Succession in Vietnam is governed by the Law on Inheritance, which was promulgated on September 10, 1990. Before the promulgation of this law, questions on succession in the Socialist Republic of Vietnam were decided on the basis of many various legal documents, even though the People's Supreme Court of Vietnam did issue a circular in 1981 (Circular No. 81-TANDTC, July 24, 1981) which, for the first time, provided the courts with relatively complete guidelines for dealing with inheritance matters.

Basically, the new Law on Inheritance provides that succession to property is governed by the operation of law or by the will of the deceased (art. 1). Succession opens with the death of the deceased, at the deceased's last place of residence. If the residence of the deceased is unknown at the time of death, then the place where the deceased owned all or most of his or her estate is considered to be the residence (art. 3). The deceased's estate includes personal and real property (art. 4).

An heir by will can be an individual, the state, a government agency, or a charitable or commercial organization. An heir must be alive on the day succession opens and an organization currently in existence in order to inherit. A child born after the death of a parent can inherit property from the parent only if the child was conceived before the death of the testator. Article 7 of the Law states that a person forfeits his right to inherit under any of the following conditions: 1) if he has been sentenced to criminal penalty for having intentionally caused the death or severely damaged the health of or severely abused the deceased; 2) if he has seriously failed in his duty to care for the deceased; 3) if he has been sentenced for intentionally causing the death of other co-heirs in order to receive a larger share of or the entire estate; 4) if he has used fraudulent means or duress to influence the testator in making the will or if he has forged or destroyed a will for the purpose of securing a larger share of or the entire estate. Nevertheless, if the testator has expressed the intention to so allow it, the above-named persons may still receive their share of the inheritance.

An heir also has the right to waive his right of inheritance. A person wishing to make such a waiver is required to officially declare his intention to other co-heirs and to the People's Committee of the place where the succession opened, within six months from the time when he had cognizance of the succession.

The provisions on wills in the Law on Inheritance indicate that the basic requirements for a will to be considered valid are that the testator be eighteen years old, mentally competent, and free of any duress or fraudulent influence. The three kinds of legal wills—the formal (attested) will, the unofficial will, and the oral will—are described as follows:

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1 Le Kim Que, Pháp Lệnh Thừa Kẻ và 90 Câu Giai Đáp [Ninety Answers to Questions on Inheritance Law] 7-22 (Hanoi, Nha Xuat Ban Phap Ly, [1990]).
• the formal or certified will is made either in the presence of an authorized official or the local People’s Committee and witnesses. It must be signed by the testator in the presence of the witnesses and an official authorized by law to certify wills. The latter will then sign the document in front of the testator and his witnesses (arts. 14, 16). Vietnamese nationals who live abroad may go to the Vietnamese Embassy or consulate to have a will certified by an authorized representative (art. 15).

• the unofficial will is defined as a will written by the testator without the participation of an official as described in articles 14-16. The law does not require any specific form to be used in making this type of will, only the proof that the testator was mentally sound and made the will free of duress or the influence of any fraudulent act (art. 17).

• an oral will is acceptable by law if the testator made it by reason of imminent death preventing him from making a written will (art. 18).

In the case of intestate succession, male and female kin of a person who died intestate inherit property in the following order:

1) spouse, father, mother, adoptive father and mother, children, adopted children of the deceased;

2) paternal and maternal grandparents, brothers and sisters of the deceased;

3) great-paternal and maternal grandparents; uncles, aunts, nephews and nieces.

All heirs within the same rank of priority will receive an equal share of the estate (art. 25). Direct descendants of the deceased’s heirs (the children and grandchildren of the deceased) will be entitled to their parents’ and grandparents’ share if the latter are alive (art.26).

As for the right of inheritance of foreigners, article 37 of the Law stipulates that Vietnam will respect the right of inheritance of aliens over their estates in Vietnam in accordance with Vietnam’s own laws and any international or bilateral treaties signed by Vietnam. Thus far, Vietnam and the United States have not signed a bilateral treaty in regard to reciprocal rights of inheritance.

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March 1992