

**PROTECTION OF THE RIGHTS OF BONA FIDE THIRD PARTIES IN THE  
PROCESS OF RECOVERING CRIME-DERIVED ASSETS UNDER  
VIETNAMESE LAW**

***Vu Van Hung***

*Master, Assistant,*

*Military District 7 Execution Department,*

*Ministry of Defense,*

*Ho Chi Minh City, Vietnam*

***Abstract:*** *The recovery of criminally derived assets is an essential imperative of modern criminal justice, aimed at eliminating the ability of offenders to continue benefiting from unlawful conduct, restoring the rights and interests of aggrieved parties, and ensuring public order. However, in that process, the law does not stand solely on the side of punishment and asset recovery; it must also protect those who have participated in transactions in good faith, without knowledge of and unable to know about the illegal origin of the assets - in other words, there is a requirement to protect the rights of bona fide third parties. This article focuses on analyzing the legal position of bona fide third parties at the intersection of civil law, criminal law, criminal procedure, and civil judgment enforcement in Vietnam today. Drawing on the most recent legislative texts and several prominent practical debates, the article clarifies the limits of recovering criminally derived assets when those assets have already been transferred to bona fide third parties; at the same time, it identifies inconsistencies in the treatment of physical evidence, mortgaged assets, assets for which ownership has been registered, and the mechanism for protecting the rights of bona fide parties at the trial and judgment enforcement stages. On that basis, the article proposes a number of recommendations aimed at ensuring a balance between the effectiveness of asset recovery and the requirement to protect legitimate property rights in a law-governed state.*

**Keywords:** *Bona fide third party; recovery of criminally derived assets; protection of property rights; physical evidence; mortgaged assets; void civil transactions; civil judgment enforcement; criminal law; criminal procedure.*

*This article is prepared by author Vu Van Hung, Master of Laws, Assistant at the Military Region 7 Judgment Enforcement Division, Ministry of National Defence, Email: Hungvu@outlook.com.vn, Ho Chi Minh City, Vietnam.*

## **Introduction**

The recovery of criminally derived assets has long been regarded as one of the most important indicators for assessing the substantive effectiveness of crime prevention and combat activities. A rigorous criminal justice system cannot, in the final analysis, be limited to convicting and imposing punishment; it must also answer a more fundamental question: how will assets that have been appropriated, unlawfully used, or generated through criminal conduct be handled, who is the person ultimately entitled to those assets under law, and what limits are established to protect the legal security of civil transactions<sup>1</sup>.

In practice, many criminal cases do not rest at the relationship between the State and the offender, or between the offender and the victim. Assets connected to a crime are often displaced through one or more transactions - sometimes through sales, assignments, pledges, mortgages, or debt repayments; sometimes they enter circulation openly, and may even have been fully registered with the competent state authority. By the time the procedural authorities discover and handle the case, such assets may already be in the hands of a party who did not participate in the criminal conduct, had no knowledge of the illegal nature of the assets, and established the transaction under normal conditions of civil life. It is at precisely this point that the story of asset recovery is no longer a purely criminal-law problem. It becomes a problem of balancing the punishment of crime against the protection of people's legal trust in civil transactions.

---

<sup>1</sup> Lương Khải Ân. Hiệu quả thu hồi tài sản trong các vụ án hình sự tham nhũng - kinh tế // Luật sư Việt Nam Online. 2021. URL: <https://lsvn.vn/hieu-qua-thu-hoi-tai-san-trong-cac-vu-an-hinh-su-tham-nhung-kinh-te-a50729.html> (дата обращения: 15.04.2026).

Vietnamese civil law has recognized a mechanism for protecting bona fide third parties in cases where a civil transaction is void, particularly under Article 133 of the 2015 Civil Code<sup>2</sup>, in the direction that in cases prescribed by law, a transaction with a bona fide third party is not void, and the owner has no right to reclaim the asset from the bona fide third party if that transaction is protected by law. Meanwhile, criminal law and criminal procedure law place emphasis on the strict handling of criminally derived assets, physical evidence, tools and means of crime, as well as ensuring compensation for damages and enforcement of the part of criminal judgments concerning assets. When these two requirements meet in the same case, legal conflict is almost inevitable.

In the author's view, this is one of the most nuanced and difficult aspects of contemporary law. If asset recovery is over-emphasized at the expense of the rights of bona fide third parties, the law may erode the stability of civil transactions, affect the legal security of the market, and diminish people's trust in the asset registration mechanism and transaction guarantee mechanism. But if bona fide third parties are protected in a mechanical manner - without carefully distinguishing between genuine good faith and feigned good faith, or between a lawful transaction and one intended to conceal criminally derived assets - then the law inadvertently opens the door to asset concealment, legitimization of criminally derived assets, and the weakening of the effectiveness of crime prevention and combat.

