

The Abandoned Buildings (Supplementary Provisions) Ordinance, 1985

(Ordinance NO. LIV OF 1985)

[28th November, 1985]

An Ordinance to make certain supplementary provisions relating to abandoned buildings.

WHEREAS it is expedient to make certain supplementary provisions relating to abandoned buildings;

NOW, THEREFORE, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

Short title

1. This Ordinance may be called the Abandoned Buildings (Supplementary Provisions) Ordinance, 1985.

Definitions

2. In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) “building” means any residential or other building or structure of any kind in an urban area and includes the land adjunct thereto, and the court-yard, tank, place of worship and private burial or cremation ground appertaining to such building;

(b) “Court of Settlement” means a Court of Settlement constituted under this Ordinance;

(c) “President’s Order” means the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972).

Ordinance to override

other laws

3. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Possession of building by notice after certain date prohibited

4. Notwithstanding anything contained in the President's Order,-

(a) no notice for surrendering or taking possession of any building as abandoned property shall be issued under the said Order after the ¹[31st day of October, 1988];

(b) no building shall be taken possession of as abandoned property under the said Order except-

(i) in pursuance of a notice in any form issued thereunder at any time before the ²[31st day of October, 1988]; or

(ii) where no such notice is issued in respect of a building, in execution of a decree or order passed by a Court in a suit filed by the Government after the aforesaid date.

Publication of lists of buildings

5. (1) The Government shall, after the ³[commencement of this Ordinance and before the ⁴[31st day of December, 1988,] publish, from time to time, in the official Gazette],-

(a) ⁵[lists of] buildings the possession of which have been taken as abandoned property under the President's Order;

(b) ⁶[lists of buildings in respect of which notices] for surrendering or taking possession as abandoned property under the said Order have been issued:

Provided that no such list shall include any building in respect of which-

(a) any decree or order has been passed, at any time before the publication of the list in the official Gazette, by any Court declaring the building not to be an abandoned property or not to have vested in the Government under the President's Order or declaring the possession by the Government of the building as an abandoned property under that Order to be illegal or invalid or

directing the Government or any officer or authority subordinate to it to return, restore or transfer the building to any person, or

(b) a suit, appeal, application or other legal proceeding is pending before any Court, immediately before the date of publication of the list in the official Gazette, in which the vesting in, or possession of, the Government of the building as abandoned property under the President's Order has been called in question in any manner whatsoever or any prayer has been made for return, restoration or transfer of the building by the Government or by any officer or authority subordinate to it to any person.

(2) The lists published under sub-section (1) shall be conclusive evidence of the fact that the buildings included therein are abandoned property and have vested in the Government as such.

**No suit to lie
in respect of
certain
buildings**

6. Save as otherwise provided in this Ordinance, no suit or other legal proceedings shall lie before any Court for-

⁷[(a) specific performance of contract in respect of any building the possession of which has been taken by the Government as abandoned property under the President's Order or in respect of which notice for taking possession by the Government as abandoned property under that Order has been issued, or]

(b) a declaration that a building is not an abandoned property and has not vested in the Government under the President's Order or the right or interest of any person in any building has not been affected by the provisions of that Order, or

(c) a direction to the Government or to any officer or authority subordinate to it to restore, return or transfer any building the possession of which has been taken by the Government as abandoned property under that Order to any person.

**Persons
claiming**

**interest in
certain
buildings to
apply to the
Court of
Settlement**

7. (1) Any person claiming any right or interest in any building which is included in any list published under section 5 may, within a period of one hundred and eight days from the date of publication of the list in the official Gazette, make an application to the Court of Settlement for exclusion of the building from such list or return or restoration of the building to him or for any other relief on the ground that the building is not an abandoned property and has not vested in the Government under the President's Order or that his right or interest in the building has not been affected by the provisions of that Order.

(2) The application under sub-section (1) shall be delivered to such officer or authority as the Government may, from time to time, direct.

**Contents of
application**

8. (1) An application under section 7 shall contain the following particulars, namely,-

- (a) name, description, citizenship and place of residence of the applicant;
- (b) date and place of birth of the applicant;
- (c) full particulars of the building in respect of which any right or interest is claimed by the applicant;
- (d) date, if known, on which the possession of the building was first taken by the Government;
- (e) period for which the applicant is not in possession of the building;
- (f) occupation and residence of the applicant immediately before the commencement of the President's Order and during the period from such commencement till the making of the application;
- (g) name and description of the person in possession of the building immediately before the commencement of the President's Order;
- (h) name and description of the person in possession of the building immediately before the possession is taken by the Government under the President's Order;

- (i) action taken by the applicant for protecting his right or interest or getting back the possession of the building;
- (j) brief statement in support of the claim of the applicant;
- (k) relief claimed by the applicant; and
- (l) any other matter relevant to the relief claimed.

