

Law N.º 13/2017 of June 5th

**SPECIAL REGIME FOR DETERMINATION OF
OWNERSHIP OF IMMOVABLE PROPERTY**

The purpose of this law is to clarify the legal status of land ownership by bringing into effect the different dimensions of the right to private property provided for in Article 54 (1) of the Constitution of the Democratic Republic of Timor-Leste.

The process of settling the ownership of immovable property provided for in this law is essential to ensure peace and social and economic development of the country.

The solutions adopted take into account the history of Timor-Leste over the last decades and were informed by the knowledge accumulated over several years of studies and public consultations on issues related to property ownership, in order to ensure a balance between the different existing positions in the Timorese society.

In this sense and based on the historical and legal situation of Timor-Leste, the main objectives of this law were to clarify the legal status of property and promote distribution and access to land.

Clarification of property rights is done through the recognition of previous property rights. In fact, the Constitution and subsequent legislation require the safeguarding of previous formal rights belonging to Timorese who validly acquired them during previous administrations.

Articles 54 and 165 of the Constitution, Law no. 2/2002, of August 7, which collectively receives the previous legislation, as well as Law no. 1/2003 of March 10, relating to the State's property, require the recognition of these rights.

In turn, it is necessary to take into account the limit established by the constitutional prohibition in Article 54 (4), which prohibits foreign citizens from private ownership of land.

In addition to the recognition of previously formalized rights, this law creates the figure of informal property rights, with a view to correcting the injustices practiced before the independence of Timor-Leste, due to the lack of formalization of rights.

This informal right to property corresponds to a traditional and individual right to land, allowing those who have not previously obtained documents regarding their property rights to now be able to invoke them in the same terms as those who previously had their rights formalized. In this field, this law establishes the formalization of these rights through its registration.

The promotion of land distribution is done through the recognition of the right of ownership to possessors of land or to holders of other rights other than the right of property ownership, according to the criteria established by law. Centralized ownership and management of land is avoided, giving private individuals ample opportunity to have legally recognized land rights and to be independent in the management of their property.

Access to land is guaranteed in two ways: on the one hand, through the creation of the National Land Cadaster, allowing for the emergence of a secure and transparent real estate market; on the other hand, through the clarification of properties belonging to the domain of the State, enabling the State to better manage its properties, which may include distribution to those who otherwise would not have access to land.

Considering this,

The National Parliament decrees, in accordance with number one of article 95 and article 54 of the Constitution of the Republic, to validate as law, the following:

CHAPTER I GENERAL PROVISIONS

Article 1 Object

1. This law establishes a special regime for the definition of immovable property ownership by recognizing and awarding first rights of immovable property ownership.
2. The special regime for establishing immovable property ownership has the purpose of clarifying the legal status of immovable properties, promoting the distribution of property among citizens and ensuring access to land for all.
3. The recognition and award of the first property rights shall conform to the guiding principles of observance of the previous primary rights, the acknowledgment of possession as the basis for assigning ownership rights and due compensation in cases of duplicity of rights.

Article 2 Definitions

1. For the purposes of this law, the following definitions shall apply:

- a) "*Aforamento*" (emphyteuses) means the right of tenants to the use and fruition of immovable property against the payment of rent and with the possible right of retrieval recognized as such in the law applicable during the Portuguese administration;
- b) "Immovable property" means the land and everything permanently linked to the land, namely buildings, in accordance with the Civil Code;
- c) "Claim of Ownership", means the act whereby one or more persons, whether natural or legal, declare ownership of the property right over an immovable property, with a view to formally having such right recognized in the framework of the land registration process;
- d) "Claimant" means an individual or legal entity who has submitted a valid and timely ownership claim, individually or in group;
- e) "Uncontested claimant" means the sole claimant for ownership of an immovable property right or a group of claimants in mutual agreement as to the ownership of an immovable property;
- f) "Claimant in possession" means the claimant in possession of the claimed immovable property who is in current possession of the property regarding which he/she has claimed the ownership of property right;
- g) "Informal rights of ownership" means the rights over immovable property arising under customary law and deriving from long lasting tenure, which have the essential characteristics of the right to ownership;
- h) "DNTPSC" means the National Directorate of Land, Property and Cadastral Services of the Ministry of Justice or any other State entity which, under the the law, carries out its attributions;
- i) "Vulnerable groups" means a set of persons who, because of issues relating to their ethnicity, religion, provenance, social status, gender, sexual orientation, age, physical or mental disability, are in a position in which it is more likely to have their rights as citizens violated;

j) "Hakguna-bangunan" means the right to temporarily build or maintain a construction on land owned by a third party, that is recognized as such in the law applicable during the Indonesian administration;

k) "Hakguna-usaha", the right to the economic benefits from State-owned land for an established period of time, and recognized as such in the law applicable during the Indonesian administration.

l) "Hakmilik" means the right to full and exclusive enjoyment of the rights of use, fruition and disposal of immovable property recognized as such by the law applicable during the Indonesian administration;

m) "Freehold" means the right to full and exclusive enjoyment of the rights of use, fruition and disposal of immovable property recognized as such by the law applicable during the Portuguese administration.