The issue becomes even more pressing in the context of very recent changes to Vietnamese law. Law No. 86/2025/QH15<sup>3</sup> amending and supplementing certain articles of the 2015 Penal Code<sup>4</sup>, effective from 1 July 2025; Law No. 99/2025/QH15 amending and supplementing certain articles of the 2015 Code of Criminal Procedure<sup>5</sup>, effective from 1 July 2025; and the Law on Civil Judgment Enforcement

---

<sup>2</sup> Việt Nam. Bộ luật Dân sự năm 2015: Luật số 91/2015/QH13, ngày 24 tháng 11 năm 2015 // Quốc hội nước Cộng hòa xã hội chủ nghĩa Việt Nam. Hà Nội, 2015.

<sup>3</sup> Việt Nam. Luật sửa đổi, bổ sung một số điều của Bộ luật Hình sự: Luật số 86/2025/QH15, ngày 25 tháng 6 năm 2025 // Quốc hội nước Cộng hòa xã hội chủ nghĩa Việt Nam. Hà Nội, 2025.

<sup>4</sup> Việt Nam. Bộ luật Hình sự năm 2015: Luật số 100/2015/QH13, ngày 27 tháng 11 năm 2015 // Quốc hội nước Cộng hòa xã hội chủ nghĩa Việt Nam. Hà Nội, 2015.

<sup>5</sup> Việt Nam. Bộ luật Tố tụng hình sự năm 2015: Luật số 101/2015/QH13, ngày 27 tháng 11 năm 2015 // Quốc hội nước Cộng hòa xã hội chủ nghĩa Việt Nam. Hà Nội, 2015.

No. 106/2025/QH15<sup>6</sup>, taking effect primarily from 1 July 2026 (with certain specific provisions having taken effect as early as 20 January 2026). Although these amendments do not all directly establish an independent institution of “bona fide third parties in criminal asset recovery,” they create a new legal context that compels research to revisit many questions about asset-handling mechanisms, the jurisdiction of procedural authorities, and how to protect legitimate property rights throughout the entire process from investigation to judgment enforcement.

### **Research methodology**

This article is developed primarily through the legal-analytical method, based on a study of the current and most recent Vietnamese legislative documents directly relevant to the subject, including the 2015 Civil Code, the 2015 Penal Code as amended and supplemented by Law No. 86/2025/QH15, the 2015 Code of Criminal Procedure as amended and supplemented by Law No. 99/2025/QH15, and the Law on Civil Judgment Enforcement No. 106/2025/QH15. The selection of these sources is intended to ensure that the article closely follows substantive law while reflecting the very recent legislative amendment context in Vietnam.

In addition, the article employs the systematic and interdisciplinary method to examine the relationship between the institution of bona fide third parties in civil law and the asset-handling mechanism under criminal law, criminal procedure law, and civil judgment enforcement law. This approach is necessary because the rights of bona fide third parties cannot be fully assessed if viewed from only one branch of law in isolation. A transaction may be protected under civil law, yet the asset may simultaneously constitute physical evidence in a criminal case; conversely, a forfeiture claim may be justified under criminal law but may intrude upon property rights already lawfully established in favor of the transferee or security interest holder.

Furthermore, the author employs the methods of case-law commentary, commentary on applied practice, and academic cross-referencing, drawing on a

---

<sup>6</sup> Việt Nam. Luật Thi hành án dân sự: Luật số 106/2025/QH15, ngày 05 tháng 12 năm 2025 // Quốc hội nước Cộng hòa xã hội chủ nghĩa Việt Nam. Hà Nội, 2025.

number of recent in-depth articles on the handling of physical evidence that is mortgaged property, the protection of bona fide third parties, and the difficulties in recovering criminally derived assets. The author submits that for a subject with so many overlapping dimensions, describing legal rules alone is insufficient; more importantly, one must identify where the law is clear, where it remains contradictory, and where divergent interpretations are most likely to arise in practice.

### **Substance**

From a theoretical standpoint, a bona fide third party is a party that did not participate in the original legally defective transaction, but who has established and performed a transaction concerning an asset while not knowing and unable to know that the prior transaction was void or that the transferor had no lawful authority to dispose of the asset<sup>7</sup>. The 2015 Civil Code, particularly at Article 133, takes the approach of protecting the stability of civil transactions and the legitimate expectations of transacting parties - especially where the asset is not subject to registration, or where the asset has been registered with the competent authority and the third party relied on that registration when establishing and performing the transaction. Although the law has not yet set out a full definitional concept, commentary materials universally agree that “good faith” cannot merely mean subjective unawareness; it is also tied to the standard of reasonable care that an ordinary party must exercise in the specific circumstances of the transaction<sup>8</sup>.