(2) The application shall be accompanied by all the documents, or the photostat or true copies thereof, on which the applicant relies as evidence in support of his claim.

Court of Settlement

9. (1) The Government shall, by notification in the official Gazette, establish one or more Courts of Settlement for such area or areas as may be specified therein for the purposes of this Ordinance.

(2) The Court of Settlement shall consist of a Chairman and two other members who shall be appointed by the Government.

(3) The Chairman shall be a person who is, or has been, or is qualified to be, a Judge or Additional Judge of the Supreme Court and of the two other members, one shall be a person who is or has been a judicial officer not below the rank of Additional District Judge and the other, a person who is or has been an officer in the service of the Republic not below the rank of Deputy Secretary to the Government.

Power and procedure of Court of Settlement

10. (1) Except as otherwise provided in this Ordinance, the provisions of the Code of Civil Procedure, 1908 (Act V of 1908), shall not apply to a Court of Settlement.

(2) For the purpose of hearing an application, a Court of Settlement shall have all the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) requiring evidence on affidavit;

(d) requisitioning any public record or copy thereof from any office; and

(e) issuing commissions for the examination of witnesses or document.

(3) Any proceeding before a Court of Settlement shall be deemed to be a judicial proceeding within the meaning of section 193 of the Penal Code (Act XLV of 1860).

(4) A Court of Settlement shall hold its sittings at such place or places as the Government may fix.

(5) A Court of Settlement shall, after such enquiry as it may deem necessary and after giving reasonable opportunity to the parties concerned of being heard and also adducing evidence, both oral and documentary, if any, make such decision on the prayer of the applicant as it deems fit.

(6) The decision of the Court of Settlement shall be final and shall be binding on all parties concerned and shall not be called in question in any other Court.

(7) No appeal shall lie from any order or decision of the Court of Settlement to any other Court or authority.

Extension of period of limitation in certain cases

11. Any person aggrieved by an order or decree passed ex-parte against him by any Court, at any time before the commencement of this Ordinance, may, notwithstanding the expiration of the period of limitation prescribed therefore by or under any law, apply, within ⁸[one year] from such commencement, to the Court by which the order or decree was passed for an order to set it aside and the provisions of rules 13, 14 and 15 of Order IX of the Code of Civil Procedure, 1908 (Act V of 1908), shall apply to such application:

Provided that nothing in this section shall apply where-

(i) the order or decree of the Court has been duly executed; or

(ii) an appeal or other legal proceeding was preferred or started for setting aside the order or decree before the commencement of this Ordinance.

**12.
Ordinance
not to affect
certain
rights, etc.,
of the
Government**

12. The provisions of this Ordinance shall not limit, restrict or otherwise affect the right, power or authority of the Government to transfer or in any manner dispose of any building included in any list published under section 5.

¹ The figures, words and comma “31 day of October, 1988” were substituted for the figures, words and comma “31st day of July, 1988” by section 2 of the Abandoned Buildings (Supplementary Provisions) (Amendment) Act, 1989 (Act No. VII of 1989).

² The figures, words and comma “31 day of October, 1988” were substituted for the figures, words and comma “31st day of July, 1988” by section 2 of the Abandoned Buildings (Supplementary Provisions) (Amendment) Act, 1989 (Act No. VII of 1989).

³ The words, figures and commas “commencement of this Ordinance and before the 30th day of September, 1988, publish, from time to time, in the official Gazette” were substituted for the figures, words and commas “31st day of March, 1986, and before the 30th day of September, 1986, publish in the official Gazette” by section 3 of the Abandoned Buildings (Supplementary Provisions) (Amendment) Act, 1988 (Act No. XII of 1988).

⁴ The figures, words and commas “31st day of December, 1988,” were substituted for the figures, words and commas “30th day of September, 1988,” by section 3 of the Abandoned Buildings (Supplementary Provisions) (Amendment) Act, 1989 (Act No. VII of 1989).

⁵ The words “lists of” were substituted for the words “a list of” by section 3 of the Abandoned Buildings (Supplementary Provisions) (Amendment) Act, 1988 (Act No. XII of 1988).

⁶ The words “lists of buildings in respect of which notices” were substituted for the words “a list of buildings in respect of which notice” by section 3 of the Abandoned Buildings (Supplementary Provisions) (Amendment) Act, 1989 (Act No. XII of 1988).

⁷ Clause (a) was substituted by section 4 of the Abandoned Buildings (Supplementary Provisions) (Amendment) Act, 1988 (Act No. XII of 1988).

⁸ The words “one year” were substituted for the words “ninety days” by section 3 of the Abandoned Buildings (Supplementary Provisions) (Amendment) Ordinance, 1986 (Ordinance No. LXV of 1986).

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