

THE KARNATAKA LAND (RESTRICTION ON TRANSFER) ACT, 1991

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STATEMENT OF OBJECTS AND REASONS

Act 17 of 1992.- Some of the major bottlenecks faced by the Bangalore Development Authority and the Urban Development Authorities in accelerating the much needed formation and distribution of sites in Bangalore City and other urban areas are the following;

(1) Un-authorized sale of sites by the affected land holders through registred sale deeds or against power of attorneys or entering into agreements of sale, after collecting advance payments.

(2) Un-authorized construction activity by the transferees in various parts of Bangalore and other urban areas under the cover of the afore-mentioned sale deeds and power of attorneys.

The value of the land in the areas notified for acquisition tends to increase, and advantage thereof is taken by many un-scrupulous land holders, by selling their lands to un-suspecting buyers, in violation of various laws. The transferees, in turn indulge in un-authorized construction rendering the process of acquisition of land and planned urban development extremely difficult, if not impossible.

Similar laws passed in other States in the Country have greatly helped in preventing such unauthorised transactions. The present measure is expected to prevent the difficulties caused in the way of acquisition of lands and to help in the speedy formation and distribution of sites.

Hence the Bill.

(Obtained from L.A. Bill No. 7 of 1991 published in Karnataka Gazette (Extraordinary) Part IV-2A dated 21-3-1991 as No.124)

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KARNATAKA ACT NO. 17 OF 1992

(First published in the Karnataka Gazette Extraordinary on the Sixteenth day of May, 1992)

THE KARNATAKA LAND (RESTRICTION ON TRANSFER) ACT, 1991.

(Received the assent of the President on the Twelfth day of May, 1992)

An Act to impose certain restrictions on transfer of land which have been acquired by Government or in respect of which acquisition proceedings have been initiated by the Government, with a view to preventing large scale transaction of purported transfer, or as the case may be, transfers of such lands to unwary public;

WHEREAS it is expedient to impose certain restrictions on transfer of land which have been acquired by Government or in respect of which acquisition proceedings have been initiated by the Government, with a view to preventing large scale transaction of purported transfer, or as the case may be, transfer of such lands to unwary public and for the purposes hereinafter appearing;

BE it enacted by the Karnataka State Legislature in the Forty-second Year of the Republic of India, as follows;-

1. Short title, extent and commencement.- (1) This Act may be called as the Karnataka Land (Restriction on Transfer) Act, 1991.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force on such 1[date]1 as the Government may by notification specify and different dates may be specified for different urban areas.

1. Act came into force in 22 urban areas on 1.8.1992 by notification. Text of the notification is at the end of the act.

2. Definitions .- In this Act, unless the context otherwise requires,-

(a) "competent authority" means any person or authority not below the rank of a Deputy Commissioner of the district authorised by the Government by notification, to perform the functions of competent authority under this Act for such areas as may be specified in the notification;

(b) "Government" means the State Government;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "scheme" means the development scheme drawn up under section 15 of the Bangalore Development Authority Act, 1976 or the Karnataka Urban Development Authorities Act, 1987 and which has been sanctioned by the Government;

(c) "urban area" means,-

(i) the Bangalore metropolitan area as defined in the Bangalore Development Authority Act, 1976;

- (ii) an urban area for which an Urban Development Authority is constituted, under sub-section (1) of section 3 of the Karnataka Urban Development Authorities Act, 1987.

3. Prohibition on transfer of lands acquired by Government.- No person shall purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in any urban area which has been acquired by the Government under the Land Acquisition Act, 1894 (Central Act 1 of 1894) or any other law providing for acquisition of land for a public purpose.

4. Regulation of transfer of lands in relation to which acquisition proceedings have been initiated.- No person shall, except with previous permission in writing of the competent authority, transfer, or purport to transfer by sale, mortgage, gift, lease or otherwise any land or part thereof situated in any urban area which is proposed to be acquired in connection with the Scheme in relation to which the declaration has been published under Section 19 of the Bangalore Development Authority Act, 1976 or section 19 of the Karnataka Urban Development Authorities Act, 1987.

5. Application for grant of permission of transfer under section 4.-(1) Any person desiring to transfer any land referred to in section 4 by sale, mortgage, gift, lease or otherwise may make application in writing to the competent authority containing such particulars as may be prescribed.

(2) On receipt of an application under sub-section (1), the competent authority shall, after making such enquiry as it deems fit, may by order in writing, grant or refuse to grant the permission applied for.

(3) The competent authority shall not refuse to grant the permission applied for under this section except on one or more of the following grounds, namely:-

- (i) that the land is needed or is likely to be needed for the effective implementation of the scheme;
- (ii) that the land is needed or is likely to be needed for securing the object of the Bangalore Development Authority constituted under the Bangalore Development Authority Act, 1976 or any Urban Development Authority constituted under the Karnataka Urban Development Authorities Act, 1987;
- (iii) that the land is needed or is likely to be needed for such times as public buildings and other public works and utilities, roads, housing, recreation, industry, business markets, schools and other educational institutions, hospitals and public open spaces and other categories of public uses.