When this institution is placed within the process of recovering criminally derived assets, the problem becomes far more complex. Criminally derived assets may include assets appropriated from another person; they may also include material benefits arising directly from a criminal act; or they may be assets used as tools or means of a crime that are subsequently transferred to another party. In many instances, the asset is no longer in the hands of the offender at the time the case is discovered. It has entered civil circulation. It has changed hands. In some cases, it has

---

<sup>7</sup> Trần Thị Huệ, Chu Thị Lam Giang, "Một số bất cập trong quy định tại Điều 133 Bộ luật Dân sự năm 2015 về bảo vệ quyền lợi của người thứ ba ngay tình khi giao dịch dân sự vô hiệu", Tạp chí Dân chủ và Pháp luật, 2017. Xem tại: <https://thuvienso.quochoi.vn/handle/11742/42412> (дата обращения: 16.04.2026).

<sup>8</sup> Lê Văn Sua. Bàn về quy định bảo vệ quyền lợi của người thứ ba ngay tình khi giao dịch dân sự vô hiệu // Công thông tin điện tử Phổ biến, giáo dục pháp luật quốc gia. 2017. URL: <https://pbgdpl.gov.vn/Pages/chi-tiet-tin.aspx?ItemID=2354&l=Nghiencuutraodoi> (дата обращения: 17.04.2026).

become security in a credit relationship. It is precisely this displacement that gives rise to the central question: to what extent can the State recover an asset without crossing the boundary of protecting legitimate property rights already established in favor of a bona fide third party?

A principle that can be drawn from both civil law and the practical commentary literature is: not every instance of an asset connected to a crime automatically results in its recovery from the third party currently possessing or using it. Under the spirit of Articles 133 and 167 of the 2015 Civil Code, an important legal logic that may be derived is: if the asset is in the possession of a third party without lawful basis, the owner has the right to reclaim it; but if the asset has been transferred to a bona fide third party through an open, lawful transaction protected by law, then the right to reclaim the asset cannot be exercised against the bona fide party - instead, the injured party has the right to demand compensation for the value of the asset from the party at fault<sup>9</sup>.

That said, this does not mean that anyone currently holding an asset is automatically deemed a bona fide third party. In the author's view, the first issue to be clarified is the conditions for establishing “good faith” in each specific type of transaction. An individual who purchases a high-value asset at an unusually low price, without checking documentation, without verifying the legal status, with the transaction conducted outside of normal practice, or who has a close connection with the offender, will find it very difficult to be regarded as bona fide<sup>10</sup>. Conversely, where the transferee relies on the asset's registration with the competent state authority, completes the legally required procedures, makes payment openly and with no unusual indications, the denial of their bona fide status must be approached with the utmost caution.

---

<sup>9</sup> Nguyễn Thị Hồng Thúy. Bảo vệ người thứ ba ngay tình theo Bộ luật Dân sự 2015 và thực tiễn áp dụng // Luật sư Việt Nam Online. 2021. URL: <https://lsvn.vn/bao-ve-nguoi-thu-ba-ngay-tinh-theo-bo-luat-dan-su-2015-va-thuc-tien-ap-dung1616873609-a102236.html> (дата обращения: 18.04.2026).

<sup>10</sup> Đặng Thanh Hoa. Điều kiện bảo vệ quyền lợi của người thứ ba ngay tình khi giao dịch dân sự vô hiệu do bản án, quyết định bị hủy, sửa // Tạp chí Tòa án nhân dân điện tử. 2022. URL: <https://tapchitoaan.vn/dieu-kien-bao-ve-quyen-loi-cua-nguoi-thu-ba-ngay-tinh-khi-giao-dich-dan-su-vo-hieu-do-ban-an-quyet-dinh-bi-huy-sua7279.html> (дата обращения: 19.04.2026).

This legal tension is evident in cases where an asset is being mortgaged with a bank or credit institution. This is a scenario increasingly encountered in practice. The asset may simultaneously be physical evidence or a tool and means of crime, and also the subject of a security transaction that was validly established previously. A number of in-depth articles from 2025–2026 point out that if the matter is handled purely through a criminal-law mindset - that is, by leaning absolutely toward forfeiture to the State - there is a risk of infringing upon the priority rights of the bank, which is a party that has lawfully established a security interest and is, in many cases, a bona fide third party<sup>11</sup>. Conversely, if the rights of the mortgagee are protected absolutely while the criminal nature of the asset is disregarded, the effectiveness of crime prevention and the deterrent value of criminal law are called into question.

