

The World's Policies on Developing Real Estate Enterprises and Governance Implications for Vietnam

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Abstract: *State policies play a leading role in influencing the development of real estate enterprises, thereby directly affecting the movement and development of the real estate market. This study analyzes and summarizes policies on developing real estate enterprises of some countries around the world. Thereby recommending a number of solutions for the State to develop a system of real estate enterprises that are large in number, balanced in structure, and sustainable, effective in operation.*

Keywords: real estate, real estate market, real estate enterprises.

1. Introduction

The system of real estate enterprises plays an important role as a key part constituting the enterprise system in general in the socialist - oriented market economy of Vietnam. This system is formed, mobilized and developed under the influence of many factors, of which state policies play a leading role.

Over the years, the development of the real estate market in Vietnam and the system of real estate enterprises have contributed many achievements to the economic growth and development of the country. However, the shortcomings of the market and the system of real estate enterprises are also gradually revealed such as: the situation of real estate prices is too high, the market information lacks of transparency, the market is sometimes unstable and has experienced many fluctuations, the number of real estate enterprises fluctuates, is unbalanced in structure, unsustainable and inefficient. Therefore, it is very necessary to find out about the experiences of other countries and draw lessons for Vietnam regarding the policy of developing real estate enterprises.

2. Experience in real estate market development policies of several countries

Real estate includes many types, there are different classifications depending on the criteria, but the basic point is that the real estate is attached to the land or the real estate commodity itself is land. Correspondingly, we will have types of real estate market. Real estate market development includes many contents and involves many policies. However, when it comes to the policy on developing real estate enterprises, we often review the following specific policies:

2.1 Policy on creating and owning real estate

The policy on creating and owning real estate plays an important role in the real estate market, because the value of real estate can only arise when the ownership of such real estate is established (Dinh Van An, 2011) [1]. Basically, this policy regulates the registration and establishment of

ownership of real estate properties. In the world, there are two main types of regulations in creating and owning real estate in general: (i) Regulations that privately owned land is a commodity, therefore, it can be traded and exchanged. according to market principles; (ii) Regulations that land is owned by the State, belonged to the nationalization, so it cannot be traded and exchanged.

In each country, depending on the common ownership regime, the policies on creating and owning real estate stipulate that land is privately owned, state owned or multi - owned (including both types). In the G7 countries (UK, Germany, Canada, Italy, USA, Japan and the French Republic) a form of multi - ownership of land is practiced – recognizing both private ownership and state ownership of land. In countries with transition economies - countries belonging to the former Soviet Union and Eastern Europe such as Albania, Bulgaria, Czech Republic, Hungary, Poland, Romania, all recognize that land of private ownership and land owners is entitled to buy - sell - rent - lease; however, land owned by the State still accounts for a large proportion. A number of countries in the ASEAN region: East Timor, Indonesia, Malaysia, Singapore, and Thailand all implement state and private ownership of land. In China, the land ownership regime is public ownership - including: State ownership and collective ownership regimes [2].

Therefore, the policy on creating and owning real estate in countries is determined by the political regimes of such countries. Basically, the countries follow the multi - ownership regime on land, in fact, there is no country implementing the absolute private ownership of land. In addition to regulation on private ownership of land, there are regulations on State ownership of land. Normally, the content of ownership of land and real estate in countries is stipulated in their Constitution and the Land Law.

2.2 Policy on transactions, real estate supply - demand

Countries have strict and specific regulations on conducting transactions related to real estate, including regulations on registration of land use rights and real estate fluctuations after the transfer. The implementation process complies with

provisions of the Law on registration of land - real estate (except for adjustments according to provisions of the Civil Code), market participants must comply with conditions on goods and transfer procedures. The implementation of transaction policies contributes to the transparency and revitalization of the real estate market. Most countries in the world have a real estate registration system that was established early and has undergone a long development process.