Article 3

Previous Rights

1. For the purposes of this law, previous rights shall be defined as:

a) Rights over immovable property, customary and resulting from long term possession, which have the basic features of property rights designated as informal property rights under this law;

b) Rights over immovable property granted by the Portuguese and Indonesian administrations in the territory of East Timor, namely freehold, "aforamento", "hakmilik", "hakgunabangunan" and "hakguna-usaha".

2. For the purposes of this law, freehold and hakmilik are designated as primary previous rights, and aforamento, hakguna-bangunan and hak guna-usaha are designated as secondary previous informal property rights.

3. All previous secondary rights of "aforamento" which expiry date is after December 7, 1975 are considered to be in effect.

4. All previous secondary rights of hakguna-bangunan and hakguna-usaha which expiry date is after August 30, 1999 are considered to be in effect.

5. For the purposes of this law, the right of ownership of immovable property to which the previous secondary rights referred to in paragraphs 3 and 4 above apply shall be recognized only when the holder is a Timorese citizen and maintains the current possession of said immovable property.

6. The right to property of immovable property to which prior secondary rights apply and which do not meet the requirements set forth in the preceding paragraph shall be revert to the State, except in the case of usucapio in favor of a national citizen, without prejudice to the right to due compensation under the terms of this law.

Article 4

Equality of Rights

The recognition of property rights for the purposes of registration is assured equally to both men and women, and discrimination is prohibited in all its forms in regard to their ownership, access, management, administration, enjoyment, transfer or disposal.

Article 5

Duty of respect for vulnerable groups

As entities responsible for applying this law, are obliged to respect the special needs of vulnerable groups and must take all necessary measures to ensure the adequate information, consultation and participation of these groups in order to promote the right to equality and non-discrimination.

Article 6
Ownership of property rights over immovable property

1. Only the individuals listed below can be holders of the right of ownership of immovable property:

- a) Timorese citizens;
- b) National legal persons, under East Timorese law, established exclusively by nationals and or whose capital is wholly and exclusively held by national citizens;
- c) Local communities, with respect to the ownership of the immovable property provided for in this law;
- d) Non-profit legal persons to whom this right is granted by law.

2. The regime for the identification of legal persons referred to in b) of the previous paragraph is defined by a ministerial decree of the Minister of Justice.

Article 7
Foreigners

1. Foreign natural or legal persons are not entitled to the ownership of the property right over immovable property.

2. The right to property over immovable property in the possession of the persons referred to in the previous paragraph or in regards to which the same persons have declared the existence of previous rights or if they declare being the owners, reverts to the State, unless in the case of a usucapio in favor of national citizens.

3. Foreign individuals, whether natural or legal persons, holders of previous rights who have possession of immovable property reverted to the private domain of the State under the terms of the previous paragraph, may continue to use the property, by means of a lease, under the general terms of the law on leasing of State immovable property.

4. Immovable property whose holders of previous right are extinct legal persons extinct also revert to the State, unless in the case of special or ordinary usucapio by third parties duly identified as part of the process of recognition and attribution of first property rights.

Article 8
Property of the State Public Domain

1. The public domain includes all property included in that domain in accordance with the law, individually or by way of identification by type.

2. The inclusion and maintenance of any property in the State public domain always rests on the premise that such property is indispensable for public interest and collective needs.

3. Notwithstanding the special law that may classify other property as of public domain, public domain shall include the following:

- a) Coastal and territorial waters, inland waters, their beds and margins and the continental platform;
- b) The air layers above the territory in excess of the limit granted to the owner or surface owner;
- c) The space through which radio electrical waves can propagate;

- d) The beaches and the strip of the sea coast and outline of islands, islets, bays and estuaries, measured from the line of the highest flood marks and with allowance for a protective strip of 50 meters to the interior of the territory;
- e) All rivers, lakes, lagoons and associated lands, exception made to waters considered as private or community waters under the terms of the Civil Code;
- f) Oil and natural gas deposits;
- g) Mineral deposits, water and mineral resources and geothermal resources, as well as natural underground caves and other natural resources existing in the underground, excluding spring waters and mineral masses such as rocks, common land and other materials usually used in construction;
- h) Railroad infrastructures, while allowing for an adequate protective bordering strip;
- i) Airports and airfields of public interest, while allowing for an adequate protective bordering strip;
- j) Artificial ports and docks of public interest, while allowing for adequate protective bordering strip;
- k) Public utility dams, while allowing for adequate protective bordering strip;
- l) The highway network including, specifically, roads, streets, public ways, squares and green areas, as well as their accessories and artworks, with allowance for a protective bordering strip;
- m) Public cemeteries and Gardens of Heroes;
- n) Monuments and buildings of national interest, provided they are properly classified and included in the public domain;
- o) Military facilities, infrastructures relevant for national security and territorial areas reserved for civil protection or military defense purposes;
- p) The strip of land along the terrestrial border.

4. The National Property Cadastre identifies and characterizes all properties under the State's public domain.

5. The identification, establishment of strips and the regime of use of those under the public domain of the State are regulated by law.