On this point, the author agrees that the handling of physical evidence that is mortgaged property should be based on the principle of respecting the legitimate property rights established before the criminal act occurred - particularly where the mortgagee did not know and could not have known that the asset would be used for criminal purposes<sup>12</sup>. The author submits that “assets connected to a crime” should not be equated with “assets automatically subject to forfeiture regardless of third-party rights”<sup>13</sup>. For in a law-governed state, legitimate property rights cannot be swept aside by a simple moral inference that “because the asset is connected to a crime, the State must recover it at any cost.” The law must proceed with more rigorous reasoning than that.

Furthermore, it is necessary to distinguish criminally derived assets from the legitimate assets of the offender or the assets of another person that were used in the commission of a crime. This is a critically important distinction, yet in practice it is often not sufficiently clarified in the case file. If the asset is one appropriated from its

---

<sup>11</sup> Nguyễn Đăng Hải Linh. Hoàn thiện cơ chế hướng dẫn áp dụng pháp luật về người thứ ba ngay tình theo Bộ luật Dân sự năm 2015 // Tạp chí Tòa án nhân dân điện tử. 2026. URL: <https://tapchitoaan.vn/hoan-thien-co-che-huong-dan-ap-dung-phap-luat-ve-nguoi-thu-ba-ngay-tinh-theo-bo-luat-dan-su-nam-201515202.html> (дата обращения: 20.04.2026).

<sup>12</sup> Hồ Minh Khánh, Lê Thị Thuý Nga. Xử lý vật chứng là phương tiện phạm tội trong trường hợp tài sản đang thế chấp tại ngân hàng // Luật sư Việt Nam Online. 2025. URL: <https://lsvn.vn/xu-ly-vat-chung-la-phuong-tien-pham-toi-trong-truong-hop-tai-san-dang-the-chap-tai-ngan-hang-a166806.html> (дата обращения: 21.04.2026).

<sup>13</sup> Quỳnh Huệ. Xử lý vật chứng là tài sản thế chấp: Vương mắc tử thực tiễn xét xử // Báo Bảo vệ pháp luật điện tử. 2026. URL: <https://baovephapluat.vn/cai-cach-tu-phap/dien-dan/xu-ly-vat-chung-la-tai-san-the-chap-vuong-mac-tu-thuc-tien-xet-xu-197971.html> (дата обращения: 22.04.2026).

owner or lawful custodian, the direction of handling should naturally lean toward returning it to the entitled party. But if that asset has passed through a transaction recognized under civil law and the current holder is a bona fide third party, the answer will no longer be simple. At that point, the right to reclaim the asset may have to yield to the right to demand compensation for the asset's value from the offender or from the party at fault in causing the void transaction<sup>14</sup>.

At the stage of criminal procedure, protecting bona fide third parties depends first and foremost on the quality of the evidentiary process. Investigative agencies, the Procuracy, and the Court must establish not only the origin of the asset, but also the entire chain of asset transfers, the timing of the transaction, the status of ownership registration, payment terms, the degree of openness, the relationship between the transferor and the transferee, any unusual features of the transaction, and the state of awareness of the third party at the time the transaction was established. If only the asset's connection to the crime is proven without fully establishing the legal status of the third party, the judgment on the asset is very likely to fall into one of two errors: either recovery that exceeds the permissible limits, or failure to recover assets that should be recovered<sup>15</sup>.

The author submits that trial is the stage of decisive significance for balancing two values: asset recovery and the protection of bona fide third parties. The court must answer definitively who is the party with rights over the asset, whether the third party is truly bona fide, whether the transaction falls within the category protected under civil law, and - if the asset cannot be returned - who bears the obligation to compensate for its value. A judgment that merely orders forfeiture or return of an asset without clearly explaining the basis for determining the bona fide status of the third party, without analyzing the element of asset registration, and without clarifying

---

<sup>14</sup> Trần Văn Hùng. Xử lý vật chứng là tài sản thế chấp tại ngân hàng hoặc tổ chức tín dụng trong vụ án hình sự // Kiểm sát Online. 2025. URL: <https://kiemsat.vn/xu-ly-vat-chung-la-tai-san-the-chap-tai-ngan-hang-hoac-to-chuc-tin-dung-trong-vu-an-hinh-su-69965.html> (ngày обращения: 23.04.2026).

<sup>15</sup> Ngô Văn Lương. (2025). Xử lý vật chứng là tài sản thế chấp trong tố tụng hình sự: Quan điểm pháp lý và kiến nghị hoàn thiện. *Tạp Chí Khoa học Kiểm sát*, 11(95). <https://doi.org/10.59554/tckhks.v11i95.656>

the rights of the security interest holder, will leave a very large gap for the judgment enforcement stage<sup>16</sup>.