(4) Where the competent authority refuses to grant the permission applied for, it shall record in writing the reasons for doing so and a copy of the same shall be communicated to the applicant.

(5) Where within a period of thirty days of the date of receipt of an application under this section the competent authority does not refuse to grant the permission applied for or does not communicate the refusal to the applicant, the competent authority shall be deemed to have granted permission applied for.

6. Appeals against orders of competent authority.- (1) Any person aggrieved by an order of the competent authority under section 5 may, within thirty days of the date of receipt of the order by him, file an appeal to the prescribed authority in such form and containing such particulars as may be prescribed.

(2) On receipt of an appeal under sub-section (1), the prescribed authority shall, after giving the appellant an opportunity of being heard in the matter dispose of the appeal as expeditiously as possible.

(3) Every order made by the prescribed authority in appeal under this section shall be final.

7. Period of operation of orders of refusal to grant permission to transfer land.-Where the competent authority has made any order under section 5 refusing to grant permission to transfer any land or where, an appeal having been filed against such order, the prescribed authority has made an order under section 6 confirming such order, then the order refusing to grant permission to transfer such land shall be in operation only for a period of three years from the date of the order made by the competent authority or the prescribed authority; as the case may be and thereafter, but subject to the provision of section 3, it shall be lawful for the person who has applied for permission, or his successor-in-interest, to transfer such land by sale, mortgage, gift, lease or otherwise.

Explanation.- In computing the period of three years under this section, in relation to any land, the period during which the acquisition proceedings in relation to such land have been stayed by any court shall be excluded.

8. Restrictions on registration of transfer of land.-Notwithstanding anything contained in any other law for the time being in force, where any document required to be registered under the provisions of clause (a) to clause (e) of sub-section (1) of section 17 of the Registration Act, 1908 (Central Act 16 of 1908) purports to transfer by sale, mortgage, gift, lease

or otherwise any land or part thereof referred to in section 4, no registering officer appointed under that Act shall register any such document unless the transferor produces before such registering officer a permission in writing of the competent authority for such transfer.

9. Penalty.- If any person contravenes the provisions of section 3 or section 4, he shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

10. Offences by companies.- (1) If the person committing an offence under this Act is a company, every person, who, at the time the offence was committed, was in charge of and was responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), when an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this section,-

(a) "Company" means any body corporate and includes a firm or other association of individuals; and

(b) "Director", in relation to a firm, means a partner in the firm.

11. Power to make rules.- (1) The Government, may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters namely:-

(a) the particulars of which an application to be made under sub-section (1) of section 5 shall contain;

(b) the authority to which an appeal may be filed, under sub-section (1) of section 6, the form in which such appeal may be filed and the particulars which such appeal shall contain.

(c) any other matter which is required to be or may be, prescribed.

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree, in making any modification in the rule or both Houses 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.

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(The above translation of the ಕರ್ನಾಟಕ ಭೂ ವರ್ಗಾವಣೆಯ ಮೇಲೆ ನಿರ್ಬಂಧ ಅಧಿನಿಯಮ, 1990 (1992ರ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ: 17)) was published in the official Gazette (Extraordinary) Part IV-2B dated 21-7-1992 as No 517 under clause (3) of Article 348 of the Constitution of India.)

NOTIFICATION

Bangalore , dated 16th April 1993 [NO.HUD 121 MNJ 90(P)]

S.O.No.651.- In exercise of the powers conferred under sub-section (3) of section 1 of the Karnataka Land (Restriction on transfer) Act 1991 (Karnataka Act No.17 of 1992) Government of Karnataka hereby appoints the first day of August 1992 as the date on which the said Act shall come into force in the following Urban Areas in the State.

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| 1. Bangalore | 12.Chitradurga |
| 2. Karwar | 13.Hassan |
| 3. Mangalore | 14.Kodagu |
| 4. Mysore | 15.Kolar |
| 5. Hubli-Dharwad | 16.Mandya |
| 6. Gulbarga | 17.Raichur |
| 7. Belgaum | 18.Shimoga |
| 8. Bellary | 19.Tumkur |
| 9. Bidar | 20.Davanagere |
| 10. Bijapur | 21.Bagalkot |
| 11. Chickmagalur | 22.K.G.F. |

By Order and in the name of
the Governor of Karnataka,
S.G.PRABHU

Under Secretary to Government,
Housing and Urban
Development Department.

(Published in Karnataka Gazette (Extraordinary) Part IV-2C(ii) dated 22.4.1993 as No.270.)