Documents regulating the real estate registration in some countries: Japan (Law on Real Estate Registration of 1899 dated February 24, 1899); Korea (Law on Real Estate Registration of 1960 (Law No.536 dated January 01, 1960); Federal Republic of Germany (Law on Real Estate Registration of 1897 dated March 24, 1897 and amendments and supplements of 2004 dated December 09, 2004); Philippines (Law on Land Registration, also known as the Law on Torrens Registration of 1903, Law No.496 dated February 01, 1903 and reinstated in 1974); Malaysia (National Land Code of 1966); Singapore (Ordinance on registration of land ownership rights of 1956); Cambodia (Land Law of 2001 dated August 13, 2001); Indonesia (Government's Regulation on land registration of 1997); China (Law on property ownership of the People's Republic of China dated March 16, 2007), (Ministry of Justice, 2008).

2.3 Policy on real estate enterprises and real estate business

The policy on real estate enterprises and real estate business contains contents related to the formation of enterprises and the process of conducting real estate business. Most countries regulate that the establishment of real estate enterprises and real estate business is a conditional business process. Real estate business is considered including business investment and real estate service business. In Germany, domestic and foreign subjects trading in real estate must comply with and obtain full permits to carry out the construction or purchase or sale of a building, project or piece of land. In Japan, in addition to regulations on the establishment and investment of real estate enterprises, the government uses a number of policies to encourage the development of real estate which is industrial parks [3]: tax incentives, subsidies or preferential loans.

The implementation of real estate service business in countries is subject to very strict regulations. In the US, the real estate market currently consists of more than 50, 000 real estate brokers. There are many regulations that must be satisfied in order to be able to practice as a real estate broker. First, they must pass an exam with fee collection to obtain a certificate of real estate brokerage practice and registration for brokerage practice issued by the state government. Appraisers must pass an exam and obtain a license for practice issued by the Federal government. In Singapore, the Singapore government through the Taxation Authority allows ERA Singapore (a company which develops a training system for real estate brokers learned from the US) to train real estate brokers and agents. In Poland, since 1992, individuals who wish to engage in brokerage activities must undergo specialized training courses in real estate brokerage for 6 months and undergo a half - year internship in real estate companies, directly conduct brokerage operations (at least 15 real estates). In addition, after satisfying all the conditions, candidates must pass a national exam organized by the National Assessment Council in the field of professional practice [4]. In Sweden, real estate brokerage services are not only regulated by commercial law, but also complied with provisions of the Law on Real Estate Brokerage (established in 1984 and revised).

2.4 Financial policies in the real estate market

When it comes to financial policies in the real estate market, we consider three specific contents as follows:

2.4.1. Pricing policy

In other countries, the Government sets out pricing policies and price frames for the market to operate. In principle, prices are formed by the market and the State only intervenes in case of appearing real estate "bubble" situation or being used for social purposes. Real estate prices are made up of land prices and property - on - land prices. Therefore, normally when studying price policies in the real estate market, the policy on land valuation is often focused on. Through the study, it is found that, most countries in the world have regulations in the laws related to land price, which specifically regulates: purposes, principles and methods of valuation, forms of land price, involvement in valuation services, valuation and control bodies.

Table 2: Bases for the valuation of land in some countries

Countries	Regulation	Content and form of land price
Amenia	Land Law 2001	Sale and purchase prices in the market
Australia	Law on Land Taxation 1958	(i) Market price: special price given to land/property owners; guaranteed price; covered price (ii) Price specified in law: original price; ground price of the land location; cost of investment; annual land price
Belize	Law on Land Taxation 2003	Market price as the basis
Hungary	Land Act 1987	Sale and purchase prices in the market
Croatia	Property Tax Act 2003	Market price of real estate
Finland	Law on Real Estate 2002	Land price is formed by an agreement between purchasers and sellers.
Ireland	Land Act 1950	According to the market price of real estate at the time of sale
Maldives	Land Law 2004	Price can be determined according to market price

Source: Ministry of Natural Resources and Environment, 2012.