When a case transitions to civil judgment enforcement, the rights of bona fide third parties continue to face numerous risks. The 2025 Law on Civil Judgment Enforcement defines its scope of application to include the portion of criminal judgments and decisions relating to assets, and establishes a new framework regarding jurisdiction, security measures, enforcement measures, and asset disposition. However, the civil judgment enforcement authority can, by its very nature, enforce only what has been determined in a legally effective judgment or decision. If the judgment does not clarify the rights of the bona fide third party, the enforcement officer will find it very difficult to resolve the matter definitively. To put it plainly, the rights of third parties are in many instances not infringed because the law is deficient, but because the prior judgment and procedural file were not sufficiently clear to protect them.

### **Discussion**

From a systemic perspective, Vietnamese law currently has the necessary pieces to protect bona fide third parties, but these pieces remain scattered across multiple branches of law and have not been connected by a unified interpretive mechanism. The 2015 Civil Code protects bona fide third parties in void transactions through Articles 133 and 167; criminal law and criminal procedure law focus on the handling of assets connected to crime; and civil judgment enforcement law organizes the implementation of asset-related decisions in legally effective judgments and decisions. What is still missing is a sufficiently clear doctrinal and practical “bridge” to prevent those applying the law from falling into the state of leaning entirely toward asset recovery, or leaning entirely toward the protection of civil transactions at the expense of the balancing requirement - a state from which current judicial practice has not yet definitively escaped<sup>17</sup>.

---

<sup>16</sup> Nguyễn Phương Anh. Xử lý vật chứng vụ án hình sự là tài sản thế chấp // Luật sư Việt Nam Online. 2021. URL: <https://lsvn.vn/xu-ly-vat-chung-vu-an-hinh-su-la-tai-san-the-chap-a35738.html> (дата обращения: 24.04.2026).

<sup>17</sup> Vũ Thị Thanh Huyền. Bảo vệ quyền lợi của người thứ ba ngay tình trong giao dịch dân sự // Tạp chí Dân chủ và Pháp luật. URL: <https://tcdclp.moj.gov.vn/qt/tintuc/Pages/xay-dung-phap-luat.aspx?ItemID=270> (дата обращения: 25.04.2026).

A notable difficulty is that the concept of “good faith” in judicial practice remains heavily influenced by impressionistic assessment. In some instances, the outcome of the transaction is examined to conclude whether the party was or was not bona fide; in other instances, excessive weight is placed on the element of registration without fully assessing the warning signs of irregularity in the course of establishing the transaction. This practice reflects an important gap: the law does not yet have sufficiently specific and uniform criteria for proving “good faith” in cases involving criminally derived assets. The author submits that the determination of bona fide third-party status in this category of cases must be based on an objective standard comprising multiple elements in combination: the status of ownership registration, the proportionality of the transaction's value, the openness of the payment method, the relationship between the parties, and the actual state of awareness of the third party at the time of the transaction. Without establishing such a standard, two equally dangerous consequences will follow: parties who are genuinely bona fide will not be protected, or parties who are not bona fide will don the “cloak of good faith” to shield criminally derived assets<sup>18</sup>.

A further difficulty lies in the intersection between the rights of security interest holders and the State's right to recover assets. Recent research on physical evidence that is mortgaged property consistently shows that substantive law still lacks unified guidance on the order of priority for disposition - particularly where an asset is simultaneously a tool and means of crime and also the subject of a security transaction that has been validly registered with the competent state authority. Notably, the National Assembly has adopted a Resolution on a pilot scheme for the handling of physical evidence and assets during the investigation, prosecution, and trial of certain criminal cases and matters, effective from 1 January 2025; Joint Circular No. 01/2025/TTLT-VKSNDTC-BCA-TANDTC-BQP, effective from 1 March 2025, also adds certain more flexible handling measures during the procedural

---

<sup>18</sup> Nguyễn Thị Hồng Thúy. Bảo vệ người thứ ba ngay tình theo Bộ luật Dân sự 2015 và thực tiễn áp dụng // Luật sư Việt Nam Online. 2021. URL: <https://lsvn.vn/bao-ve-nguoi-thu-ba-ngay-tinh-theo-bo-luat-dan-su-2015-va-thuc-tien-ap-dung1616873609-a102236.html> (дата обращения: 26.04.2026).

stage<sup>19</sup>. However, the scope of application of these instruments remains limited to significant cases under the monitoring and direction of the Central Steering Committee on Anti-Corruption, and is not sufficient to establish a universal principle for the whole of judicial practice. The Supreme People's Court has also proposed a draft Resolution on guidance for the handling of physical evidence subject to mortgage or pledge, in the direction of respecting the rights of lawful security interest holders - a positive signal, but not yet a substitute for a systematic and comprehensive legal framework. In the author's view, unless this problem is resolved at its root, the legal risk will not be confined to individual cases, but may also affect credit security and market confidence in the substantive validity of asset security transactions.

