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ASSAM ACT XII OF 1955

THE ASSAM NON-AGRICULTURAL URBAN AREAS TENANCY ACT, 1955

(Passed by the Assembly)

(Received the assent of the President on the 26th June 1955)

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An

Act to regulate in certain respects the relationship between landlord and tenant in respect of non-agricultural lands in the urban areas of the State of Assam.

Preamble.—Whereas it is expedient to regulate in certain respects the relationship between landlord and tenant in respect of non-agricultural lands in the urban areas of the State of Assam.

It is hereby enacted in the Sixth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Assam non-Agricultural Urban Areas Tenancy Act, 1955.

2. It extends—

(a) to the urban areas in the State of Assam ; and

(b) to any other areas which have been or may hereafter be declared town lands under clause (a) of Rule 64 of the Settlement Rules made under the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886) or the Assam Land Revenue Re-assessment Act, 1936 (Assam Act VIII of 1936).

(3) It shall come into force on such date as the State Government may, by notification in the official Gazette appoint.

2. Application.—Notwithstanding anything contained in any contract or in any law for the time being in force, the provisions of this Act, shall apply to all non-agricultural tenancies whether created before or after the date on which this Act comes into force:

(i) Provided that the provisions of this Act shall not apply to:—

(a) Government land held under an 'annual' or 'short lease' as defined in the rules made under the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886.) ; or

(b) Land held by the Government of India or by any Local Authority or by the State Government, or

(c) any holding which contains one or more buildings owned by the landlord and which has been let out to any person, or

(d) Land used for residence of the landlord or reserved for being used for such purpose in its vicinity and let out to persons or let out in lieu of service or merely in consideration of relationship or affection:

(ii) Provided further that nothing in this Act shall affect the permanent, heritable and transferable rights acquired under any existing law or contract or otherwise or the rights of the Government as against the landlord and the tenant.

3. Definitions.—In this Act, unless there is anything repugnant in the subject-matter or context:—

(a) 'holding' means a parcel or parcels of land or an undivided share thereof held by a tenant, and forming the subject-matter of one and the same tenancy ;

[Price annas 2 or 2d.]

(b) 'land' means land which is let or occupied for residential or business purposes or for purposes incidental thereto, and includes sites for buildings, water, water-ways, drains, ditches, canals, tanks and wells appertaining to such land ;

(c) 'landlord' means a person immediately under whom a tenant holds but does not include the Government ;

(d) 'permanent structure' in relation to any locality means a structure which is regarded as permanent in that locality;

(e) 'prescribed' means prescribed by a rule made under this Act ;

(f) 'rent' means whatever is lawfully payable in money or in kind by a tenant to his landlord on account of the use and occupation of his holding under such landlord ;

(g) 'tenant' means a person who holds land under another person, other than Government and who is, but for a special contract liable to pay rent for that land to the latter, and includes a person who derives his title from a tenant, and a person who continues in possession of any land after termination of his tenancy in respect of that land ;

(h) 'urban area' means any area declared to be included in a Municipality under the provisions of clauses (a) and (b) of sub-section (2) of section 5, or declared to be a notified area under the provisions of sub-section (4) of section 328 or deemed to be such under the proviso to that sub-section, of the Assam Municipal Act, 1923 (Assam Act I of 1923).

4. Obligation to pay rent.—A tenant shall pay rent for his holding at fair and equitable rates :

Provided that in case of dispute the rate at which rent has been previously paid by a tenant immediately before the dispute shall be deemed to be fair and equitable unless the contrary be proved in a competent Civil Court.

5. Protection from eviction.—(1) Notwithstanding anything in any contract or in any law for the time being in force—(a) where under the terms of a contract entered into between a landlord and his tenant whether before or after the commencement of this Act, a tenant is entitled to build, and has in pursuance of such terms actually built within the period of five years from the date of such contract, a permanent structure on the land of the tenancy for residential or business purposes, or where a tenant not being so entitled to build, has actually built any such structure on the land of the tenancy for any of the purposes aforesaid with the knowledge and acquiescence of the landlord, the tenant shall not be ejected by the landlord from the tenancy except on the ground of non-payment of rent ; (b) where a tenant has effected improvements on the land of the tenancy under the terms whereof he is not entitled to effect such improvements, the tenant shall not be ejected by the landlord from the land of the tenancy unless compensation for reasonable improvements has been paid to the tenant.

