

ASSAM URBAN AREAS RENT CONTROL ACT, 1972

17 of 1972

[1st May, 1972]

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An Act to fix fair rents of houses situated within the limits of urban area in Assam Preamble. Whereas it is expedient to fix fair rents of houses situated within the limits of urban areas in Assam and matters connected therewith; It is hereby enacted in the Twenty-third Year of the Republic of India as follows

1. Short title, extent and commencement :-

(1) This Act may be called the Assam Urban Areas Rent Control Act, 1972.

(2)

(a) It extends to all urban areas in Assam.

(b) The State Government may, by notification in the official Gazette, extend it also to all such areas as are declared town lands under R. 4 (a) of the Settlement Rules under the Assam Land Revenue Regulations, 1886 (Assam Regulation I of 1886) or the Assam Land Revenue Reassessment Act, 1936 (Assam Act VIII of 1936).

(c) Nothing in this Act shall apply

(i) to any premises belonging to Central Government, or

(ii) to any tenancy or other relationship created by a grant from Central Government in respect of the premises taken on lease, or requisitioned by Central Government:

Provided that where any premises belonging to Central Government have been or are lawfully let by any person by virtue of an agreement with that Government or otherwise, then notwithstanding any judgment, decree or order of any court or other authority the provisions of this Act shall apply to such tenancy.

(3) It shall come into force at once.

2. Definitions. :-

In this Act, unless there is anything repugnant in the subject or context

(a) "Court" means the Court of ordinary civil jurisdiction in the area in which a house is situated which would be competent to pass a decree for the eviction of a tenant from that house;

(b) "house" means any building, hut or shed, or any part thereof, let or to be let separately for residential or non-residential purposes and includes

(i) the garden, ground and out-house, if any, appurtenant to such building, hut, shed or part thereof; and

(ii) any furniture supplied by the landlord for use by the tenant in such house;

(c) "Landlord" means any person who is, for the time being receiving or entitled to receive rent in respect of any house whether on his own account or on account, or on behalf, or for the benefit of

any other person, or as a trustee, guardian or receiver for any other person and includes in respect of his own sub-tenant, a tenant who has sub-let any house and includes every person not being a tenant who from time to time derives title under a landlord ;

(d) "Pucca structure" means a structure with

(i) cemented, or wooden floor;

(ii) iron, brick or concrete post; and

(iii) roof of reinforced concrete, or of galvanised iron, aluminium or asbestos sheets;

(e) "standard rent" in relation to any house means the rent calculated on the basis of annual payment of an amount equal to seven and half per cent of the aggregate amount of the estimated cost of construction and the market price of the land together with the total municipal taxes payable in respect of the house and urban immovable property tax under the Assam Urban Immovable Property Tax Act, 1969 (Assam Act XI of 1969), monthly rent shall be equal to one-twelfth of the annual payment so calculated; ,

Provided that in fixing the standard rent of any multi-storeyed building, the market value of the land shall be taken into consideration only once, to be apportioned in between the different floors of such building on the basis of the areas of each floor;

Provided further that in fixing the standard rent of each floor or any part thereof of such multi-storeyed building, the estimated cost of construction of such floor or any part thereof, as the case may be, and the proportionate market value of the land calculated in the manner stated hereinbefore, shall be taken into consideration;

Explanation. For the purpose of this sub-clause, cost of construction shall mean the estimated cost required for the construction of the house less depreciation at one per cent for a building with pucca structure and two per cent for a building with non-pucca structure per annum of that amount from the actual date of completion of construction of the house; provided that if the house was originally constructed as a smaller house or a non-pucca structure and was subsequently extended or developed into a pucca structure, the depreciation in respect of the portion so extended or developed shall be calculated from the date of completion of the extension or development;

(f) "tenant" means any person by whom or on whose behalf rent is payable for any house and includes every person who from time to time derives title under a tenant;

(g) "urban area" means any area declared to be the Gauhati Municipal Corporation as notified under the provisions of S. 42 of the Gauhati Municipal Corporation Act, 1969, or included in a municipality under the provisions of sub-S. (2) of S. 5 of the Assam Municipal Act, 1955 (Assam Act XV of 1957) or declared to be notified area under the provisions of sub-S. (4) of S. 334 of the said Act.