### **Recommendations**

First, there is a need for official guidance from the competent authority - in particular the Judicial Council of the Supreme People's Court or the central inter-agency justice bodies - on the criteria for identifying bona fide third parties in cases involving the recovery of criminally derived assets. In the author's view, such guidance should clarify the constituent elements of the state of good faith: reliance on asset registration; conditions of ordinary transactions; transfer price; payment method; degree of openness; the reasonable due diligence obligation of the transferee; and warning signs that a party must recognize in specific circumstances<sup>20</sup>.

Second, it is necessary to draw clearer distinctions in law and in judicial practice among the following categories of assets: assets appropriated from their owner; criminally derived assets; legitimate assets used as tools or means of crime; and security assets of third parties. The author recommends that only when the legal nature of the asset is correctly classified can the appropriate handling mechanism be selected: return, forfeiture, compulsory compensation, or protection of the rights of

---

<sup>19</sup> Việt Nam. Thông tư liên tịch quy định chi tiết, hướng dẫn thi hành Điều 3 Nghị quyết số 164/2024/QH15 của Quốc hội thí điểm xử lý vật chứng, tài sản trong quá trình điều tra, truy tố, xét xử một số vụ việc, vụ án hình sự: Số 01/2025/TTLT-VKSNDTC-BCA-TANDTC-BQP, ngày 26 tháng 02 năm 2025. URL: [đường dẫn văn bản] (дата обращения: 27.04.2026).

<sup>20</sup> Nguyễn Đặng Hải Linh. Hoàn thiện cơ chế hướng dẫn áp dụng pháp luật về người thứ ba ngay tình theo Bộ luật Dân sự năm 2015 // Tạp chí Tòa án nhân dân điện tử. 2026. URL: <https://tapchitoaan.vn/hoan-thien-co-che-huong-dan-ap-dung-phap-luat-ve-nguoi-thu-ba-ngay-tinh-theo-bo-luat-dan-su-nam-201515202.html> (дата обращения: 28.04.2026).

the bona fide third party. A “blanket” approach that channels all assets connected to crime into a single logic of forfeiture is inappropriate<sup>21</sup>.

Third, it is necessary to improve the quality of evidentiary work during the investigation and prosecution stages with respect to matters involving third parties. The case file must clarify: the timing and basis for establishing the transaction; the status of ownership registration or security transaction; legal capacity of the parties; the existence of a relationship of close personal ties or concealing co-perpetration; and any unusual features of the transaction. The author submits that if the procedural authorities overlook these details from the outset, then by the trial or judgment enforcement stage, the tasks of protecting bona fide parties or recovering assets will both easily become confused or even erroneous<sup>22</sup>.

Fourth, with respect to assets currently mortgaged with banks or credit institutions, there is a need for a mechanism that harmoniously balances the demands of forfeiture and asset recovery with the priority repayment rights of bona fide security interest holders. The author agrees that in cases where the security interest was lawfully established before the criminal act occurred and the security interest holder did not know and could not have known that the asset would be used for criminal purposes, the law must place its emphasis on protecting these legitimate property rights. If it does not, the rigor of criminal law may be achieved, but at the cost of injury to legal security in civil transactions and credit<sup>23</sup>.

Fifth, when the Law on Civil Judgment Enforcement No. 106/2025/QH15 takes effect on 1 July 2026, it is necessary to develop a procedure for enforcing the portion of criminal judgments relating to assets in a direction that strengthens mechanisms for complaint, dialogue, and independent verification with respect to third-party claims. The author shares the view that the protection of bona fide third parties should not be realized only at the trial stage. It must continue to be ensured at the

---

<sup>21</sup> Trần Văn Hùng. Xử lý vật chứng là tài sản thế chấp tại ngân hàng hoặc tổ chức tín dụng trong vụ án hình sự // Kiểm sát Online. 2025. URL: <https://kiemsat.vn/xu-ly-vat-chung-la-tai-san-the-chap-tai-ngan-hang-hoac-to-chuc-tin-dung-trong-vu-an-hinh-su-69965.html> (дата обращения: 29.04.2026).

<sup>22</sup> Vũ Văn Đoàn. Bảo vệ người thứ ba ngay tình khi giao dịch vô hiệu – bắt cập và kiến nghị hoàn thiện // Dân chủ và Pháp luật. 2022. № 13 (461). С. 48.

