minor child until the child reaches the age of 18 or is released from the right. If the father dies, the right of enjoyment will belong to the mother". It can be seen that, usufruct rights established by law are often based on the need to protect certain vulnerable groups, such as the elderly, minors, and individuals with disabilities (Hanoi Law University, 2017, pp. 276-77).

Referring to French law, there are numerous regulations related to inheritance and family marriage in which usufruct rights arise by operation of law when certain conditions are met. For instance, *a spouse may be granted alimony in the form of usufruct after divorce* (French Civil Code, Articles 274 - 278); *and the parents manage and enjoy the property of a minor until the child turns 16 years old* (French Civil Code, Article 382). Additionally, French law includes provisions for usufruct in the context of compensatory allowances, which are defined as financial support that one of the spouses may be obliged to pay the other to mitigate disparities in their living conditions following the dissolution of the marriage (Tran Thi Cam Nhung, 2017, p. 43).

Legislative experience in the aforementioned CC provides both theoretical and practical insights for enhancing current Vietnamese law.

Recommendation: It is essential to supplement the provisions on usufruct rights in marriage and family law, as well as the basis for establishing such rights, in the following cases: (i) upon divorce, if one spouse is in need or faces significant economic hardship, he or she has the right to use the separate property of their former spouse for a specified period of time (ending upon their remarriage or death); (ii) upon divorce, if one spouse has difficulty securing accommodation, he or she has the right to continue residing as stipulated in current Article 63. This right should allow them to remain without needing to petition the Court, as this process can be costly and take longer than the duration for which the right is needed. However, if the property-owning party objects, they may request the Court to resolve the matter through a simplified procedure.

Expand The Legal Framework to Include Specific Provisions for Establishing Usufruct Rights in Inheritance Law.

The establishment of usufruct rights in inheritance is typically accomplished through the act of leaving an inheritance, without immediate division among the co-heirs. In such cases, the law allows the relatives of the decedent (usually the first-order legal heirs) to enjoy the entire inheritance, or a portion of it (e.g., a house or agricultural land) for a specified period. However, this provision is not clearly defined in current Vietnamese law.

Through various regulations, legislators have recognized alternative solutions beyond the sole measure of "limiting the division of inheritance". Accordingly, *if dividing the inheritance would seriously impact the surviving spouse and family's livelihood, the surviving spouse has the right to request the court to determine the share of the inheritance due to the heirs that has not yet*

been divided. In such cases, the court may limit the division of the inheritance within a period of three years, with a potential extension if conditions are met, though not exceeding an additional three years (CC 2015, Article 661). Similarly, Vietnamese marriage and family law acknowledges this situation and reference to apply “according to the provisions of the CC” (Law on Marriage and Family 2014, Clause 3, Article 66).

These regulations were also adopted in Vietnam prior to 1975: “When the husband has died and the widow remains chaste, the common property remains intact. At that time, the widow can manage the common property on behalf of her husband” (Central Vietnam CC 1939, Article 111).

Although the law has implemented the solution of 'limitation of rights' for co-heirs to protect the rights of relatives by allowing them to withhold property from inheritance division, this approach is not entirely convincing. It only addresses the limitation of the co-heirs' rights to divide the inheritance without clearly defining whether relatives have the right to enjoy the inheritance, as well as the conditions, content, and limitations of such rights. As a result, there is no solid basis for the exercise of usufruct rights; and it is difficult to prevent abuse of power, making it challenging to adequately protect the rights of co-heirs. To clearly outline the rights of and protect the rights of co-heirs, the author recommends adding regulations that recognize the rights of family members to benefit from the inheritance left by the deceased under conditions similar to those for limiting inheritance division. Recognizing the right to use property in such cases would contribute to maintaining stability in social, civil, and labor relations related to the property subject to these rights (Phung Trung Tap, 2019, p. 24, 25).

While recognizing usufruct rights in this case protects the rights of relatives and related parties, it can also lead to conflicts with inheritance that are independent of the will's contents (2015 CC, Article 644). Therefore, it is essential to propose a more comprehensive and flexible solution. For example, we could consider a presumption that grants priority to usufruct rights over inheritance rights if the usufruct holder has not made a decision within a specified timeframe.