6. The holder of the previous right or one who fulfills the requirements of the usucapio to whom, under the terms of this law, the property right should be recognized over an immovable property, but which loses that right because the property has become part of the public domain of the State, must be compensated.

7. The compensation referred to above is calculated under the terms of this law.

Article 9

Immovable Property of the State's private domain

1. The public domain includes:

- a) Immovable property that was owned or used by the Portuguese public administration until December 7, 1975;
- b) Immovable property that was owned or used by the Indonesian public administration until October 19, 1999;

- c) Immovable property that is in the current possession of the State and in which activities related to public administration or activities of public interest are developed;
 - d) Immovable property over which incide primary or secondary rights belonging to foreign citizens, which, under the terms of the present law, revert to the State;
 - (e) Immovable property over which previous secondary rights were reverted to the State under Article 3 (6).
2. The provisions of paragraph 1 (a) and (b) shall not harm the provisions of this law in respect of informal property rights, community property and possible compensation rights.
3. With regard to the property referred to in paragraph 1 (c), the possession of the State shall prevail over any previous rights, without prejudice to the right to compensation of the holder of the previous right, under the terms provided for in this law.
4. Immovable property with no known owner and public vacant lands shall be deemed to be State assets.
5. The regime for the use and disposal of properties under the State's private domain is regulated by decree-law.

CHAPTER II

Possession

Article 10

Concept

1. For the purposes of this law, possession is the use or the real possibility of use of the property for purposes of housing, agriculture cultivation, business, construction or any other activity requiring the physical use of the immovable property in a way corresponding to the exercise of property rights.
2. Possession may be exercised in person or through third parties.
3. Landlords exercise their possession through their lessees/tenants.
4. Evidence of possession are construction, plantations, fences and enclosures.

Article 11

Mere Occupants

1. The following are considered to be mere occupants of immovable property:
- a) People using the property with no intention of acting as beneficiaries of the right of ownership, such as lessees;
 - b) People who simply take advantage of the tolerance of legitimate possessors;
 - c) Representatives and agents of the possessor, as well as anyone exercising possession on behalf of someone else;
2. Mere occupants cannot acquire for themselves the right to own the immovable property they possess by means of usucapio.

Article 12

Protection Possession

Until the first ownership rights are recognized or awarded within the scope of the special regime established in this law, actual and peaceful possessors shall enjoy full legal protection under the terms of the Civil Code.

Article 13

Intent of Ownership

Individuals who, in exercising their possession, do not implicitly or explicitly exclude the conviction of being holders of the property right are considered to be possessors with intent of ownership.

Article 14

Public and Notorious Possession

Public and notorious possession is the possession practiced in a way intended to be known by interested parties.

Article 15

Lasting Possession

For the purposes of this law, lasting possession is possession uninterrupted for at least twenty years.

Article 16

Peaceful Possession

1. Peaceful possession is possession obtained without the use of violence or threat.
2. Possession is deemed violent when the possessor, in order to obtain it, uses physical or psychological coercion under the terms defined in the Civil Code.

Article 17

Interruption of Possession

1. Dispossession occurs when someone is unduly deprived of holding or enjoying the possessed property or the possibility of continuing its possession.
2. For the purposes of the law, national claimants who held previous rights and were dispossessed after December 31,

1998 without the ability to recover possession are deemed actual and peaceful possessors.

Article 18

Succession and accession on possession

For the purpose of establishing the starting date of possession, claimants in possession may add the possession of their antecessors, provided that possession was continuous and peaceful, regardless of the form of transmission under the terms of the Civil Code.

CHAPTER III

Usucapio (Special adverse possession)

Article 19

Definition

Usucapio is a mechanism for acquisition of the property ownership right over an immovable property within the scope of the special regime for determining ownership of immovable property provided for by this law, in the cases of possession maintained for a certain period of time and in accordance with the requirements established in this Chapter.

Article 20
Immovable Property Not Susceptible to Acquisition Through Usucapio)

1. Immovable property located in areas of public domain of the State shall not be object of usucapio/adverse possession.
2. Usucapio does not apply to immovable property that have been occupied as a result of acts of forced displacement of populations occurred during the Indonesian administration.

Article 21
Requirements for *Usucapio*

Notwithstanding the provisions of the article above, ownership rights through usucapio shall be awarded only to a claimant who cumulatively meets the following requirements:

- a) Claimant holds Timorese citizenship and possesses the property with the intention of ownership that is continuously, publicly and notoriously;
- b) Claimant has initiated possession in a peaceful fashion before or on December 31, 1998, without the use of physical violence or psychological coercion.
- c) Do not have any other property for housing or cultivation other than that of possession.

Article 22
Legal Capacity for Acquisition

1. The mechanism of usucapio is available to anyone capable of acquisition.
2. Those who are legally incompetent may acquire on the basis of usucapio, on their own or through their legal representatives.