<sup>23</sup> Hồ Minh Khánh, Lê Thị Thuý Nga. Xử lý vật chứng là phương tiện phạm tội trong trường hợp tài sản đang thế chấp tại ngân hàng // Luật sư Việt Nam Online. 2025. URL: <https://lsvn.vn/xu-ly-vat-chung-la-phuong-tien-pham-toi-trong-truong-hop-tai-san-dang-the-chap-tai-ngan-hang-a166806.html> (дата обращения: 30.05.2026).

judgment enforcement stage, because many property rights conflicts only fully emerge when an asset is actually seized, disposed of, or transferred<sup>24</sup>.

### **Conclusion**

Protecting the rights of bona fide third parties in the process of recovering criminally derived assets is an important measure of the quality of the rule of law in Vietnam's criminal justice. This issue requires that asset recovery be viewed not only from the perspective of crime prevention and combat, but also from the perspective of protecting property rights, ensuring the security of civil transactions, and maintaining public trust in the mechanisms of asset registration, transfer, and guarantee. In the context of the 2015 Penal Code and the 2015 Code of Criminal Procedure having been amended in 2025, and the 2025 Law on Civil Judgment Enforcement being about to take effect, the requirement is to continue improving the connection among branches of law and among the stages of procedure and judgment enforcement. The author submits that only when the law establishes clear criteria for identifying bona fide third parties, a transparent mechanism for resolving conflicts between the right of asset recovery and legitimate property rights, and a sufficiently sophisticated judicial technique to individualize each situation, will it be possible to simultaneously ensure two objectives: that criminally derived assets do not escape legal sanction, and that bona fide parties do not have to bear the legal consequences in place of the offender.

### **References**

1. Đặng Thanh Hoa. Điều kiện bảo vệ quyền lợi của người thứ ba ngay tình khi giao dịch dân sự vô hiệu do bản án, quyết định bị hủy, sửa // Tạp chí Tòa án nhân dân điện tử. 2022. URL: <https://tapchitoaan.vn/dieu-kien-bao-ve-quyen-loi-cua-nguoi-thu-ba-ngay-tinh-khi-giao-dich-dan-su-vo-hieu-do-ban-an-quyet-dinh-bi-huy-sua7279.html> (дата обращения: 19.04.2026).

2. Hồ Minh Khánh, Lê Thị Thuý Nga. Xử lý vật chứng là phương tiện phạm tội trong trường hợp tài sản đang thế chấp tại ngân hàng // Luật sư Việt Nam

<sup>24</sup> Quỳnh Huệ. Xử lý vật chứng là tài sản thế chấp: Vương mắc từ thực tiễn xét xử // Báo Bảo vệ pháp luật điện tử. 2026. URL: <https://baovephapluat.vn/cai-cach-tu-phap/dien-dan/xu-ly-vat-chung-la-tai-san-the-chap-vuong-mac-tu-thuc-tien-xet-xu-197971.html> (дата обращения: 05.05.2026).

Online. 2025. URL: <https://lsvn.vn/xu-ly-vat-chung-la-phuong-tien-pham-toi-trong-truong-hop-tai-san-dang-the-chap-tai-ngan-hang-a166806.html> (дата обращения: 21.04.2026).

3. Lê Văn Sua. Bàn về quy định bảo vệ quyền lợi của người thứ ba ngay tình khi giao dịch dân sự vô hiệu // Công thông tin điện tử Phổ biến, giáo dục pháp luật quốc gia. 2017. URL: <https://pbgdpl.gov.vn/Pages/chi-tiet-tin.aspx?ItemID=2354&l=Nghiencuutraodoi> (дата обращения: 17.04.2026).

4. Lương Khải Ân. Hiệu quả thu hồi tài sản trong các vụ án hình sự tham nhũng - kinh tế // Luật sư Việt Nam Online. 2021. URL: <https://lsvn.vn/hieu-qua-thu-hoi-tai-san-trong-cac-vu-an-hinh-su-tham-nhung-kinh-te-a50729.html> (дата обращения: 15.04.2026).

5. Ngô Văn Lượng. (2025). Xử lý vật chứng là tài sản thế chấp trong tố tụng hình sự: Quan điểm pháp lý và kiến nghị hoàn thiện. Tạp Chí Khoa học Kiểm sát, 11(95). <https://doi.org/10.59554/tckhks.v11i95.656>

6. Nguyễn Đăng Hải Linh. Hoàn thiện cơ chế hướng dẫn áp dụng pháp luật về người thứ ba ngay tình theo Bộ luật Dân sự năm 2015 // Tạp chí Tòa án nhân dân điện tử. 2026. URL: <https://tapchitoaan.vn/hoan-thien-co-che-huong-dan-ap-dung-phap-luat-ve-nguoi-thu-ba-ngay-tinh-theo-bo-luat-dan-su-nam-201515202.html> (дата обращения: 20.04.2026).

