

NEW REGULATIONS RELATED TO PROPERTY AUCTION ACTIVITIES

PHUONG NAM

On July 3, 2023, the Government issued Decree 47/2023/NĐ-CP (**Decree 47**) to amend and supplement several articles of Decree 62/2017/NĐ-CP (**Decree 62**) which details some articles and provides measures for implementation of the Law on Property Auction. Decree 47 will take effect from September 1, 2023, focusing on adjusting the regulations related to online auction such as the order of online auction organization, requirements for online auction information portal, responsibilities of relevant parties, etc. The following are some notable contents of this Decree:

Firstly, amending and supplementing regulations on the form of online auction organizations. In accordance with Decree 47, property auction organizations, property auction councils, and organizations with 100% of charter capital owned by the State and established by the Government to handle bad debts of credit institutions (**auctioning organizations**) organize an auction in the form of online auction by rental and use of online auction information portal, including:

- (i)** National online auction information portal (belonging to the national property auction information portal);
- (ii)** Online auction information portal of the organizations with 100% of charter capital owned by the State and established by the Government to handle bad debts of credit institutions;
- (iii)** Online auction information portal of property auction organizations.

Compared to the previous regulations, Decree 47 has recognized two additional entities authorized to organize online auctions besides auction organizations, namely the property auction council and the organization with 100% of charter capital owned by the State and established by the Government to handle bad debts of credit institutions. In addition, Decree 47 also specifies the online auction information portal used for online auction. It should be noted that the organizations with 100% of charter capital owned by the State and established by the Government to



handle bad debts of credit institutions *can only use their own online auction information portals* to organize an online auction.

Secondly, amending and supplementing the order of online auction organizations. Accordingly, clause 2, Article 1 of Decree 47 amends and supplements the organizational order in a more detailed direction than that stipulated in Decree 62, typically:

- In addition to the requirement to publish the Auction Rules, Decree 47 requires the auctioning organizations to publicly announce the auction along with the list of properties, images, and property-related documents (if any) on the online auction information portal.
- Auction participants must register to participate in the auction on the online auction information portal. When purchasing a participation dossier, participants will be given an access account via their registered email address. They shall use such accounts to receive instructions on (i) how to submit an online auction participation application; (ii) submission of advance payments through online payment methods; (iii) how to participate in auction and bid; (iv) other necessary contents when accessing the online auction information portal and (v) direct or online view of auctioned properties depending on the Auction Rules.
- After submitting their auction dossier and making advance payment validly, participants can participate in the auction using the access accounts according to the Auction Rules. If eligible participants fail to access their accounts for bidding within the time specified in the Auction Rules, they shall be considered not to participate in the auction, except for cases of force majeure. The auction's bid time shall be agreed between the property auction organization and the property owner but must be at least 15 minutes.
- In case of a bid based on ascending price, the

auction winner is the person who makes the highest bid recorded by the auction network system. In case of descending price, the auction winner is the first person who accepts the starting price or decreased price recorded by the auction network system. Right after the auction ends and the results are determined, the auction winner will be announced on the online auction network system.

Thirdly, supplementing the provisions on responsibilities of participants of the online auction information portal, including:

- Ensure their equipment when participating in auctions; take responsibility in the case when their network systems have any problems resulting in their failure to participate in the auction and bid on the online auction information portal;
- Manage and keep confidential the granted access accounts and passwords. If detecting that their accounts are lost or being used illegally, they must immediately notify the auctioning organizations;
- Take responsibility before the law for the accuracy and truthfulness of the information registered and posted on the online auction information portal when logging in to their access accounts;
- Comply with the Law on Property Auction, other relevant laws, and Auction Rules.

In addition to the contents introduced above, Decree 47 also amends and supplements such other contents as requirements and conditions of appraisal for the online auction information portal of property auction organizations; approval of online auction information portals, cases of stopping organizing online auction; responsibilities of the Ministry of Justice and auctioning organizations in the construction, management, operation, and use of online auction information portals.

COMMENTS AND RECOMMENDATIONS

The promulgation of Decree 47 has contributed to the improvement of the applicable regulations on online auctions. In particular, Decree 47 specifies that auctioning organizations are able to rent and use the national online auction information portal or online auction information portals of auctioning organizations, provided that they meet the requirements and conditions of appraisal as prescribed. In addition, the order of online auction organizations is also more specifically regulated compared to that in the previous document. Simultaneously, Decree 47 clearly defines the responsibilities for the construction, management, operation, and use of online auction information portals by relevant parties. Individuals and organizations should study the new contents in Decree 47 to ensure compliance with legal provisions during the organization of or participation in online auctions.