CHAPTER IV
Community Protection Zones and Community Property

Article 23
Community Protection Zones

Community Protection Zones are areas protected by the State for the purpose of safeguarding common interests of local communities through the special protection of residential areas, agricultural areas, either cultivated or fallow ground, forests, culturally important sites, religious sites, pastures, water springs or areas with natural resources that are shared by the population and necessary for their subsistence.

Article 24
Protection

In Community Protection Zones, the State is responsible for the following:

- a) Ensure that all customary practices conform to the Constitution, are participatory, non-discriminatory and respect gender equality;
- b) Promote environmental and socio-cultural sustainability in the uses of natural resources and the way of life of each local community; and
- c) Protect immovable properties in the community from real estate speculation.

Article 25
Use of Immovable Property in Community Protection Zones

1. The use of immovable property by individuals, families and groups in Community Protection Zones shall be respected by the community and protected by the State.
2. The State shall ensure that the use by third parties of immovable property located in areas of Community protection for economic purposes:
 - a) Benefits the local community as a whole in an inclusive and non discriminatory manner;
 - b) Is done in a sustainable way from both the environmental and socio-cultural points of view;
 - c) Respects the ways of life of each local community and its access to natural resources.
3. The use by third parties of immovable property located in areas of community protection for economic purposes must be preceded by consultation with the local community, in accordance with the provisions of special legislation.

Article 26
Ownership of Immovable Property in Community Protection Zones

The classification of an area as a Community Protection Zone does not affect the ownership of immovable properties located therein by private persons, legal entities and the State, with no detriment to the limitations resulting from the protective legal regime.

Article 27
Community Property

1. Any immovable property acknowledged by the community as being of their common and shared use, by a group of individuals or families, organized in accordance with local practices and customs shall be considered as community property.
- 2 All community properties are inalienable and untouchables.
3. The community property demarcation process shall follow the rules provided in this law and the determinations to be provided in a specific diploma
4. Ownership of community immovable property is considered as an informal property right for the purposes of dispute.

Article 28
The regime of Community protection zones and Community immovable property

The regime of Community protection zones and Community immovable property is regulated by law.

Chapter V
Cadastral Assessment

Article 29
National Property Cadaster

1. The National Property Cadaster is the property registration system containing all official information on the legal status of immovable property, collected by way of cadastral surveys.
2. The National Property Cadaster comprises the cadastral information and the land registry.

3. Only the information gathered in the framework of the cadastral survey provided for in this chapter may be included in the National Property Cadaster.
4. The member of the Government responsible for the area of justice, through the DNTPSC, is responsible for the establishment, administration and updating of the National Property Cadaster.

Article 30 **Systematic Cadastral Survey**

1. Cadastral survey is the systematic collection of data on immovable property in pre-selected and adjoining collection areas in accordance with a specific procedural arrangement and with the purpose of assembling the National Property Cadaster.
2. The cadastral survey is conducted by the Cabinet member that oversees the justice, through the National Directorate of Land, Property and Cadastral Services

Article 31 **Information Collected**

1. In each collection area, the systematic cadastral survey shall collect all the information necessary for assembling the National Property Cadaster, including the following:
 - a) Administrative location of each immovable property;
 - b) Geometrical outline of the parcel, with its geographical references;
 - c) Geographically referenced location of the parcel;
 - d) The type of parcel in accordance with the technical specifications;
 - e) The statements of ownership of natural and collective persons, or of the State on immovable property, for the purposes of the provisions of the next article;
 - f) Any other technically relevant data.
2. Each land parcel shall be assigned a Unique Identification Number.

Article 32 **Declaration of ownership**

1. During the cadastral survey process, the member of the Government responsible for the area of justice, through the DNTPSC, collects statements of ownership of natural and collective persons, or of local communities on immovable properties located in the areas of collection.
2. With the statements of ownership referred to in the above paragraph, copies of the means of proof that the claimants may submit shall also be collected.
3. No one may be prevented from presenting statements on the parcels regarding which he / she understands to be the owner.
4. Each declaration shall be assigned an identification number.
5. Agreements resulting from negotiation or mediation in which the parties have agreed on the definitive transfer of property rights on immovable property shall be valid for the purposes of the statement of ownership.

6. The presentation of statements of ownership of State immovable property is the responsibility of the cabinet member responsible for the area of justice through the DNTPSC and subsidiarily of other State entities.

7. The declaration of joint ownership should be encouraged among couples.

Article 33 Publication

1. All the information collected in the collection area shall be displayed in a cadastral map with a list of claimants and published for a period of at least 90 days.

2. In cases where the physical features of the collection area so justify, the Cabinet member responsible for the area of justice, through the DNTPSC, may extend the period provided for in the above paragraph for an additional period of 30 days.

3. The period of publication shall be established and made known before its starting date and once published no extensions shall be allowed.

4. During the period of publication, the Cabinet member responsible for the area of justice shall, through the DNTPSC, collect the ownership statements on immovable properties identified in the cadastral map that have not yet been submitted under the terms of articles 31 and 32.

5. Statements of ownership submitted after the deadline provided for in paragraphs 1 and 2 of this article shall not be accepted.