7. Nguyễn Phương Anh. Xử lý vật chứng vụ án hình sự là tài sản thế chấp // Luật sư Việt Nam Online. 2021. URL: <https://lsvn.vn/xu-ly-vat-chung-vu-an-hinh-su-la-tai-san-the-chap-a35738.html> (дата обращения: 24.04.2026).

8. Nguyễn Thị Hồng Thúy. Bảo vệ người thứ ba ngay tình theo Bộ luật Dân sự 2015 và thực tiễn áp dụng // Luật sư Việt Nam Online. 2021. URL: <https://lsvn.vn/bao-ve-nguoi-thu-ba-ngay-tinh-theo-bo-luat-dan-su-2015-va-thuc-tien-ap-dung1616873609-a102236.html> (дата обращения: 18.04.2026).

9. Quỳnh Huệ. Xử lý vật chứng là tài sản thế chấp: Vương mắc từ thực tiễn xét xử // Báo Bảo vệ pháp luật điện tử. 2026. URL: <https://baovephapluat.vn/cai-cach-tu-phap/dien-dan/xu-ly-vat-chung-la-tai-san-the-chap-vuong-mac-tu-thuc-tien-xet-xu-197971.html> (дата обращения: 22.04.2026).

10. Trần Thị Huệ, Chu Thị Lam Giang, "Một số bất cập trong quy định tại Điều 133 Bộ luật Dân sự năm 2015 về bảo vệ quyền lợi của người thứ ba ngay tình khi giao dịch dân sự vô hiệu", Tạp chí Dân chủ và Pháp luật, 2017. Xem tại:

11. Trần Văn Hùng. Xử lý vật chứng là tài sản thế chấp tại ngân hàng hoặc tổ chức tín dụng trong vụ án hình sự // Kiểm sát Online. 2025. URL: <https://kiemsat.vn/xu-ly-vat-chung-la-tai-san-the-chap-tai-ngan-hang-hoac-to-chuc-tin-dung-trong-vu-an-hinh-su-69965.html> (дата обращения: 23.04.2026).

12. Việt Nam. Bộ luật Dân sự năm 2015: Luật số 91/2015/QH13, ngày 24 tháng 11 năm 2015 // Quốc hội nước Cộng hòa xã hội chủ nghĩa Việt Nam. Hà Nội, 2015.

13. Việt Nam. Bộ luật Hình sự năm 2015: Luật số 100/2015/QH13, ngày 27 tháng 11 năm 2015 // Quốc hội nước Cộng hòa xã hội chủ nghĩa Việt Nam. Hà Nội, 2015.

14. Việt Nam. Bộ luật Tố tụng hình sự năm 2015: Luật số 101/2015/QH13, ngày 27 tháng 11 năm 2015 // Quốc hội nước Cộng hòa xã hội chủ nghĩa Việt Nam. Hà Nội, 2015.

15. Việt Nam. Luật sửa đổi, bổ sung một số điều của Bộ luật Hình sự: Luật số 86/2025/QH15, ngày 25 tháng 6 năm 2025 // Quốc hội nước Cộng hòa xã hội chủ nghĩa Việt Nam. Hà Nội, 2025.

16. Việt Nam. Luật Thi hành án dân sự: Luật số 106/2025/QH15, ngày 05 tháng 12 năm 2025 // Quốc hội nước Cộng hòa xã hội chủ nghĩa Việt Nam. Hà Nội, 2025.

17. Việt Nam. Thông tư liên tịch quy định chi tiết, hướng dẫn thi hành Điều 3 Nghị quyết số 164/2024/QH15 của Quốc hội thí điểm xử lý vật chứng, tài sản trong quá trình điều tra, truy tố, xét xử một số vụ việc, vụ án hình sự: Số 01/2025/TTLT-VKSNDTC-BCA-TANDTC-BQP, ngày 26 tháng 02 năm 2025. URL: [đường dẫn văn bản] (дата обращения: 27.04.2026).

18. Vũ Thị Thanh Huyền. Bảo vệ quyền lợi của người thứ ba ngay tình trong giao dịch dân sự // Tạp chí Dân chủ và Pháp luật. URL:

<https://tcdcpl.moj.gov.vn/qt/tintuc/Pages/xay-dung-phap-luat.aspx?ItemID=270> (дата обращения: 25.04.2026).

19. Vũ Văn Đoàn. Bảo vệ người thứ ba ngay tình khi giao dịch vô hiệu – bắt cập và kiến nghị hoàn thiện // Dân chủ và Pháp luật. 2022. № 13 (461). С. 48.