Recommendation: In addition to recognizing the rights of relatives to enjoy the inheritance left by a deceased person, the law must clearly stipulate the subjects of inheritance, the conditions for inheritance, the timing of inheritance, limitations, and the basis for establishing inheritance. Currently, the legal event that establishes usufruct rights for relatives is the death of the property owner. However, referencing the law of other countries, such as French law, we see a different approach. According to French law, *the spouse of the deceased who is in need has the right to inherit, but this right must be actively chosen by the spouse. If the spouse does not make a choice within three months of the request, they are considered to have implicitly chosen to inherit* (French CC, Articles 757, 758-1, 758-2, 758-3). This regulation reduces formality and creates favorable conditions for relatives to enjoy their inheritance by default. Adding a procedure that requires court intervention only adds inconvenience for the parties involved, often without necessity, as co-heirs typically do not object to this enjoyment. Court procedures should be reserved for situations where co-heirs request a division of the inheritance.

Supplement the Law With The Basis Of Establishment of Usufruct Rights Within the Land Law

The current Vietnamese land law contains conditions that allow the implementation of land users' rights similar to usufruct rights, as outlined in Clauses 2 and 3 of Article 36 of the 2014 Land Law.

In the reality of law practice, there are cases where the land user has the right to use land that the State has already recovered, but it is not necessary to force the return of the land. Then, the actual land user should be allowed to continue to use that land, with the name of being officially recognized as "land usufruct rights". According to a practical case (Court Decision No. 22/2010/DS-GDT of the Civil Court, Supreme People's Court, dated May 5, 2010 regarding a dispute over inheritance claims): *Mr. K, during his lifetime, granted Mr. D the right to enjoy his house and land. After Mr. K's death, his son, Mr. C (an overseas Vietnamese residing abroad) returned to Vietnam to reclaim the house and land. The Court partially accepted Mr. C's request to reclaim the house. As for the residential land located in the road corridor, Mr. K's land use rights had not been recognized by the State. Now that Mr. K has died, Mr. D, the actual user of the land within the road corridor, is permitted to continue using it.* According to this judgment, the Court acknowledges that Mr. D is allowed to continue using the land in practice. However, since this is vacant land within the road corridor, it must be used for appropriate purposes that do not harm public interests. This use does not constitute a legally recognized right to use the land, and consequently, there is no legal basis to establish such a right. In reality, many cases exist under similar conditions

(Sa The, 2023), but unclear legal regulations have led to significant controversies in practice (Nguyen Hai An, 2023, pp. 129-130).

Based on the experience of 15th-century Vietnamese law as reflected in the Hong Duc Code, legislators included regulations regarding the usufruct rights of individuals who contributed to the reclamation and restoration of abandoned land, alluvial land, and riverside land that had not yet been exploited, enhanced, or developed (Le Minh Hung, 2024, pp. 10-4).

Recommendation: In these cases, to fully and effectively meet the need for land exploitation without leaving resources and economic potential unused, and to properly ensure the rights and justified benefits of actual land users who do not yet meet all the conditions for legal recognition of land use, it is crucial to clearly regulate the following cases: (1) Land that has been designated for recovery by the State but has not been forcibly handed over, and the person whose land has been recovered is still continuing to exploit and use it until the land is forced to be handed over; (2) Land within the safety zone of road traffic corridors or public works, where its use contributes to protecting aesthetics and meeting cultural and environmental needs without infringing upon or causing damage to traffic or public works; (3) Uncultivated land and riverside alluvial land that has not been granted to anyone but has been cleared, renovated, filled and used stably by the subject at his/her expense and effort, but has not yet been recognized for land use rights, shall have the right to use it until an official decision is made by a competent state agency to resolve and handle the matter.

For these cases, the basis for establishing usufruct rights depends on the specific situation and is defined by the event of land clearance and stable use, or by receiving an effective land recovery decision from a competent state agency (while the land is still being managed and used and has not yet been forcibly handed over).

No stipulation on the basis for establishing usufruct rights according to statute of limitations

One issue that needs to be addressed is whether there is a need to supplement the basis for establishing usufruct rights according to the statute of limitations. Article 236 of the 2015 CC only stipulates the basis for establishing ownership rights according to the prescription period, provided that the possession of property, although lacking a legal basis, is bona fide, continuous, and public for a period of 10 years for movable property and 30 years for immovable property (2015 CC, Article 236). Previously, there was an opinion that, because it is a property right that can be possessed, the right of usufruct can also be subject to prescription (Nghiem Xuan Viet, 1974, p. 176). Previously, there was an opinion that, as a property right that can be possessed, the right of usufruct could also be subject to prescription (Nghiem Xuan Viet, 1974, p. 176). The rationale is that the possession of property for the benefit of others does not exclude the right of usufruct, as all property rights that can be possessed can be established by prescription under the same conditions as the right of ownership (Tran Thi Cam Nhung, 2017, p. 25). In fact, since the time of the Twelve Tables Law, there has been a right to use the property according to prescription, this right was abolished by the lex Scribonia and later revived during the time of Justinian (University of Law, Ho Chi Minh City National University, 1999, p. 141). In theory, the right to use property, as a right established on the property, can be recognized by law if a person uses the property openly, continuously, and honestly, even though ownership of the property still belongs to the owner.

