

Assessing Transfer of Land Use Rights in Industrial Parks by Project Transfer Method

Nguyễn Thị Thanh Nhã*

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Abstract: The issue of transferring land use rights in industrial parks by project transfer stipulated in the 2024 Land Law and the 2023 Real Estate Business Law is getting serious attentions. This is a popular form of transaction, contributing to eliminating incompetent investors and improving the efficiency of land use and developing industrial park infrastructure. The 2023 Law on Real Estate Business supplements the conditions for trading land use rights associated with technical infrastructure, creating a legal corridor for project transfer activities to take place transparently and under control. The 2024 Land Law has more clearly regulated the rights and obligations of industrial park land users, especially in the case of project transfer associated with land use rights. From findings of systematizing and comparing regulations, the article proposes a number of recommendations to enhance transparency, stability and control in transactions of transferring land use rights in industrial parks by project transfer method, contributing to perfecting the legal framework of land and real estate in the new period.

Keywords: Land use rights transfer, industrial zones, land law, real estate business law.

Subject classification: Jurisprudence.

1. Introduction

In the context of market-oriented economic development, industrial parks have become specialized economic spaces, playing an essential role in attracting investment and improving national competitiveness. By the end of 2023, the country had 414 industrial parks, of which 295 were in operation with a total area of 92,200 hectares, achieving an average occupancy rate of 73%; in particular, the key economic regions in the North and the South maintained a level of over 82% (Doãn

*Vietnam National University, Hồ Chí Minh City.

Email: nhatt20710@sdh.uel.edu.vn

Thành, 2024). Industrial park land is a type of land planned specifically to build technical infrastructure and service complexes for production, with a different legal and management mechanism compared to other types of land (Hữu Hòe, 2025).

In transactions related to industrial park land use rights, project transfer is recognized as a popular form, allowing the transfer of land use rights from the exploiting entity to a new investor through the transfer of all or part of the project (Lê Phúc - Trần Dương, 2025). This mechanism reflects the flexibility of the industrial real estate market, while contributing to the restructuring of investment entities, eliminating ineffective projects and reallocating land resources in an optimal direction (Hải Yến, 2023).

In terms of law, the transfer of land use rights in industrial parks by project transfer is currently regulated by the 2024 Land Law and the 2023 Real Estate Business Law. These laws have supplemented regulations on conditions, procedures, powers and responsibilities of relevant parties, and established a control mechanism to ensure transparency and legal safety for the market. They facilitate the development of the real estate sector (VTV News Department, 2025).

However, the implementation process still has a number of potential risks, especially in establishing rights, valuing assets, financial obligations and handling disputes. The lack of uniformity in regulations, overlapping authority between management agencies and unclear distinction between land use rights and infrastructure investment rights have posed an urgent need for legal improvement (Đỗ Xuân Trọng, 2022). Building a unified, transparent and feasible legal mechanism is a necessary condition to ensure the rights of parties participating in transactions, while creating a foundation for stable and sustainable development of the industrial real estate market.

2. Literature review

Under the impact of the 2024 Land Law and the 2023 Real Estate Business Law, the legal conditions governing this activity have changed significantly, requiring a re-approach from a theoretical and practical perspective, to ensure consistency and enforcement in the new legal context.

In Vietnam, many works have mentioned the conditions for transferring industrial park land use rights by project transfer method, with different approaches depending on the scope and objectives of the research. Business activities of land use rights with technical infrastructure according to the Law on Real Estate Business 2023 were studied by several researchers (Lưu Trần Phượng Thảo, 2024; Phạm Thị Minh Trang, 2024; Vũ Thị Hồng Yến, 2024). The new points of the Law on Real Estate Business 2023 related to project transfer were done by several studies (Trần Thị Hạnh Nhân & Nguyễn Thị Lý, 2024; Nguyễn Ngọc Biện Thùy Hương & Nguyễn Xuân Thông, 2024). Đỗ Xuân Trọng (2022) had an in-depth

approach to the law regulating the transfer of investment projects in the real estate sector, making suggestions for analyzing the legal conditions in project transfer associated with land use rights in industrial parks. The real estate project transfer issue regarding implementation bottlenecks is also investigated by Nguyễn Thị Nhung (2025). The legal issues on transferring all or part of the real estate project of state-owned enterprises doing real estate business was mentioned by some works (Nguyễn Thị Vân Anh, 2022; Trần Mai Tuệ Anh, Nguyễn Thị Thùy Duyên, 2023).