3. Fair rent :-

(1) Subject to the provisions of this Act and notwithstanding any contract to the contrary, no landlord shall be entitled to charge rent for any house at a figure higher than the standard rent.

(2) If at any time after five years from the date on which a house is in continuous occupation of a tenant, the market price of the land and estimated cost of construction of the house increases by more than twenty-five per cent on the basis of the value of land and cost of construction of the house on the date of preceding fixation of fair rent, then the landlord shall be entitled to have monthly rent increased by an amount not exceeding one-twelfth of the seven and half per cent of the increase in the market price of the land and cost of construction, on the date of preceding fixation of fair rent, from the dates as may be prescribed subject to a maximum of fifty per cent of the preceding standard rent:

Provided that subsequently after lapse of every five years of the revision of fair rent, if the market price of land and the estimated cost of construction of house increases by more than twenty-five per cent on the basis of market value of land and the estimated cost of construction of house on the date of preceding revision of fair rent, then the landlord shall be entitled to have monthly rent increased by an amount not exceeding one-twelfth of the seven and half per cent of the additional increase in the market value of land and the estimated cost of construction of house on the date of preceding revision of fair rent, from the date as may be prescribed subject to a maximum of fifty per cent of the revised fair rent.

(3) If at any time after the standard rent is fixed under the provisions of the Act, any addition, improvement or alteration (not being repairs within the meaning of the provisions of S. 6) is

effected at the landlord's expense which was not taken into consideration in fixing the standard rent, then the landlord shall be entitled to have the monthly rent increased by an amount not exceeding one-twelfth of seven and half per cent per annum of the cost of such addition, improvement or alteration with effect from the date on which the addition, improvement or alteration was completed.

(4) If at any time after the standard rent is fixed under the provisions of the Act, there is a variation of tax by way of Municipal assessment of the building and under the Assam Urban Immovable Property Tax Act, 1969 (Assam Act XI of 1969), the standard rent will be liable to be fixed taking the variation into account.

4. Procedure for determination of fair rent :-

(1) If any dispute arises regarding the rent payable in respect of any house, it shall be determined by the Court.

(2) The Court shall, on application made by either the landlord or the tenant, issue notice on both the parties, and after making such enquiry as it thinks fit, determine the monthly rent for the house in accordance with the provisions of S. 3 and the rent so determined shall be binding on both the parties.

(3) Where the Court determines the monthly rent for any house under this section, it shall do so for the house in the unfurnished state, but it may allow the landlord to charge an additional amount per month on account of the furniture supplied by him:

Provided that such additional amount shall not exceed one-twelfth of seven and half per cent of the cost of such furniture on the date on which the Court determines the monthly rent for the house.

Explanation. Where according to the term of any arrangement by the landlord and the tenant, the rent is payable on a basis other than at a monthly or a yearly rate, the average monthly rent for such a house shall be calculated at thirty times the proportionate daily rent for the period in respect of which the arrangement is made.

5. Bar against passing and execution of decree and orders for ejection. :-

(1) No order or decree for the recovery of possession of any house shall be made or executed by any Court so long as the tenant pays

rent to the full extent allowable under this Act and perform the conditions of the tenancy:

Provided that nothing in this sub-section shall apply in a suit or proceedings for eviction of the tenant from the house

(a) where the tenant has done anything contrary to the provisions of Cl. (m), Cl. (o) or Cl. (p) of S. 108 of the Transfer of Property Act, 1882 (Central Act 4 of 1882) or to the spirit of the aforesaid clauses in the areas where the said Act does not apply; or

(b) where the tenant has been guilty of conduct which is a nuisance or an annoyance to the occupiers of the adjoining or neighbouring houses; or

(c) where the house is bonafide required by the landlord either for purposes of repairs or rebuilding, or for his own occupation or for the occupation of any person for whose benefit the house is held or where the landlord can show any other cause which may be deemed satisfactory by the Court; or

(d) where the tenant sub-lets the house or any part thereof or otherwise transfers his interest in the house or any part thereof without permission in writing from the landlord; or

(e) where the tenant has not paid the rent lawfully due from him in respect of the house within a fortnight of its falling due; or

(f) where the tenant has built, acquired or been allotted a suitable residence.

