

शुक्रवार, डिसेंबर ८, १९७८/अग्रहायण १७, शके १९००

MAHARASHTRA LEGISLATURE SECRETARIAT

The following Bill was introduced in the Maharashtra Legislative Assembly on 8th December 1978 :—

L. A. BILL No. L OF 1978

A BILL

to provide for the formation of Co-operative Societies of occupants of buildings and to vest the buildings in such societies and for certain other matters.

WHEREAS, the Rent Acts Inquiry Committee appointed by the Government of Maharashtra recommended the take-over of old buildings ;

AND WHEREAS it is necessary to frame a law to implement the said recommendation, It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows :—

1. (1) This Act may be called the Preservation of House Property Act, 1978. Short title
and com-
mencement.

(2) It shall come into force within the limits of Municipal Corporations of Greater Bombay, Nagpur, Pune, Solapur, Kolhapur and the Municipal Council of Aurangabad, immediately.

(3) It shall come into force in such other area and on such date as the State Government may by notification in the *Official Gazette* appoint.

(4) It shall remain in force in any area to which it applies for five years and shall, thereafter, expire.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) " Building " means a house owned by a landlord and constructed on or before 31st August 1964 a major portion of the carpet area of which is divided into not less than five tenements used for residential purposes, and includes land underneath and appurtenant thereto.

(2) " Encumbrance ", means a right to or interest in a building or any part thereof and includes a claim by way of lien, lease, charge, mortgage, or otherwise whatsoever.

(3) " Landlord " means the legal owner of the building who is entitled to recover its rent on his own account and includes a joint family, a firm, a company, a society, a trust, a group of persons, but does not include a co-operative society or a company formed under the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 or a Co-operative Housing Society registered or deemed to be registered under the Maharashtra Co-operative Societies Act, 1960, or a public trust, or a local authority, or a Government Undertaking or a Government Corporation, or Government.

(4) " Net average monthly income of a building " means Ten-Twelves of the balance out of the average monthly rent chargeable or charged by the Landlord to the occupant from 1st January 1978 to 31st December 1978, remaining after deducting therefrom one-twelfth of the total charges recoverable or recovered by the landlord on account of Special Services such as electricity and water, and taxes, cesses, duties and all other liabilities and outgoings payable or paid by the landlord to the local authorities, Governments and other public bodies, during the same period of the year 1978.

" Net average monthly income of a tenement " shall be construed accordingly.

(5) " Occupant " means the person who is in actual possession of the tenement on 31st August 1978.

Provided that he is—

(i) a tenant, or

(ii) a person who is otherwise in lawful possession of the tenement on and since 1st February 1973, or

(iii) a person who, after 1st February 1973, lawfully acquired the entire interest of the tenant in the tenement.

(6) " Period of construction of a building " means the period within which the completion certificate of the building was granted by the local authority, originally.

Explanation :—The period within which the additions, alterations and renovations to the building were made subsequently shall be disregarded.

(7) 'Registrar', means the Registrar of Co-operative Societies, functioning under the Maharashtra Co-operative Societies, Act, 1960.

(8) 'Society' means a Co-operative Society formed under section 3 of this Act.

(9) 'Tenant' means a person by whom or on whose account the rent of the tenement is payable and includes a member of his family, his heir, a lawful sub-tenant, transferee, assignee and a member of the family or heir of any of them.

(10) 'Tenement' means a part of a building consisting of a room or a group of rooms let or intended to be let or occupied as a separate unit.

3. (1) The occupants of a building shall form their organisation as a co-operative society and shall, on or before the 31st August 1979, submit an application to the Registrar for registration of their organisation as a co-operative society. Registration of Co-operative Society.

(2) The landlord of the building, if he occupies a tenement in the building, shall join, in such application for membership of a co-operative society.

(3) If an occupant is not willing to join the co-operative society, the society may at its discretion retain him as a tenant of the society, subject to such terms and conditions as may be fixed by the society.