At the international level, a number of studies have approached similar content from different legal systems. Macy P. Spencer (2023) studied the legal consequences of intentional breach in real estate sales contracts in countries with civil law traditions. Shikha Dimri (2019) approached the issue of real estate transfer and protection of buyer's rights in the legal and institutional context in India. The author suggests that "there is a need to strengthen the authority for proper regulation of real estate further" because "non-uniform laws may leave space for the private developers to engage in malpractices", and the law should be "fulfilling the welfare state objectives towards protection of interests of the buyers, without discouraging investments in the real estate sector". The governance of land use in South Korea and urban regeneration was comprehensively studied by the Organization of Economic Cooperation and Development (OECD) (OECD, 2019).

Synthesizing domestic and foreign works shows that, although there have been many theoretical contributions, there is still a lack of in-depth research updated according to the 2024 Land Law and the 2023 Real Estate Business Law. Continuing systematic research, linked to practical application, is necessary to perfect the legal framework regulating transactions of transferring land use rights in industrial parks according to the project transfer method, ensuring transparency, efficiency and stability of the industrial real estate market in the new development stage.

3. Methodology

Based on the legal approach, the article uses a combination of the following methods:

Interpretation and analysis, which plays a key role in the process of content implementation, are applied. Legal regulations related to the transfer of land use rights in industrial zones by project transfer method are presented and analyzed in depth, aiming to clarify the normative structure, the relationship between legal institutions and the rationality in the conditions of application. This is a fundamental method in legal research, ensuring logic and persuasiveness in arguments.

The case study is used to illustrate the legal situation, judgments and administrative decisions that have been published. The analysis of typical situations allows to assess the appropriateness of current regulations, identify bottlenecks in

the enforcement mechanism and propose directions for improvement. The synthesis process takes into account economic, institutional factors and integration requirements, thereby assessing the feasibility and effectiveness of regulations regulating the transfer of land use rights in industrial parks according to the project transfer method.

4. Results

4.1. Evaluation of new points of the 2023 Law on Real Estate Business and the 2024 Land Law on transactions of transferring land use rights in industrial parks by project transfer method

The transfer of industrial park land use rights through the transfer of real estate projects is an important legal institution in the process of restructuring investment, reviving stalled projects and improving land use efficiency. Transferring projects to entities with sufficient financial capacity and implementation experience not only contributes to stabilizing the market but also promotes economic growth (Hải Yến, 2023).

The 2023 Law on Real Estate Business has identified the transfer of real estate projects within the scope of business freedom of investors, while establishing legal conditions to control risks and ensure transparency in transactions. Article 40 of the Law specifically stipulates the conditions for transferring part or all of a real estate project in a manner consistent with the laws on land, investment and construction. For industrial park projects, the transfer of land use rights by project transfer must meet the following requirements: the project has been approved according to the planning; has a valid land use right certificate; technical infrastructure has been completed on schedule; there are no disputes or violations of land laws; and the transferee has financial capacity and implementation experience according to the provisions of the 2024 Land Law.

The 2024 Land Law continues to improve the legal mechanism regulating land use rights transfer transactions in industrial zones by clearly regulating the conditions, order and procedures for transfer, associated with requirements on transparency, publicity and efficiency of land use (Nguyễn Ngọc Biên Thùy Huong, Nguyễn Xuân Thông, 2024). The coordination between the Land Law and the Law on Real Estate Business in regulating this type of transaction has established a unified legal corridor, contributing to improving the effectiveness of state management and promoting sustainable development of the industrial real estate market.