Article 34 Cadastral Survey in Community Protection Zones

Cadastral surveys of immovable property in Community Protection Zones shall be preceded by consultation with the local community and shall comply with the other requirements established in its own legislation.

Article 35 Free cadastre registration fee

The systematic cadastral survey is free.

CHAPTER VI ESTABLISHMENT OF OWNERSHIP OF IMMOVABLE PROPERTY

SECTION I Uncontested Cases

Article 36 Holders of Primary Previous Rights

The right of ownership of the declarant of the ownership of informal property right, freehold property or hakmilik, is recognized when uncontested.

Article 37 Actual possession for holders of secondary previous rights

1. The right of ownership is granted to the declarant of secondary previous right that cumulatively meets the following requirements:

a) That it is a valid secondary previous right under the terms and for the purposes of the provisions of paragraphs 3 and 4 of article 3 of this law;

b) Have current and peaceful possession of the claimed property; and

c) Longlasting possession.

2. The claimant shall only acquire the ownership right over the portion of the property owned by said claimant.

3. For the purposes of paragraph 1 (c), possession is long-lasting where it has lasted for a period longer than the twenty-year period applicable to the good faith *usucapio* possession referred to in Article 1216 of the Civil Code.

4. In cases where the requirements set out in paragraph 1 (a), (b) and (c) are not met, the right to property on the immovable property referred to therein shall revert to the State.

5. Without prejudice to the provisions of the preceding paragraph, the current and peaceful possessor holding a valid secondary previous right in respect of an immovable property for a period less than twenty years shall be entitled to maintain the current use of the property, through the enjoyment of a corresponding right in the general terms of law.

6. The right to maintain the use of immovable properties by the current possessor who is the holder of a valid secondary previous right is regulated by a specific diploma.

7. The provisions of paragraphs 3 and 4 shall not exclude the right of the claimant of a valid secondary previous right ownership who is in the current and peaceful possession of the immovable property to be compensated for the constructions, plantations and improvements said claimant has made on the Immovable property, where it is not possible to assure the use of the property to the claimant.

Article 38

Uncontested Possession

1. In uncontested cases, the uncontested claimant is granted ownership rights, provided the uncontested possession is peaceful.

2. Exception to the provisions of the preceding paragraph are those cases in which the immovable property in question is situated in an area of State public domain.

3. The claimant shall only acquire the property right over the portion of the property possessed by said claimant.

SECTION II

Disputed cases

Article 39

Definition and Resolution

1. Contested cases are understood as cases in which there is more than one valid claim of property right ownership regarding one same immovable property by virtue of the exercise of ownership or the existence of different previous rights regarding the same property.

2. Contested cases that cannot be resolved through negotiation between the parties, mediation or other forms of mutual agreement shall be resolved by administrative decision based on the regime set out in this law or by judicial decision.

Article 40º
Dispute between holders of primary previous rights

1. In cases of dispute between claimants of primary previous rights of ownership, when one of the claimants is possessor of the immovable property or part thereof, such claimant will be granted property rights over the part of the property possessed by said claimant.
2. The property right over the part of the property not possessed by either claimant will be granted under the terms of article 45º.

Article 41
**Dispute between holder of primary previous rights
and holder of secondary previous rights**

In cases of dispute between claimant holding primary previous rights and a claimant holding secondary previous rights, the property right shall be granted to the holder of the primary previous right, regardless of possession.

Article 42
Dispute between holders of secondary previous rights

1. In the cases of dispute between claimants holding secondary previous rights, the property right shall be granted according to the possession each is entitled to.
2. The property right over the portion of the immovable property not possessed by either claimant shall revert to the State.

Article 43
Holder of Primary Previous Rights and Usucapio

The property right of a claimant of primary previous rights holder is recognized, in detriment of the claimant possessor, even when the latter has complied with the requirements of usucapio.

Article 44
Usucapio Right and Holders of Secondary Previous Rights

1. In contested cases between a claimant in possession and a claimant holding a secondary previous right, the ownership right shall be awarded to the possessor who meets the requirements of the usucapio right.
2. If the actual possessor does not comply with the requirements of usucapio right, the right shall be awarded to the holder of the secondary previous rights.
3. Claimants in possession shall only acquire ownership rights over the portion of the immovable property possessed said claimant.
4. In the cases referred to in paragraph 2, the holder of the secondary previous right shall only be recognized the right of ownership over the part of the property which he/she previously possessed.

Article 45
Disputes between Claimants without Possession

In disputed cases between claimants holding primary previous rights and neither claimant is found to be in possession of the immovable property, the property right is granted to the claimant holding the most recent right of ownership, except in cases where the holders of informal rights of property, which prevail over others.

Article 46
Contested Cases Involving Property Boundaries

1. Demarcation shall be done in accordance with the deeds of each claimant of ownership rights and, in the absence of adequate deeds, in line with the possession held by the neighbors or in accordance with the results of other probative evidence.
2. If the deeds do not specify the boundaries of the properties or the area pertaining to each immovable property and the issue cannot be resolved by possession or other probative evidence, demarcation shall be done by distributing the contested property into economically equal parcels.
3. If the certificates indicate an area larger or smaller than the total area of the land, the difference or addition shall be attributed proportionally to each party's parcel.