(2) The transfer of the interest of the landlord in the house shall not affect the right of the tenant; provided the tenant pays rent allowable under this Act to the transferee.

(3) Where the landlord recovers possession of a house from a tenant on the ground that the house is bonafide required by him for purpose of repairs or rebuilding or for his own occupation or for the occupation of any person for whose benefit the house is held, and repairs or the rebuilding of the house is not commenced or the house is not occupied by the landlord or such person within fifteen days of the date of vacation of the house by such tenant or the house having been so occupied is within six months of the said date re-let to or allowed to be possessed by any other person, the Court may, on the application of the evicted tenant made within seven months of his vacating the house, direct the landlord to put

the evicted tenant in possession of the house within such period as the Court may fix and to pay him such compensation as appears to the Court to be reasonable and proper. Such a direction shall be deemed to be a decree under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), and to be capable of execution as such under the provisions of that Code.

(4) Where the landlord refuses to accept the lawful rent offered by his tenant, the tenant may within a fortnight of its becoming due, deposit in Court the amount of such rent together with process fees for service of notice upon the landlord, and on receiving such deposit, the Court shall cause a notice of the receipt of such deposit to be served on the landlord and the amount of the deposit may thereafter be withdrawn by the landlord on application made by him to the court in that behalf. The tenant who has made such deposit shall not be treated as a defaulter under Cl. (e) of the proviso to sub-S.(1) of this section.

5A. Special provision for recovery of possession of house to members of Armed Forces of the Union or a member of the family of a deceased member of such Forces :-

(1) Notwithstanding anything contained in this Act

(a) a landlord, who is a member of the Armed Forces of the Union or who is as such member duly retired (which term shall include the premature retirement), shall be entitled to recover possession of any house belonging to him or any member of his family on the ground that the house is bona fide required by him for his own use and occupation or for the use and occupation of any member of his family and the Court shall pass a decree for eviction on such ground if the landlord at the hearing of the suit produces a certificate signed by the Head of his Service or his Commanding Officer to the effect that

(i) he is presently a member of the Armed Forces of the Union or he was as such member and is now a retired ex-serviceman;

(ii) he does not possess any other suitable house in the local area where he or any of the members of his family can reside;

(b) where a member of the Armed Forces of the Union dies while in service or dies after his retirement, his widow, who is or becomes a landlord of any house which is bonafide required by her for use and occupation by herself or any member of her family, the Court shall

pass a decree for eviction on such ground, if such widow, at the hearing of the suit, produces a certificate signed by the Area or Sub-Area Commander within whose jurisdiction the house is situated to the effect that

(i) she is widow of a deceased member of the Armed Forces as aforesaid;

(ii) she does not possess any other suitable house in the local area where she or any of the members of her family may reside.

Explanation. (1) For the purpose of Cl. (a) of this section, the expression "the Head of his Service" in the case of members retired from the Indian Army includes the Area Commander, in the case of members retired from the Indian Navy includes the Flag Officer Commanding-in-Chief, Naval Command, and in the case of the member retired from the Indian Air Forces includes the Station Commander.