The conditions for deciding on investment policies or approving investment, stipulated in Point a, Clause 1, Article 40 of the 2023 Law on Real Estate Business, have replaced the previous approach in Point a, Clause 1, Article 49 of the 2014 Law. While the former regulation only required the project to be approved and have

a detailed plan or master plan, the new regulation has specified the necessary legal documents, including deciding on investment policies, approving investment policies or approving investment, while ensuring consistency with the 2020 Investment Law. Clearly defining the investor's responsibility in completing legal documents not only ensures the legality of the project but also serves as a basis for protecting the rights of related parties. Complete legal documents are a prerequisite for the project to be protected by law, limit disputes and increase the ability to attract investment capital. This is the foundation to ensure transparency, market accessibility and project reliability during the transfer process (Trần Thị Hạnh Nhân, Nguyễn Thị Lý, 2024).

The conditions for detailed planning approved according to the provisions of the construction law and the urban planning law, stipulated in Point b, Clause 1, Article 40 of the 2023 Law on Real Estate Business, demonstrate the close connection between specialized legal fields. Referring to the planning law system helps avoid regulatory conflicts while ensuring consistency in project implementation. This provision not only ensures compliance with planning but also contributes to environmental protection, community safety and the formation of a reasonable urban landscape. When detailed planning is made public, relevant parties can access information on location, area, construction density and technical infrastructure system, thereby making investment decisions based on full and objective assessment.

The recent practice of transferring industrial park projects shows an increasing trend of mergers and acquisitions between domestic and foreign investors. Đỗ Xuân Trọng (2022) recorded a number of typical transactions such as Lotte Group acquiring 70% of the shares of Diamond Plaza building from Posco, or Gaw Capital Partners acquiring large projects such as Hyatt Regency Danang, Indochina Plaza Hanoi, Malibu Villas and Park City with a total value of up to 106 million USD. These transactions reflect the practical operation of the mechanism for transferring real estate projects in industrial parks, and at the same time show the effectiveness of perfecting the legal framework regulating this activity (Đỗ Xuân Trọng, 2022).

The condition of completing compensation, support, resettlement and construction of technical infrastructure according to the approved schedule, design and detailed planning is a notable new point in the 2023 Law on Real Estate Business. This provision ensures consistency with the 2024 Land Law, according to which the compensation, support and resettlement plan must be approved and fully implemented before a decision on land recovery is made. This is a principled requirement to protect the legitimate rights and interests of land users, while ensuring fairness, transparency and social stability during project implementation (Trần Mai Tuệ Anh & Nguyễn Thị Thùy Duyên, 2023).

In the case of transferring the entire infrastructure construction investment project, the investor must complete the entire technical infrastructure works according to the approved schedule, design and detailed planning. This regulation

aims to overcome the current common situation where some investors take advantage of legal gaps to transfer projects without completed infrastructure, seriously affecting urban development and people's lives. In particular, transferring enterprise shares instead of directly transferring the project has become a popular method to avoid infrastructure investment obligations, leading to budget losses and disruption of planning order. Therefore, the requirement to complete infrastructure before transferring acts as a necessary control mechanism, ensuring consistency, quality and progress of project implementation, while limiting unfinished investment and market instability.

The conditions on the legal status of land use rights in transfer projects are established to eliminate cases with potential legal risks. Specifically, land use rights must not be in dispute, seized for judgment enforcement, prohibited from trading or suspended or temporarily suspended from trading according to legal regulations. This regulation acts as a screening mechanism, ensuring that only projects with clear legal records and no legal problems are allowed to participate in the transfer market. This contributes to improving legal security for investors, limiting disputes and promoting the stable and transparent development of the industrial real estate market. However, it should be noted that this regulation only applies to land use rights; the transfer of assets attached to land such as construction works may be subject to other regulations, so investors need to clearly distinguish to ensure the legality of the transaction.