CHAPTER VII
Compensation and reimbursement

SECTION I
Compensation

Article 47
Admissibility

1. The following are entitled to compensation:
 - a) The Claimant of the previous ownership right to whom, in the disputed case, had not been granted the right of ownership by virtue of the regime provided for in this law;
 - b) The Claimant possessor to whom the right of ownership has not been granted by virtue of the regime provided for in this law, even if the requirements of usucapio rights have not been granted.
2. In the cases referred to in sub-paragraph a) of the above paragraph in which the title deed refers to a specific purpose for granting the secondary previous right, the claimant holder shall be entitled to compensation when, at the time the claimant was dispossessed, said Claimant used the immovable property for the specific purpose designated in the deed.
3. In the cases referred to in paragraph 1 (b), where there is more than one possessor of the property, compensation shall be shared between them.
4. Paragraph 1 does not cover cases where the loss of right is due to ordinary usucapio right.
5. The compensation shall be paid by the State, without prejudice to the right of reimbursement provided for in the articles below.
6. The compensation referred to in paragraph 1 shall be paid only after the final settlement of the dispute.

Article 48
Efficient utilization of the immovable property

1. The compensation shall correspond to the highest value of the efficient use of the property at the time the Claimant was dispossessed and updated at the date of the decision recognizing the right of ownership to a third party.
2. Efficient use of the property is understood as the most probable use of the immovable property at a certain date, and this use must be physically possible, justified, legally permitted, financially possible and maximally productive.

3. Unless proven otherwise, the value of the efficient use of the property is calculated on the basis of the legal use actually made by the claimant at the time said claimant was dispossessed.
4. The amount of compensation for secondary previous rights holders or possessors with usucapio right is assessed on the basis of the amount of compensation that would be granted to a holder of primary previous right.
5. In the property appraisal process, the Land and Property Land Commission gives Claimants the opportunity to express themselves on the provisions of paragraph 3.

Article 49
Concession of property or rights

1. Claimants and the State may agree that the compensation shall be met, in whole or in part, through the concession of an immovable property of the State of equivalent value.
2. The concession of rights over immovable properties shall be governed by the law applicable to the use of the State's private domain.

Article 50
Leasing of State Property

1. All immovable property of the State's private domain may be object of special lease or transferred to occupants protected against eviction
2. The special lease regime and transfer of immovable property of the State's private domain shall be regulated by decree-law

SECTION II
Refund

Article 51
Obligation to reimburse

1. In the cases in dispute, when the possessor claimant has been granted the right to property by special use, the latter must reimburse the State the amount of compensation paid to the claimant holding secondary previous right.
2. The amount of the reimbursement referred to in the previous paragraph corresponds to the limits of the immovable property on which the right to property is attributed.

Article 52
Debt forgiveness

1. The State may grant, in whole or in part, the exemption from payment referred to in the preceding article, when there are circumstances of serious economic need.
2. The total or partial exemption regime for reimbursement by the State must ensure that the declarants required to repay are not impoverished and lose their living conditions.

Article 53
Refund Guarantee

1. The obligation of repayment is guaranteed by mortgage on the property, constituted in favor of the State.
2. The mortgage is registered in the real estate register, until later registration in the land registry.

Article 54
Compensation and refund scheme

Without prejudice to the provisions of this Section, the system of compensation and reimbursement shall be governed by a specific instrument.

CHAPTER VIII
Recognition and attribution of the first property rights

SECTION I
Administrative procedure

SUB-SECTION I
Land and Property Commission

Article 55
Establishment

1. The Land and Property Commission is created to assess cases in the framework of the process of recognition and attribution of first property rights and other competences assigned by law.
2. The Land and Property Commission is independent in nature and enjoys administrative, financial and property autonomy.

Article 56
Composition

1. The Land and Property Commission consists of:
 - a) Six jurists appointed by the Prime Minister on a proposal from the Minister of Justice;
 - b) Three technicians specialized in land and property, appointed by the Minister of Justice, proposed by the National Director of Lands, Properties and Cadastral Services.
2. Each of the authorities mentioned in the previous paragraph also appoints an alternate member, who replaces the effective members in their absences or impediments.
3. The members of the Commission shall be chosen from among persons of recognized repute and moral integrity and ethics, in order to ensure that the exercise of their functions is performed impartially, with integrity, with competence, with commitment and with responsibility.
4. The Minister of Justice shall appoint the President of the Commission from among its members.
5. The Land and Property Commission can be organized into arbitration panels with decision-making autonomy, composed of at least two jurists and a specialist in land and property.
6. In the performance of its duties, the Commission is supported by a Technical Secretariat.
7. The term of office of the members of the Commission shall be four years, renewable.

Article 57
Operation

1. Decisions shall be taken by a majority of the votes of the members present, the chairman having the casting vote.

2. The Land and Property Commission is governed by this law, by the decree-law that regulates it and by the internal regulations approved by its members, within the scope of their functions and their competencies.