2.4.2. Tax policy

Tax policy for real estate is a form of property tax, which plays an important role in maintaining and ensuring State

budget revenues. At the same time, real estate tax is an effective tool helping the State manage the use and transaction of real estate, perform the function of checking

the operation of the real estate market, contribute to limiting speculation and encouraging the effective use of real estate. Taxes for real estate include tax levied on real estate and tax levied on real estate transactions. Most countries around the world use real estate taxes with different taxes, methods and bases for tax calculation and tax rates. Through studying, real estate tax includes the following main types: tax on land, tax on housing, tax on real estate transactions, tax on registration of real estate ownership.

Experience in land tax policies in France, China, Taiwan, Korea

In China, the tax on land use is calculated on the basis of area, the applicable tax rate takes into account different types of land. Therefore, the unit for calculating land tax in big cities, medium - sized cities and mining districts is 0.5 - 10 yuan/m², 0.3 - 6 yuan/m² và 0.2 - 4 yuan/m², respectively.

In France, the government conducts land classification for taxation, accordingly, land without structures or vacant land will be taxed at a higher rate than land with construction works and land in use. The average tax rates in 2009 for vacant land and land with works in France were 45.5% and 19.32%, respectively.

In Taiwan, the tax liability is borne by the owner, based on a taxable beginning rate based on the value of the land parcel declared annually by the owner. The amount in excess of the taxable beginning rate will be subject to a progressive taxation.

In Korea, land tax is based on the value of the land parcel brought by the land use purpose. There is a difference between national and local tax rates. The tax rates for land used for business and non - business purposes according to the local tariff are 0.2 - 0.4% and 0.2 - 0.5%, according to the national tariff are 0.5 - 0.7% and 0.75 - 2% [5].

Experience in housing tax policies in Russia, France, Korea, China

Table 3: Housing tax policy in several countries

Countries	Tax base	Tax rate
Russia	Value of a house is valued by the tax authority	0.1% < (house value under 300 thousand rubles) 0.1 - 0.3% (house value from 300 - 500 thousand rubles)
France	Apartment rental price	Average tax rate 14.97% (in 2009)
Korea	Standard value of a house, (tax threshold of 900 million Won)	Local Tariff: 0.15 - 0.5%/unit National Tariff: 0.5 - 1%/unit
China	Rental value or house value	12% (rental price) or 1.2% (house price)

Source: Compiled according to (Thuan, 2011) [6].

Experience in tax policy for real estate transactions of Singapore, Korea, Japan.

In essence, this tax is a kind levied on the difference between the selling price and the purchase price of real estate. Taxpayer is a person who earns income from real estate transactions. The taxable price is the market price of real estate. In Singapore, purchased land which is resold in the first year will be levied at 100% of the difference, and after 2 years and 3 years, the land tax rate is reduced by 50%

and 25%, respectively. In Korea, the tax rate is 50% (if resold before 1 year), 40% (if resold from 1 - 2 years) according to the profit and 70% (for unregistered real estate) [7]. Korea applies a tax rate of 50% and 60% of profits to individuals owning 2 and 3 houses or more [5]. In Japan, income from real estate transactions by individuals and enterprises is adjusted according to personal income tax and corporate tax.

Experience in policy on real estate registration tax in Japan and Korea: Normally, real estate registration tax is collected once when the owner of real estate registers real estate transactions or real estate ownership

In Japan, the tax base is the actual value of real estate. The tax rates will be: 0.4%, 0.4% and 2% for registration of ownership, transfer of ownership through inheritance, capital contribution, merger and transfer of rights through purchase and sale [8].

In Korea, real estate registration tax is calculated based on the value of real estate at the time of registration, with the tax rate based on the nature of ownership registration. The tax tariff for: registration of ownership due to inheritance, non - inheritance and outside these two cases are: 0.8%, 1.5% and 3% respectively; registration of protection of property rights is 0.8%, transfer of real estate lease rights is 0.2%.

2.4.3. Policy on capital channels for the real estate market

In different countries, capital channels for the real estate market are very diverse. In practice, capital for the real estate market is provided through the following main channels: Credit channels from commercial banks; Channel through the mortgage and re - mortgage system in the banking system. Real estate savings channel; Channel through bonds, real estate stocks; Channel through investment funds (notably Real Estate Investment Trust - REIT).