The conditions on the project's operational status are stipulated to ensure the legality and feasibility of the transfer transaction. Accordingly, the project or part of the transferred project must not be subject to suspension, termination of operation or land revocation decision by a competent state agency. This provision is consistent with Point a, Clause 1, Article 46 of the 2020 Investment Law, according to which investors are only allowed to transfer projects when they are not subject to termination of operation under Article 48 of this Law. In addition, in case the project is sanctioned for administrative violations, the investor must complete the implementation of the sanction decision before making the transfer. This is a reasonable provision, ensuring that only projects that are operating legally and are no longer entangled in handling violations are allowed to be transferred. This not only protects the legal ownership of the investor but also ensures legal safety for the transferee, while contributing to improving the effectiveness of state management of real estate project transfer activities in industrial parks (Nguyễn Thị Nhũng, 2025).

3.2. Legal issues arising when implementing regulations on transactions of transferring land use rights in industrial parks according to the project transfer method of the 2023 Law on Real Estate Business and the 2024 Land Law

The legal regime on land use in industrial zones plays a fundamental role in the process of industrialization and modernization of the country. An industrial zone is an area with defined geographical boundaries, established according to certain

legal procedures and procedures to serve the purpose of infrastructure development and production and business activities. Industrial zone land includes types such as export processing zones, supporting industrial zones, ecological industrial zones, industrial - urban - service zones and craft village industrial clusters. By the end of 2024, the country had 447 established industrial zones. Of which, 392 industrial parks are located outside economic zones (EZs), 47 industrial parks are located in coastal EZs, 8 industrial parks are located in border EZs, with a total natural land area of about 134.6 thousand hectares, creating an industrial land fund of about 93 thousand hectares. Among the established industrial parks, 304 industrial parks have come into operation, with a total natural land area of about 91.8 thousand hectares, an industrial land area of about 63.7 thousand hectares and 143 industrial parks are under construction, with a total natural land area of about 42.8 thousand hectares, expected to create an industrial land fund of about 29.3 thousand hectares in the coming time (Hữu Hòe, 2025).

The total area of industrial land leased by industrial parks nationwide is about 51.8 thousand hectares, reaching an occupancy rate of about 55.6%. If only operating industrial parks are counted, the occupancy rate is about 73.4%. Of the 304 operating industrial parks, 278 have operated centralized wastewater treatment plants that meet environmental standards (about 91.4%) (Hữu Hòe, 2025).

The 2024 Land Law has made important adjustments related to land use rights in industrial parks, especially in the context of land use rights transfer transactions carried out through project transfer methods. According to the new regulations, the transfer of land use rights in industrial parks must meet the legal conditions on land use rights certificates, comply with approved planning and be consistent with the determined land use purpose. These requirements set transparency, consistency and effectiveness in land management, especially when land use rights are an inseparable part of a real estate project. In addition, the 2023 Real Estate Business Law has unified the principle of transferring all or part of a real estate project according to the law on real estate business, and at the same time simplified the transfer conditions: only requiring the project to have been approved and still within the implementation period, instead of requiring the project to be implemented on schedule as before. However, not all new regulations fully reflect practical requirements. Effective implementation of these regulations requires the establishment of a synchronous, transparent and feasible enforcement mechanism to ensure consistency between legal documents and meet the development requirements of the industrial real estate market.

Regulations on land use regime in industrial zones play a fundamental role in shaping the legal mechanism for investment activities, infrastructure development and project transfer. According to Decree No. 35/2022/ND-CP, an industrial zone is an area with defined geographical boundaries, established according to legal procedures and order, including types such as export processing zones, supporting industrial zones, ecological industrial zones, industrial-urban-service zones and craft village industrial clusters.

