

The Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972

GUJARAT

India

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Act 12 of 1972

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1. [Amended by Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) (Amendment) Act, 1973 (Act 24 of 1973) on 8 November 1973]
2. [Amended by Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Amendment Act, 1974 (Act 10 of 1974) on 5 August 1974]

The Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972 Gujarat Act No. 12 of 1972 First published, after having received the assent of the President in the Gujarat Government Gazette on the 12th August, 1972. An Act to prohibit alienation of certain vacant lands in urban areas in the State of Gujarat. It is hereby enacted in the Twenty-third Year of the Republic of India as follows:-

1. Short title, extent, commencement and duration.

(1) This Act may be called the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972. (2) It extends to the whole of the State of Gujarat. (3) It shall come into force at once. (4) It shall remain in force for a period of [three years] [Substituted for 'two years' by Gujarat 10 of 1974, dated 7th August, 1974.] and upon its expiry section 7 of the Bombay General Clauses Act, 1904 shall apply as if it had then been repealed by a Gujarat Act.

2. Declaration as to giving effect to certain Directive Principles.

- It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution of India.

3. Definitions.

- In this Act, unless the context otherwise requires-(a)"appointed day" means the date of the coming into force of this Act;(b)"City" means a City as constituted under the Bombay Provincial Municipal Corporations Act, 1949 (Bombay LIX of 1949);(c)"Collector" means the Collector having jurisdiction in the urban area concerned and includes an Additional Collector and an Assistant or Deputy Collector performing the duties and exercising the powers of a Collector under the Bombay Land Revenue Code, 1879 (Bombay V of 1879);(d)"compact block" means any block of vacant land in an urban area, exceeding one thousand square metres in extent, [whether owned by one person or jointly by more than one person or owned in contiguous parts separately by one or more members of a family unit] [Substituted for 'whether owned by one or more persons' by Gujarat 24 of 1973, dated 8th November, 1973.] and whether or not divided by a private road, street, lane, footway, passage or drain, natural or artificial;(dd)["family unit" means an individual, his or her spouse and their children;] [Clause (dd) inserted by Gujarat 24 of 1973, dated 8th November, 1973.](e)"municipal borough" means a municipal borough as constituted or deemed to be constituted under the Gujarat Municipalities Act, 1963 (Gujarat 34 of 1964);(f)"person" includes an individual, an undivided Hindu family, a trustee, a company, a society or an association of individuals, whether incorporated or not;(g)"prescribed" means prescribed by rules made under this Act;(h)"trust" includes a trust created for public purposes of a charitable or religious nature;(i)"urban area" means-(1)any area which is comprised for the time being in a City or a municipal borough and also any such area in the vicinity thereof, within a distance, not exceeding sixteen kilometres from the local limits of the City, or as the case may be, of the municipal borough concerned, as the State Government may, having regard to the extent of and the scope for the urbanisation of that area or other relevant considerations, by a notification in the Official Gazette, specify in this behalf, and(2)any other area which the State Government may, by notification in the Official Gazette declare to be an urban area, having regard to any project existing in that area on the appointed day or having regard to the possibility in the near future of any project being established in that area, where any such project, in the opinion of the State Government, has led to or is likely to lead to urbanisation of that area;(j)"vacant land" means land in an urban area, agricultural or non-agricultural, other than land on which any building has been or is- being constructed in accordance with any law regulating such construction and the land appurtenant to such building, to the minimum extent required under such law or under the provisions of the Bombay Town Planning Act, 1954 (Bombay XXVII of 1955), or any other corresponding law for the time being in force.Explanation. - For the purposes of this clause, any land which is vacant on the appointed day shall be deemed to be vacant land, notwithstanding that the construction of a building thereon has been commenced on or after the said day.

4. Prohibition of alienation etc.

(1)No person who owns any vacant land shall, on or after the appointed day, alienate such land by way of sale, gift, exchange, [mortgage other than simple mortgage] [Substituted for 'usufructuary mortgage' by Gujarat 24 of 1973, dated 8th November, 1973.], lease or otherwise, or effect a partition or create a trust of such land; and any alienation made, or partition effected, or trust created in contravention of this section shall be null and void:Provided that nothing in this

sub-section shall apply to the alienation by any person of any one plot of vacant land owned by him not exceeding one thousand square metres in extent and not forming part of a compact block or to the effecting of a partition or creation of a trust of any such plot.(2)The provisions of sub-section (1) shall apply to any sale, partition or creation of trust, of vacant land of any person in execution of a decree or order of a civil court or of any award or order of any other authority.