(4) For forming a society under this Act, the minimum number of members shall be five.

4. As soon as the co-operative society of the occupants of a building is registered, the building shall, on the 1st day of the month next after the date of registration, vest in the co-operative society free from all encumbrances subsisting thereon on the said day: Vesting of Buildings.

Provided that where the land underneath and appurtenant to the building belongs to a public trust or a local authority or a Government undertaking or a Government Corporation or Government, their title to the said land shall not be divested.

5. (1) The price of a building shall be computed as follows :—

| Period of construction of the Building | Amount of price as multiple of net average monthly income of the building | Price of the building. |
|---|---|------------------------|
| (i) Upto 31st December 1900 | 50 times. | |
| (ii) Between 1st January 1901 and 31st August 1919 | 60 times. | |
| (iii) Between 1st September 1919 and 31st August 1939 | 70 times. | |
| (iv) Between 1st September 1939 and 31st August 1949 | 80 times. | |
| (v) Between 1st September 1949 and 31st August 1959 | 90 times. | |
| (vi) Between 1st September 1959 and 31st August 1964 | 100 times. | |

(2) Where the land underneath and appurtenant to the building or any part thereof is held on lease for the construction of the building, then—

(i) if the land belongs to a public trust or a local authority or a Government undertaking or a Government Corporation or Government, the price of the building, without the land shall be the amount calculated under sub-section (1) of this section reduced by ten times of the Annual rent under the said lease.

(ii) if the land belongs to any other person, rupees ten per square metre or

(a) one-fifth of the price of the building as calculated under sub-section (1) of this section, in case of buildings the period of construction of which is prior to 1st September 1939 ;

OR

(b) one-tenth of such price in case of other buildings, whichever is less shall be lessor's share in the price of the building.

Mode of payment of price. 6. The society shall pay to the landlord, as price of the said building; the amount fixed under section 5 in following instalments:—

(1) First instalment equal to twenty per cent of the price, within three months from the date on which the building vests in the society.

(2) The balance of the price shall be paid to the landlord in sixteen equal annual instalments with interest at five per cent per annum on the reducing balance.

Compensation for encumbrance. 7. (1) If there be any encumbrance on the said building, both the landlord and the person having an encumbrance on the said building shall inform the Registrar of the Encumbrance, on or before the 31st August 1979. In that event the instalments of the price of the said building, shall be deposited with the Registrar who shall make the payment of the encumbrance and shall pay the balance, if any, to the landlord.

(2) If the price of the building as computed under section 5 is less than the amount of encumbrance, the compensation for the encumbrance shall be equal to the said price and on payment of the entire amount of price to the encumbrancer the encumbrance shall be extinguished.

Subsequent encumbrances void. 8. All encumbrances created after one month from the publication of the bill of this Act in the *Official Gazette* shall be void.

Default of payment of price. 9. In case of default in payment of instalments of price of the building, the arrears shall be recovered by the Registrar as arrears of land revenue:

Provided that—

Where the occupant-member of the society is a salary earner his employer shall, on request from the society, deduct the instalment of contribution to, be paid by the said occupant-member to the society, from his salary every month and shall pay it to the society:

10. The contribution to the price of the building by the occupant member shall be as under :—

Contribution of members to the price of the building.

(1) The occupant of residential tenement shall pay in proportion equal to the net average monthly income of his tenement.

(2) The occupant of non-residential tenement shall pay in proportion equal to two-and-half times the net average income of his tenement.

11. A person who is not an occupant shall vacate the tenement or any part thereof in his possession on or before the 31st August 1980. In case of his failure to vacate, he shall be a trespasser and shall be summarily evicted.

Non-occupant to vacate.

12. All questions arising during the execution of this Act, shall be treated as disputes and shall be dealt with and decided as such under the Maharashtra Co-operative Societies Act, 1960, irrespective of the status of the parties and claims involved in the questions.