In developed countries, the channel of mobilizing and lending real estate through commercial banks and credit institutions plays an important role, accounting for 50 - 80% of the total market share of real estate mortgage loans [9]. For example, in Australia and New Zealand, there are many credit products for real estate investors such as: home equity loan, split purpose loan.

The mortgage banking model in Denmark provides borrowers with long - term loans at fixed interest rates, mortgage banks accounts for more than 90% of total credit in the country.

In developed countries of Europe, the form of savings under house purchase contracts has been developed, notably the Bauspaken system in Germany. The model of financing channels through real estate investment trusts (REITs) is very developed in some countries due to the strength of REITs with their high diversity, liquidity, dividends as well as stable average annual income.

In the US, the first REIT was applied in 1960, after 40 years of development, REITs have been very successful in the US with a total market capitalization up to 450 billion USD. The regulations applicable to REITs fall within the U. S. Domestic Income Law system. Each REIT may be structured as a joint stock company, association, or trust and is managed by one or more trustees or managers, and the shares of REITs are transferable.

2.5 Governance implications of real estate development policy of Vietnam

After researching, analyzing and comparing market development policies and real estate enterprises in some countries, the author believes that:

In each country, the role, content and impact level of policies on real estate market are different, depending on the level of economic development and the level of real estate market. However, in order to create market and real estate enterprise, the first thing to do is to create a legal framework system;

The State not only creates the economic, legal and social environment, but also plays the role of a “midwife” for the real estate market through guidelines, policies and solutions to support in all aspects [10];

The land market is the first market formed in the development process of real estate market. Therefore, there is a legal element on land that is particularly important. In order for the land market to develop sustainably, it is necessary to well carry out the establishment of land ownership and use rights, and land use planning. This is a factor contributing to healthy and transparent real estate market;

The State should strictly implement the housing policy. In some cases, the State should intervene more deeply in regulating the housing market, especially the housing issues for social subjects, ensuring the supply of housing types for people and the limit of buying and selling;

In market activities, the activities of enterprises providing services to support the market are necessary, particularly brokerage and real estate valuation services;

Financial policies contribute to promoting the formation and development of real estate market.

Some lessons learned for Vietnam about real estate market development policy:

Firstly, the State plays a very important role in the development of real estate market, from regulating the market, balancing supply and demand, anti - speculation, macro - economy stabilization to ensuring basic housing needs for people. To do so, the State must implement the policy on ownership and creation of real estate well;

Secondly, when conducting land reform, it is necessary to have land planning and implement land policies well;

compensation in land acquisition must be carried out carefully and openly;

Thirdly, in terms of housing development policy, it is required to pay attention to the diversification of housing types, along with the process of housing construction with a mechanism for allocating house area to the subjects which is extremely important. Pay special attention to social objects in housing issues;

Fourthly, promulgate and implement policies on real estate transactions, supply and demand well. First, promulgate the Law on Real Estate Registration. This is a prerequisite to solve the problem of transparency in Vietnamese real estate market and ensure that other policies are implemented, being especially meaningful in creating capital for the real estate market;

Fifthly, professionalize enterprises, organizations and individuals providing services to support the development of real estate market step by step, clearly define and realize the goals of quantity, structure and operation efficiency of real estate enterprises;

Sixthly, improve efficiency in the implementation of financial policies in the real estate market. Continuing to research and perfect on pricing policy and real estate valuation; research and promulgating the Law on Real Estate Tax; research and issue legal documents in relation to policies on funding channels for the real estate market.

3. Conclusions

Policy on real estate market development is a broad issue with many contents, in which, developing the real estate enterprise system is the top goal. It is the real estate enterprises that will contributing to creating a healthy and fair real estate market and operating in accordance with the market mechanism under the management and regulation by the State. Therefore, there will be many methods and approaches in studying the experiences of countries on real estate enterprise development policies. Within the scope of this study, it will not be possible to cover all the contents in relation to the development of real estate enterprise system. Therefore, this issue should be studied more deeply, forming a scientific basis for perfecting the policy of developing the real estate enterprise system in Vietnam.

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