SUB-SECTION II

Administrative decision on disputed cases

Article 58

Start of the process

After the deadline for the submission of declarations of ownership of the real property rights in the framework of the cadastral survey provided for in paragraphs 1 and 2 of article 32, the member of the Government responsible for the area of justice, through the DNTPSC, sends the contested cases to the Land and Property Commission.

Article 59

Probationary proceedings

In the procedure for resolving disputed cases, in order to form its conviction about the truth of the facts contained in the declarations, the Land and Property Commission, directly or through the DNTPSC, through its municipal directorates, may in particular:

- a) Call on the declarants of the ownership of the property right on immovable property, individually or simultaneously, to provide clarification;
- b) Listen to witnesses presented by the declarants;
- c) Consult local and community authorities;
- d) Request the submission of additional documents from the declarants;
- e) Carry out all the necessary probationary proceedings to confirm the information contained in the declarations.

Article 60

Decision of disputed cases

In the disputed cases, the Land and Property Commission:

- a) Recognizes or assigns the property right to the declarants according to the criteria established in this law and with their conviction on the alleged facts, formed in the cadastral survey process and through the probationary proceedings taken;
- b) Determines the existence of the indemnification and reimbursement obligations, in accordance with the terms of this decree, and establishes their respective values, in accordance with the provisions of article 48.

Article 61

Content of the decision

The administrative decision shall state the reasons in fact and in law and contain the following elements:

- a) Identification of holders and parcels;
- b) The existence of the obligation or not to indemnify;
- c) The existence of the obligation or not to repay; and

- d) The amounts to be indemnified and reimbursed.

Article 62

Impediment

1. Impediments provided for in Article 87 of the Code of Civil Procedure, with the necessary adaptations, apply to the members of the Commission of Lands and Properties.
2. The member of the Land and Property Commission prevented under the terms of the previous paragraph is replaced by an alternate member in the deliberation on disputed case.
3. The decision on a disputed case in which an impeded member of the Land and Property Commission has voted is annulled, by administrative appeal to be filed by the aggrieved party.

Article 63

Suspicion

1. The declarants may object to the member of the Land and Property Commission if any of the grounds provided for in Article 92 of the Code of Civil Procedure are satisfied, with the necessary adaptations.
2. Respondents in disputed cases may oppose the member of the Land and Property Commission at any time by request to the president of the Land and Property Commission until the day before the administrative decision.
3. The incidents of suspicion are investigated and decided by the president of the Land and Property Commission, and the provisions of Articles 94 and 95 of the Code of Civil Procedure shall apply, with the necessary adaptations.
4. If the suspicion is opposed against the chairman of the Land and Property Commission, the incident shall be investigated and decided by the member replacing him or her.
5. If the suspicion is deemed appropriate, the disputed case is distributed to another arbitration panel, or the suspected member is replaced by an alternate in the case.

Article 64

Deferred effectiveness

1. The administrative decision in disputed cases referred to in Article 60 shall take effect only after the expiration of the period for judicial challenge.
2. Once the period referred to in the preceding paragraph has expired, and no judicial challenge has been deducted, the administrative decision acquires immediate effectiveness.

SECTION II

Judicial challenge

Article 65

Deadline to contest

The administrative decision rendered in the disputed cases is susceptible of judicial challenge, with suspensive effect, to be deducted within a period of 60 days from its notification.

Article 66

Competence to hear the challenge

1. The judicial courts are competent to decide the legal challenge referred to in the previous article.

2. The judicial challenge is in the form of the ordinary procedure, with the specialties listed in Articles 67, 68 and 69.

Article 67 **Legitimacy**

Claimants holding subjective rights or legally protected interests who are considered injured have the right to challenge the administrative decision.

Article 68 **Notification of the filing of the judicial challenge**

Once the judicial challenge has been received, the court notifies the entity responsible for the attribution of property titles of its interposition, so that it suspends immediately the process of allocation and issuance of securities.

Article 69 **State intervention in the judicial process**

Even if it is not a party to the proceedings, the State is summoned to intervene in the case under Article 276 et seq. of the Code of Civil Procedure, in all cases in which the State may be constituted in the obligation to pay damages which are not part of the decision of the Commission of Lands and Properties or is requested by either party to increase the amount of compensation established by the Land and Property Commission.

SECTION III **Registration and attribution of titles**

Article 70 **Registration of rights and issue of securities**

The registration in the National Register of Properties and the issuance of bonds are regulated by decree-law.

Article 71 **Effects of the attribution of title deeds to real estate**

1. The granting of a title of right of ownership on an immovable property entitles its owner to act as owner of it.
2. *Usucapio* (special adversion) takes place five years after the first registration of the real estate under the terms of this law, and the periods provided for in the Civil Code will be applied later.
3. The recognition of a property right in disputed cases is a case only between the parties.

CHAPTER IX **Complementary, transitional and final provisions**

Article 72 **Crimes**

The practice of active and passive corruption, falsification of documents, the provision of false declarations and other crimes practiced within the framework of this law are punished under the terms of the Penal Code and other applicable legislation.