Settlement of disputes.

13. All suits or other proceedings, including appeals and applications under the constitution, for eviction of occupants, except those on the ground of reasonable and *bona fide* requirement for personal use by the landlord, pending before any Court, tribunal or authority, shall be dropped.

Pending suits to be dropped.

14. (1) The State Government shall, subject to the condition of previous publication in the *Official Gazette*, make rules for carrying into effect the provisions of this Act.

Power to make Rules.

(2) 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 successive sessions, and, if before the expiry of the session in which it is so laid or the sessions immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, and notify such decision in the *Official Gazette*, the rule shall from the date of such notification 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 or omitted to be done under that rule.

15. The Society registered under this Act shall, except as otherwise provided under this Act, be governed by the Maharashtra Co-operative Societies Act, 1960.

Application of Maharashtra Co-operative Societies Act, 1960.

16. On vesting of the building in the society, the Bombay Rents Hotel and Lodging House Rates Control Act, 1947, the Central Provinces and Berar Letting of Houses and Rent Control Order, 1949, the Hyderabad Houses (Rent Eviction and Lease) Control Act, 1954 and The Bombay Building Repairs and Reconstruction Board Act, 1969 shall not apply to such building.

Certain Acts not to apply to buildings.

17. The provisions of this Act shall take effect notwithstanding anything contained in any other law for the time being in force.

Act to override any other law.

STATEMENT OF OBJECTS AND REASONS

The Government of Maharashtra had appointed Rent Acts Enquiry Committee, *inter alia*, to examine the provision of Rent Control Laws in the State, relating to (i) standard rents and permitted increases, (ii) repairs to premises, (iii) recovery of possession, (iv) leave and licence, (v) regulation of letting of accommodation etc. and to make recommendations on such other matters as may be incidental thereto. The Committee in its report, dated 25th March 1978, recommended in Chapter XIV, that buildings constructed upto 31st December, 1960 should be taken over by Government at a predetermined amount and transferred to the co-operative housing societies formed by the residents of such buildings.

The problem of housing has assumed an enormous proportion especially in big cities like Bombay. It is agitating the minds of the administrators for long. The constant influx of people and increase of population in cities made the problem more acute. It resulted in the exploitation of the needy in all possible directions. To check this, rent control laws were made. These laws created new problems. The applications for fixation of 'standard rent' flooded the Courts. The inflation and consequent reduction of value of currency posed to the Government the problems of 'permitted increases'. The landlords lost interest in 'repairs' of buildings which do not yield returns to their satisfaction. The tenant became indifferent to 'repairs' of the buildings under the notion that once the rent is paid, his responsibility is over. Consequently, he does not show much interest in the matter of common welfare of the residents of the building where expenditure on the building and common amenities is involved. The result is that the house property which needs protection lost it almost altogether.

The house-property, as any other property, is a national wealth and needs protection. It can be had only if those who make its use are made to understand that they are both the trustees and beneficiaries of this national wealth and are, therefore, responsible to preserve it, and that in their enjoyment of this wealth and in discharge of their responsibility thereto there shall be no interference from persons not concerned with its use.

It is, therefore, intended to remove the landlords who are at present mere collectors of unearned income of rent, on payment of predetermined prices, and to vest the ownership of the buildings constructed upto 31st August 1969 in co-operative societies of occupants of the buildings who are bound to preserve this national wealth with a sense and feeling of common brotherhood amongst themselves.

This bill seeks to achieve these objects.

Nagpur, dated the 27th November 1978.

A. T. PATIL,
Member-in-charge.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposal for delegation of legislative powers:—

Clause 14.—This clause empowers the State Government to make rules subject to the condition of previous publication for the purposes of this Act

The above proposal for delegation of legislative powers is of a normal character.

G. S. NANDE,

Secretary,

Nagpur, dated the 8th December 1978. Maharashtra Legislative Assembly.