(2) No tenant shall be ejected by his landlord from the land of the tenancy except in execution of a decree for ejectment passed by a competent civil court.

(3) No decree for ejectment passed on the ground of non-payment of rent shall be executed within a period of thirty days from the date of the decree and if the tenant pays into the Court whose duty it is to execute the decree the entire amount payable under the decree within the aforesaid period, the Court shall record the decree as satisfied.

6. Compensation for improvements.—In a suit for ejectment against a tenant if any question arises—

- (a) whether the tenant has effected any improvement on the land of the tenancy, or
- (b) whether such improvement is reasonable improvement, or
- (c) whether any compensation may be paid for such an improvement, and if so, how much, the question shall be decided by the Court having regard to the circumstances of each case.

Explanation.—Any structure which a tenant is, under the terms of a contract referred to in clause (a) of sub-section (1) of Section 5 entitled to build but has actually built after the expiry of the period of five years referred to in that clause shall be deemed to be a reasonable improvement within the meaning of this section.

7. Enhancement of rent by contract.—The rent of a tenant may be enhanced only by contract subject to the following conditions:—

- (a) the contract must be in writing and registered,
- (b) the rent must not be enhanced so as to exceed by more than three annas in the rupee the rent previously payable by the tenant, and
- (c) the rent fixed by the contract shall not be liable to enhancement during a term of six years from the date of contract:

Provided as follows:—

- (i) Nothing in clause (a) shall prevent a landlord from recovering rent at a rate at which it has been actually paid for a continuous period of not less than three years immediately preceding the period for which the rent is claimed.
- (ii) Nothing in clause (b) shall apply to a contract by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be effected in respect of the holding by or at the expense of his landlord and to the benefit of which the tenant is not otherwise entitled; but an enhancement fixed by such a contract shall be payable only when improvement has been effected; provided that such enhancement shall also be payable if the tenant is responsible for any default in respect of the improvement.

8. Enhancement of rent without contract.—In the absence of a contract mentioned in section 7, the tenant shall be liable to pay reasonable increment of rent for necessary improvement done by the landlord.

9. Enhancement of rent by application to Court.—(1) A landlord or a tenant may make an application to the competent Civil Court having jurisdiction to entertain a suit for ejectment in respect of the holding, for fixing a fair and equitable rate of rent for the holding, and thereupon the Court shall issue notice of such application upon the tenant or the landlord, as the case may be, and after considering such evidence as the parties may produce before it, pass an order fixing the amount of rent payable for the holding, and such order shall, subject to appeal, be binding on both the landlord and the tenant with effect from the date of filing the aforesaid application:

Provided always—

- (a) that the rent previously payable for the holding shall not be enhanced by more than three annas in the rupee, but if at any time the land revenue due to Government or the ground rent due to a proprietor is increased, then the tenant shall be liable to pay

in addition to the enhanced rent, if any, an amount equal to the total amount of land revenue or ground rent paid by the landlord in excess of the amount paid previously ;

(b) that no enhancement shall be made within a period of six years from the date of the last enhancement by contract or by order of the Court, unless the land revenue or ground rent is enhanced during this period ;

(c) that the Court may in any case refuse to grant an enhancement for sufficient reasons to be recorded by it.

(2) The order passed by the Court on an application made under this section shall have the effect of a decree and shall be appealable.

10. Illegal realisation.—(1) Realisation of any 'salami' from the tenant at the time of initiating a lease shall not exceed an amount equivalent to one year's rent for the land ;

(2) Any realisation of fresh 'salami' at the time of renewal of the lease shall be illegal.

11. Notice of ejectment suit.—No suit for ejectment except for arrears of rent shall be instituted until after the expiration of one month from the date of the receipt by the tenant of a notice in writing by the landlord requiring the tenant to surrender possession of the land in favour of the landlord.

12. Notices how to be served.—All notices required to be served under this Act shall be served in the manner prescribed by rules.

13. Power to make rules.—The State Government may, from time to time by notification in the official gazette, make rules consistent with the provisions of this Act for carrying out the purposes of the same.

14. Repeal.—The Sylhet non-Agricultural Urban Areas Tenancy Act, 1947 (Assam Act X of 1947) is hereby repealed.