In the author's opinion, it is not advisable to add a provision for establishing usufruct rights based on the prescription period. There are several reasons for this. First, the nature of usufruct rights is not solely a beneficial right of the usufructuary, but also an obligation or burden for the owner. While a prescription period can be used to create rights (such as ownership) or terminate obligations to ensure the stability of civil transactions, it cannot be used to create obligations, as this would be contrary to public order. Second, the occupation of 10 years for personal property, 30 years for real estate is very long and can lead to significant changes in the property and its value. If an additional term of usufruct is prescribed, such as "for the lifetime of the first usufruct person who is an individual" or "30 years for the first usufruct person", the total duration becomes excessively long, complicating property management and creating challenges in providing procedural evidence when disputes need to be resolved through judicial procedures. Third, when property is possessed and used bona fide, continuously, and openly, ownership rights are established according to the prescription period. Thus, this provision already serves as a basis for establishing ownership rights without the need to separately establish usufruct rights to the property.

On the other hand, the author agrees with the view that "in cases where the right to use is established according to the provisions of law, a subject must be in a case specifically prescribed by law in order to establish this right on the property of another person" (Phung Trung Tap, Kieu Thi Thuy Linh, 2021, p. 176). Legal provisions, however, are not immutable, as the law is continually amended to align with socio-economic development. When lawmakers recognize that the legal nature of an event has changed or ceased to exist, resulting in the event no longer giving rise to a legal right to use, the legality of that event disappears, and the right to use is no longer established compulsorily. Contrariwise, in the future, new events may arise that necessitate the compulsory establishment of the right to use without an agreement or will. Therefore, the number of cases in which the right to use is established according to legal provisions is not fixed and may evolve. The author proposes a solution to include additional general provisions to address situations where specific grounds are insufficient to establish usufruct rights by law. This could be achieved by adding another basis for establishing usufruct rights: "according to the decision of the Court." Such a provision would help avoid the "omission" of grounds for establishing usufruct rights that current regulations do not cover, allowing the Court to address legal gaps proactively. This approach aligns with the principle that "People's Courts have the duty to protect justice, protect human rights, and citizens' rights" (Constitution 2013, Clause 3, Article 102) and "The Court shall not refuse to resolve civil cases or matters for the reason that there is no applicable law" (CC 2015, Clause 2, Article 14).

Conclusion

The article affirms that the basis for establishing usufruct rights in current Vietnamese law is regulated very generally, lacking specific content. These provisions on usufruct do not demonstrate a direct connection to specific types of usufruct rights in other institutions or related branches of law. This lack of specificity causes significant difficulties in applying the law, as it does not provide a basis for recognizing the legality of usufruct rights in specific cases, nor does it ensure the rights of the parties involved. From these shortcomings, the article identifies areas where usufruct rights need to be clearly regulated, particularly in the fields of inheritance law, marriage and family law, and land law. It recommends the supplementation of three types of bases for establishing usufruct rights, specifically for special usufruct rights: (i) the usufruct rights of one spouse to the other spouse's separate property based on the event of divorce; (ii) the usufruct rights of the testator's relatives based on the event of the opening of inheritance and the beneficiary's choice of inheritance status or acceptance of usufruct rights; (iii) usufruct rights to land based on the corresponding events of investing effort and money to reclaim and improve land, using and enjoying benefits from the land, or decisions with legal effect regarding land recovery that have not yet resulted in the forced handover of land. The article also provides for a "sweep" provision as a precaution for potential shortcomings and inadequacies in the aforementioned bases for usufruct rights that may arise in reality but have not yet been identified and confirmed in legal practice. These recommendations aim to improve current Vietnamese law, contributing to the stabilization of civil exchanges, increasing resources for the economy by officially recognizing "real usufruct rights" in contemporary society, while better protecting the rights of disadvantaged individuals within families. Additionally, it seeks to ensure that the legitimate rights of those who have contributed to the reclamation, restoration, and enhancement of land value are adequately protected, upholding the fairness and responsibility of the Court in ensuring that justice is enforced in the absence of specific regulations governing the establishment of usufruct rights.

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