(2) For the purposes of this section any certificate granted thereunder shall be

5AA. Special provision for recovery of possession of any house to a retired Government servant or a member of the family of the deceased Government servant :-

Notwithstanding anything contained in this Act

(a) a landlord being a person, who was appointed to Public Service or post in connection with the affairs of the State and is duly retired (which term shall include premature retirement) shall be entitled to recover possession of any house belonging to him on the ground that the house is bona fide required by him for use and occupation by himself or any member of his family, and the Court shall pass a decree for eviction on such ground if the landlord at the hearing of the suit, produces a certificate signed by the Appointing Authority to the effect that

(i) the landlord is a person who was appointed to a Public Service or post in connection with the affairs of the State and is now a retired Government servant;

(ii) he does not possess any other suitable house in the local area where he or any of the members of his family can reside;

(b) where a person is appointed to the public service or post in connection with the affairs of the State dies while in service or dies

after his retirement, his widow who is or becomes a landlord of any house, shall be entitled to recover possession of such house on the ground that the house is bona fide required by her for use and occupation by herself or any member of her family, and the Court shall pass a decree for eviction on such ground, if such widow at the hearing of the suit produces a certificate signed by the Appointing Authority of the deceased Government servant to the effect that

(i) she is the widow of the deceased Government servant as aforesaid;

(ii) she does not possess any other suitable house in the local area where she or any of the member of her family may reside;

(c) for the purpose of this section, any certificate granted thereunder shall be conclusive evidence of the facts stated therein.

6. Duties of landlord :-

Every landlord shall be bound to keep wind proof and water proof any house which is in occupation of a tenant and to carry out other repairs which he is bound to make by law, contract or custom and also to maintain the existing essential supplies and services such as sanitary arrangement, water supply, supply of electricity or drainage service in respect of the house. Explanation. 'Repair' includes annual white-washing and re-colouring.

7. Notice on landlord to perform duties :-

(1) If the landlord neglects to make such repairs or to maintain such existing essential supplies and services as he is bound to do under the provisions of S. 6, the Court may, on the application of the tenant, direct the landlord by notice to appear before it and to show cause against the application of the tenant.

(2) If the landlord fails or neglects to make such repairs or take such measures within the period fixed by the Court, the Court may on application of the tenant permit him to make such repairs or take such measures, as the case may be, at a cost not exceeding the amount determined by the Court after taking such evidence as it may consider necessary; and it shall be thereafter lawful for the tenant to make such repairs or take such measures and to deduct the cost thereof from the rent or to recover the amount from the landlord through the Court by execution, and for the purpose of this sub-section the order of the Court shall be deemed to be a

decree under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) and to be capable of execution as such under the provisions of that Code.

8. Appeals :-

A landlord or a tenant aggrieved by any decision or order of the Court under the provisions of Ss. 4, 5 and 7 (2) of this Act shall have a right of appeal against the same as if such decision or order were a decree in a suit for ejectment of the tenant from the house and such appellate Court's decision shall be final.

9. Rules :-

(1) The State Government may, by notification in the official Gazette, make rules prescribing the Court-fees to be paid on applications made to the Court under the provisions of this Act, and also for the purpose of carrying out the provisions thereof.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

10. Repeal and savings :-

(1) The Assam Urban Areas Rent Control Act, 1966 (Assam Act II of 1967), is hereby repealed.

(2) Notwithstanding such repeal

(a)

(i) any decision given, order made, anything done, any action taken or any proceedings commenced under any of the provisions of the Act repealed and in force immediately before the commencement of this Act, shall, in so far as they are not inconsistent with the provisions of this Act continue in force and shall be deemed to have been given, made, done, taken or commenced under the corresponding provisions of this Act;

(ii) rent for a house payable for the period during the life of the Act repealed will be determined under the corresponding provisions of this Act.

(b) if any decree or order has been made by any Court under the provisions of the Act repealed fixing the rent of any house, then the rent so fixed shall be liable to be refixed under the corresponding provisions of this Act.

(3)

(a) The Assam Urban Areas Rent Control Ordinance, 1972, is hereby repealed.

(b) Notwithstanding such repeal, anything done or any action taken under the Ordinance as repealed shall be deemed to have been done or taken under this Act as if this Act had commenced on the thirteenth day of March, 1972 (Assam Ordinance III of 1972), date of promulgation of the Ordinance.