However, the 2024 Land Law has not yet established a clearly, specifically legal concept of industrial park land. This type of land is listed in the group of non-agricultural land and areas with restricted land use purposes, but its nature, functions and management mechanism are not specifically defined. This makes it difficult to develop plans, establish land use rights and carry out transfer transactions. Meanwhile, Decree No. 35/2022/NĐ-CP has clearly defined industrial park land as multi-purpose land, used to build factories, offices, warehouses and must comply with planning approved by competent authorities. The fact that the Land Law has not yet provided a clear concept of industrial park land shows a lack of uniformity in the land and investment law system, affecting the consistency in management and implementation of project transfer transactions associated with this type of land.

The provisions of Point c, Clause 1, Article 40 of the 2023 Law on Real Estate Business require that the transferred project or part of the transferred project must complete compensation and resettlement support. However, Clause 3, Article 39 of this Law has established the right to inherit all rights and obligations of the transferring investor to the transferee. This shows that the obligation to compensate and clear the site can be completely transferred to the secondary investor. Furthermore, the law has stipulated the obligation to provide full information about the project to the transferee, and the transferee is also responsible for finding out information before the transaction. Therefore, requiring the investor to complete all compensation work before the transfer is unnecessary and may hinder the recovery of projects facing financial difficulties. This regulation does not correctly reflect the legal nature of real estate project transfer activities, which aim to restructure and continue project implementation when the original investor no longer has the capacity to do so.

The conditions on the legal status of land use rights in industrial park project transfer transactions, stipulated in Point d, Clause 1, Article 40 of the 2023 Law on Real Estate Business, require that land use rights are not in dispute, seized, prohibited from trading or are under suspension under the decision of a competent state agency. This is a control mechanism to eliminate projects with potential legal risks, ensuring that only projects with clear legal records, without problems regarding ownership or financial obligations are allowed to participate in the transfer market. In reality, disputes related to land use rights in industrial parks are often prolonged and complicated, arising from causes such as overlapping boundaries, violations in land allocation procedures, or conflicts between secondary investors. These disputes not only affect project implementation progress but also reduce the stability and transparency of the industrial real estate market (Lưu Trần Phương Thảo, 2024).

A notable shortcoming is that the current legal system does not clearly distinguish between land use rights and assets attached to land in transfer transactions. In many cases, land use rights are not disputed, but assets on land such as factories, warehouses, and technical infrastructure works are the subject of civil

disputes or are seized to enforce judgments. The lack of a separate legal examination process for assets attached to land leads to the risk of conflicts of interest between the transferor and the transferee, especially when the assets are not fully secured in the transaction contract. To ensure the comprehensiveness and effectiveness of the regulation, there needs to be detailed guidance on verifying the legal status not only of land use rights but also of all related assets within the scope of project transfer.

The condition of the operational status of the project is the criterion for determining the legality and feasibility of the transfer transaction. According to Point d, Clause 1, Article 40 of the 2023 Law on Real Estate Business, the transferred project or part of the transferred project must not be subject to suspension, termination of operation or land revocation decision. This provision is consistent with Point a, Clause 1, Article 46 of the 2020 Investment Law, according to which investors are only allowed to transfer the project when it is not subject to termination of operation under Article 48. Ensuring that the project is in a valid legal status is a prerequisite for the transfer transaction to be carried out legally and effectively.

However, practice shows some notable problems. The decision to suspend or terminate the project in many cases has not been clearly announced or updated in a timely manner on the land information system, leading to the transferee being unable to accurately verify the legal status of the project. In addition, the regulation requiring the investor to complete the implementation of the decision on administrative sanctions before implementing the transfer, although reasonable in terms of legal control, lacks an effective monitoring mechanism to verify compliance. This creates a legal gap, allowing some investors to take advantage of it to transfer the project without completing legal obligations, causing risks for the transferee and reducing the effectiveness of state management.

5. Conclusion and recommendations

In the regime of public ownership of land, industrial park land is a special means of production, allocated or leased by the State according to the socio-economic development plan. This type of land is not only a production space but also an economic institution with the function of attracting investment and promoting growth through synchronous technical infrastructure and preferential policies. Therefore, the right to access and use industrial park land needs to be established through a specialized legal mechanism, correctly reflecting the special legal status of this type of land.