5. Restrictions on registration of documents.

(1)Notwithstanding anything contained in the Registration Act, 1908 (XVI of 1908)-(a)no document relating to alienation of a vacant land or to partition or creation of a trust of such land shall be registered on or after the appointed day by any registering officer appointed under the said Act, unless the person presenting the document furnishes a declaration by the transferor in the prescribed form, which shall be subject to verification in the prescribed manner,-(i)that the plot of vacant land owned by him and intended to be alienated or partitioned or as the case may be, in respect of which a trust is intended to be created does not exceed one thousand square metres in extent;(ii)that such vacant land does not form part of a compact block; and(iii)that no other plot of vacant land, or no plot of vacant land other than a plot to which the provisions of this Act do not apply under section 4, 6 or 7 owned by him has been alienated or partitioned on or after the appointed day, or, that no trust has been created in respect of such plot on or after the appointed day;(b)a document relating to alienation or partition of vacant land or the creation of any trust of any vacant land registered on or after the appointed day shall, for the purposes of section 4, take effect and operate only from the time of such registration.

6. Act not to apply in certain cases.

- [(1)] [Section 6 renumbered as sub-section (1) by Gujarat 24 of 1973, dated 8,h November, 1973.] Nothing in this Act shall apply to any transfer of vacant land by or in favour of-(a)a State Government or the Central Government or a local authority;(b)a Government Company as defined in section 617 of the Companies Act, 1956 (I of 1956);(c)a corporation established by or under a Central, Provincial or State Act, which is controlled or managed by a State Government or the Central Government;(d)such co-operative house building societies established for the purpose of providing housing accommodation to weaker sections of the people, as may be approved by the State Government in this behalf:Provided that in giving such approval the State Government shall have regard to the income of the members of such societies or their social backwardness or such other considerations:[Provided further that in giving such approval the State Government may impose such conditions as to the alteration in the constitution of the society, or in the number of its members, the nature of construction of houses by the society, the area of the land to be obtained and used by the society or its members and such other matters as it may think fit to impose.] [Proviso inserted by Gujarat 24 of 1973, dated 8th November, 1973.][Provided also] [Substituted for 'Provided further' by Gujarat 24 of 1973, dated 8th November, 1973.] that if at any time the State Government is satisfied that the approval accorded to any society has not served the purpose for which it was accorded, it may withdraw such approval, after giving an opportunity to the society, for making a representation against the proposed withdrawal.(e)[a bank.] [Clause (e) inserted by Gujarat 24 of 1973, dated 8th November, 1973.](2)[Notwithstanding anything contained in

sub-section (2) of section 4, nothing in this Act shall apply to the disposition by sale or other transfer of vacant land directed to be made in execution of a decree or an order of a civil court relating to the recovery of any amount due to the Government or any local authority or bank or in enforcement of any order made or any process employed by any officer or authority under any law for the time being in force for the recovery of such amount. Explanation. - For the purpose of this section, a "bank" means-(i) a banking company as defined in section 5 of the Banking Regulation Act, 1949 (Act No. 10 of 1949); (ii) the State Bank of India constituted under the State Bank of India Act, 1955 (Act No. 23 of 1955); (iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (Act No. 38 of 1959); (iv) each of the corresponding new banks constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Act No. 5 of 1970); and (v) any other financial institution notified by the State Government as a bank for the purpose of this Act.]

7. Power to exempt.

(1) The State Government may, by general or special order in writing and for reasons to be recorded therein; exempt any area or any alienation or other transfer of any vacant land from all or any of the provisions of this Act. (2) The State Government may, if it considers it necessary so to do for avoiding any hardship, exempt, by an order in writing, any alienation or other transfer of any vacant land from all or any of the provisions of this Act. (3) Subject to any rules that may be made in this behalf or to any general or special orders of the State Government, the Collector may, by order in writing, exempt any alienation or other transfer of any vacant land from the provisions of this Act in case the land is to be used for any educational, scientific, industrial or commercial purpose or for such other purpose as may be prescribed. (4) Every order issued by the State Government under sub-section (1) or (2) and by the Collector under sub-section (3) shall be laid before the State Legislature as soon as possible after it is issued.