Article 73
Possession of foreign property by national

1. The real property of a foreign natural or legal person, reverted to the State by virtue of the present law, that has been occupied peacefully by a national citizen, can be acquired by this person through a procedure to be regulated by decree-law.
2. The national citizen mentioned in the previous paragraph benefits from the presumption of current possession provided for in paragraph 2 of article 17 of this law.
3. In the event that a lease is concluded with the State on immovable property and the latter intends to dispose of it, the price of the rent paid to the State by the occupant is deducted from the price.
4. The national citizen occupying and residing in immovable property reverted to the State is entitled to the right to housing tacitly renewed to his or her heirs and legatees, until the entry into force of the decree-law that regulates the acquisition procedure referred to in this article.
5. The non-residential use of the property reverted to the State must be regularized by means of a lease or other forms permitted by law.

Article 74
Real estate abandoned under the administration of the State

1. Lease agreements entered into under Law 1/2003, dated 10 March, relating to abandoned real estate, shall continue until the end of their term, without prejudice to the private owner to whom it has been assigned or recognized the right of ownership to assume the position of landlord.
2. The income received by the State up to the recognition or attribution of the right to property on abandoned property constitutes State revenue and cannot be claimed by the owner to whom the right to property is to be assigned or recognized.
3. For the purposes of this law, there is no tenant or arbitrary occupant of abandoned property.
4. For the purposes of the provisions of this article, the real estate thus identified by DNTPSC under Law No. 1/2003, dated March 10, shall be considered abandoned.

Article 75
**Cases involving real estate occupied as a result of acts
of forced displacement of populations**

1. The disputed cases on real estate that have been occupied as a result of the acts of forced displacement of populations occurred during the Indonesian administration, are resolved on a case-by-case basis by the Land and Property Commission, under the terms of this law.
2. In the cases referred to in the preceding paragraph, when the application of the present law results in the eviction of the current occupants of these immovable properties, the State promotes, through the competent department of the Ministry of Justice responsible for the area of land registration, lands and properties, the reconciliation of the interests of the parties, in particular with a view to reaching a consensus on the compensation to be paid or the viable alternatives to compensation.
3. The State assumes, through the mechanisms provided by law, the payment of compensation in the cases referred to in the preceding paragraph, without prejudice to any reimbursement to which it may be entitled.
- 4.

Article 76

Eviction

1. The eviction situations that occur due to the application of this law are regulated by decree-law.
2. The eviction must be carried out under conditions which guarantee the dignity of the human person, the rights and safety of the persons affected by it, and respect for the principles of proportionality, adequacy and non-discrimination.

Article 77

Progressive taxation

Taxation on real estate must be progressive, in the terms to be defined by law.

Article 78

Court lawsuits

1. The *res judicata* (process with final judgment) is not affected by this law.
2. This law applies to pending legal processes.
3. The court may suspend the ongoing judicial process, awaiting decision in the process of assigning and recognizing the first property rights, when it deems more appropriate to the resolution of the dispute.

Article 79

Previous Complaints

1. Complaints submitted under Law 1/2003, of March 10, are considered declarations of ownership whenever technically feasible.
2. Complaints that unequivocally identify the claimant and the claimed property are technically feasible.
3. The complainants referred to in paragraph 1 have the burden of verifying that their complaint has been entered in the registration maps during the period of publication in accordance with Article 33 and must submit a new declaration where this has not happened.

Article 80

Cadastral survey and previous ownership declarations

The cadastral survey, the declarations of ownership collected and the acts of recognition of the property right for registration purposes issued under Decree-Law no. 27/2011, of July 6, are considered valid.

Article 81

Presumptions

The presumptions set out in Article 12 of Law No 1/2003, of 10 March, are not fulfilled.

Article 82

Acts of disposition relating to immovable property of the State

1. The acts of disposition of the real estate of the State that have occurred, by any title, from December 7, 1975 until the entry into force of this law, are null and void.
2. Such nullity shall not prejudice the rights of bona fide third parties who have acquired these goods in return for payment and who have paid for them a fair price.

3. In cases where the State cannot recover the property by virtue of the application of the provisions of the preceding paragraph, the State shall be entitled to compensation for those who have illegitimately sold, in bad faith, the amount in which it has been enriched, in the general terms of law.
4. For the purposes of the provisions of the previous paragraphs, is considered to be in good faith a buyer who, at the time of purchase of the property, was not aware that the seller was not the rightful owner.
5. The provisions of this article shall apply subsidiarily to the rules of the sale of third party property provided for in the Civil Code.

Article 83
Real Estate Financial Fund

The financial obligations of the State that result from the application of this law, namely in damages, are met using the Real Estate Finance Fund, provided for in the law governing the expropriation for public utility.

Article 84
Revocation

All diplomas or regulations that are contrary to the provisions of this law are revoked.

Article 85
Entry into force

This law shall enter into force 90 days after its publication.

Approved February 6, 2017.

The President of the National Parliament,

Adérito Hugo da Costa

Promulgated on June 1, 2017.

To be published.

The President of the Republic,

Francisco Guterres "Lú-Olo"