The transaction of transferring land use rights in industrial zones by project transfer is a form of transferring all rights and obligations related to the investment project associated with land use rights from the existing investor to the next

investor. To complete the legal framework regulating this activity, it is necessary to implement the following measurements:

Firstly, completing the concept of industrial park land

In the 2024 Land Law (Law No. 31/2024/QH15), although there have been significant adjustments related to the right of land users in economic functional zones, especially industrial parks, a specific legal concept of “industrial park land” has not yet been established. The absence of this definition creates a gap in the application of the law, making it difficult to determine the scope of regulation of regulations related to project transfer associated with land use rights in industrial parks, especially in the context of the 2023 Law on Real Estate Business requiring increasing transparency and accuracy in legal terminology.

To overcome the above shortcomings, it is necessary to add a practical definition to the Land Law. Accordingly, industrial park land should be understood as land of legal origin, planned and used for the purpose of industrial development and industrial services, in accordance with the national socio-economic development master plan, sectoral planning and local planning. Establishing this concept not only reflects the legal nature of specialized land but also creates a basis for distinguishing it from other types of land such as commercial land, service land or high-tech land. At the same time, it helps clarify the scope of application of regulations on investment project transfer in industrial parks, thereby improving the effectiveness of law enforcement.

International experience shows that in Korea, the Industrial Park Development Law clearly stipulates the types of land used in industrial parks, including production land, support service land and technical infrastructure land (OECD, 2019). The model reveals that establishing the legal concept of industrial park land is an essential premise for building a safe legal corridor for the industrial real estate market.

The draft amendments and supplements to a number of articles of the 2025 Land Law have initially recognized the requirement to clearly classify land groups according to their intended use. However, to ensure feasibility and consistency in application, it is necessary to propose adding the concept of industrial park land to Article 3 of the Land Law as an independent legal term. At the same time, it is necessary to clarify the relationship between industrial park land and other types of land in the land classification system. The completion of this concept is not only a technical legislative requirement but also a prerequisite to ensure transparency, consistency and efficiency in transactions of transferring land use rights in industrial parks according to the project transfer method.

Secondly, amending regulations on project transfer conditions

In the Vietnamese legal system, the transaction of transferring industrial park land use rights by project transfer is a form of transferring all legal rights and obligations related to the investment project, including land use rights, from the

existing investor to the next investor. This is a type of transaction with a complex legal nature, requiring transparency in establishing the right to decide and verifying the legal status of land use rights at the time of transfer.

According to Article 40 of the 2023 Law on Real Estate Business, one of the conditions for project transfer is that “the project has no disputes over land use rights”. However, this expression needs to be adjusted to ensure legal accuracy. The use of the phrase “land without disputes” in previous documents does not correctly reflect the nature of land use rights under the regime of public ownership. Land use rights are an independent legal institution, and disputes may arise not only regarding the subject of rights but also from transactions that generate these rights. Therefore, the use of the term “land use rights” is necessary to ensure scientificity, consistency and conformity with judicial practice.

International experience shows that many countries have established strict land legality checks before allowing project transfers. In Korea, the electronic land registration system allows for real-time verification of the legal status of land use rights, thereby minimizing legal risks in transactions (OECD, 2019).

Based on the above practice, it is necessary to amend the provisions of Article 40 of the Law on Real Estate Business in the direction: “The project is not in dispute over land use rights at the time of transfer”. This expression both ensures legal accuracy and is compatible with international practices in controlling transaction risks. At the same time, the draft Law amending and supplementing a number of articles of the Land Law in 2025 needs to clearly stipulate the mechanism for verifying the status of land use rights disputes in industrial park project transfer transactions. Verification should be carried out through the national land information system, with coordination between land registration agencies, judicial agencies and investment management agencies. This mechanism not only improves the effectiveness of state management but also creates a solid legal foundation for the industrial real estate market to develop transparently, effectively and sustainably.

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