8. Alienations etc. made on or after 1st July, 1972 but before appointed day.

(1) Where, on or after the 1st day of July, 1972, but before the appointed day, any person has alienated, whether by way of sale, gift, exchange, usufructuary mortgage, lease or otherwise, any vacant land owned by him or has effected a partition or created a trust of any such land, then notwithstanding anything contained in any law for the time being in force, such alienation, partition, or, as the case may be, trust shall, unless it is proved to the contrary, be deemed to have been made, effected or, as the case may be, created in anticipation in order to defeat the object of this Act or any law that may be enacted in future for imposing restrictions on holding property in excess of certain limits in urban areas (hereinafter referred to as the "ceiling law"), if such alienation, partition, or, as the case may be, trust would have been null and void under the provisions of this Act had it been made, effected, or as the case may be, created on or after the appointed day. (2) Any person affected by the provisions of sub-section (1) may, within the prescribed period and in the prescribed form, make an application to the Collector for a declaration that the alienation, partition, or, as the case may be, trust was not made, effected, or, as the case may be, created in anticipation to defeat the object of this Act or of the ceiling law. (3) On receipt of such application, the Collector shall hold an inquiry and after giving an opportunity to the alienator

and the alienee, to the parties to the partition, or, as the case may be, to the creator of the trust and the persons interested in the trust, to be heard, by serving on them a notice in such manner as may be prescribed, and after considering the evidence which may be produced by them, decide whether the alienation, partition, or, as the case may be, trust was or was not made, effected or as the case may be, created in order to defeat the object of this Act or of the ceiling law, and accordingly may-(i)reject the application, or(ii)by order in writing make a declaration that the alienation, partition or, as the case may be, trust was not made, effected, or, as the case may be, created in anticipation to defeat the object of this Act or of the ceiling law.(4)Where no such application has been made within the prescribed period, or where any such application is rejected, the vacant land in respect of which such alienation, partition, or, as the case may be, trust was made, effected, or, as the case may be, created shall, for the purposes of the ceiling law, be deemed to belong to the owner thereof to whom it belonged immediately before such alienation, partition, or, as the case may be, created, as if no such alienation, partition, or, as the case may be, trust was made, effected, or, as the case may be, trust was made, effected or, as the case may be, created, unless the ceiling law provides otherwise.

8A. [Supply of information. [Section 8A inserted by Gujarat 24 of 1973, dated 8th November, 1973.]

- The State Government or the Collector may, by general or special order, call upon any person to furnish to it, or, as the case may be, him such information as would in its or, as the case may be, his, opinion be useful for, or relevant to, any of the purposes of this Act and as may be stated in such order and it shall be the duty of such person to furnish true and correct particulars relating to the information, so called for from him.] [Sub-section (2) and Explanation inserted by Gujarat 24 of 1973, dated 8th November, 1973.]

9. Appeal against order of collector.

- Any person aggrieved by the order of the Collector under sub-section (3) of section 7 or sub-section (3) of section 8 may appeal to the State Government within the prescribed period and in the prescribed manner.

10. Bar of jurisdiction.

- No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Collector or the State Government.

11. Penalty for contravention etc.

(1)If any person contravenes any of the provisions of this Act or the rules made thereunder or, makes a declaration These words inserted by [or furnishes information] [Gujarat 24 of 1973, Dated 8th November, 1973] which he knows or has reason to believe to be false, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five

thousand rupees or with both.(2)No court shall take cognizance of an offence punishable under this Act except with the previous sanction of the Collector.

12. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.(3)Any rescission or modifications so made by the State legislature shall be published in the Official Gazette and shall thereupon take effect.

13. Act to override other laws.

- The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith in any other law for the time being, in force, or any custom, usage or agreement, or decree or order of a court, tribunal or other authority.