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The 28th September 1946

No.L.1002/46/22.—The following Act of the Assam Legislature having been assented to in His Majesty's name by the Governor, is hereby published for general information:—

[Received the assent of the Governor on the 28th September 1946]

ASSAM ACT III OF 1946

THE ASSAM URBAN AREAS RENT CONTROL ACT, 1946

[Passed by the Assam Legislature]

[Published in the Assam Gazette, Extraordinary, of the 30th September 1946]

An Act

to restrict temporarily the increase of rents of houses situated within the limits of urban areas in Assam.

Preamble.

WHEREAS it is expedient to restrict temporarily the increase of rents of houses situated within the limits of urban areas in Assam and whereas the previous sanction of the Governor under section 299(3) of the Government of India Act, 1935, has been obtained to introduce this Bill;

It is hereby enacted as follows:—

Short title, extent, commencement and duration.

1. (1) This Act may be called the Assam Urban Areas Rent Control Act, 1946.

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

(3) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, appoint in this behalf, and shall remain in force for one year from the date of its enforcement provided that the Government may from time to time by notification in the Official Gazette extend the operation of the Act for such further period or periods not exceeding one year at a time and to a total of two years as it may deem fit.

Definitions.

2. In this Act, unless there is anything repugnant in the subject matter or context,—

(i) "The 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.

(ii) "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:—

(a) the garden, grounds and out-houses, if any, appurtenant to such building, hut, shed or part thereof; and

(b) any furniture supplied by the landlord for use by the tenant in such house.

(iii) "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 sub-tenant, a tenant who has sublet any house and further includes every person not being a tenant who from time to time derives title under a landlord.

(iv) "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.

(v) "Urban area" means any area declared to be, or 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.

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Restriction
on enhance-
ment of rent.

3. Subject to the provisions of this Act and notwithstanding any contract to the contrary no landlord shall be entitled to charge monthly rent for any house at a figure higher than the average monthly rent actually paid for the same house by any tenant over the period from the month of January 1943 to the month of September 1943 inclusive, or (if it is impossible in any particular case to calculate in a manner fair to both the landlord and the tenant what such average monthly rent over the aforesaid period would be, or if the house has not been let during that period), at a figure higher than that which the Court shall, having regard to the rent of similar houses in the neighbourhood, determine to be fair and equitable.

Provided that if a landlord has, after the first day of January 1943, effected any addition, improvement or alteration in a house (not being repairs within the meaning of the provisions of section 7 of this Act) at his own expense, he will be entitled to such increase over the average monthly rent as the Court may consider fair and equitable having regard to the provisions of section 5 of this Act.

Fixing of fair
rent.

4.(1) The Court shall, on an application made before it in this behalf by the landlord or the tenant, issue notice upon the other party and after holding such enquiry as it thinks fit, fix the amount of the monthly rent to be paid by the tenant to his landlord for any house in accordance with the provisions of section 3 of this Act. The rent so fixed shall be binding on both the parties:

Provided that if the house or any portion thereof was let during the period from the month of January, 1943, to the month of September, 1943, inclusive, the rent fixed by the Court shall not be less than the average monthly rent received by the landlord during that period.

Explanation.—For the purposes of section 3 and sub-section (1) of section 4 of this Act, where rent was charged by the landlord or actually paid by the tenant for the same house over the aforesaid period on any basis other than a monthly one, the average monthly rent for such house shall be calculated as thirty times the average rent per day of the period in respect of which the rent was charged or actually paid.

(2) If any house the rent of which has been fixed by the Court under sub-section (1) of this section is let, the landlord shall be entitled to charge for each month of the tenancy—

(a) where the period of the lease has not been fixed between the landlord and the tenant or does not exceed six months, the rent so fixed increased by ten per cent. thereof,

(b) where the period of lease exceeds six but does not exceed nine months, the rent so fixed increased by five per cent. thereof,

(c) where the period of lease exceeds nine months, the rent so fixed.

Re-fixing of
fair rent.

5. (1) If, at any time after the rent of a house has been fixed under section 4 of this Act, any addition, improvement or alteration (not being repairs within the meaning of the provisions of section 7) has been effected in respect of the house at the landlord's expense, the Court may, on an application made before it in this behalf by the landlord, issue notice upon the tenant and after making such enquiry as it thinks fit re-fix the rent of the house. The rent so re-fixed shall be binding on both the parties.

(2) The increase in rent allowed under sub-section (1) of this section shall not exceed seven and half per cent. per annum of the total cost of such addition, improvement or alteration and shall not be chargeable with effect from any date earlier than the date on which such addition, improvement or alteration was completed.

Bar against
passing and
execution of
decree and
orders.

6. (1) No order or decree for the recovery of possession of any house shall be made or executed so long as the tenant pays rent to the full extent allowable under this Act and performs 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 any act contrary to the provisions of clause (m), clause (o) or clause (p) of section 103 of the Transfer of Property Act, 1882 or to the spirit of the aforesaid clauses in areas where that 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 *bona fide* required by the landlord either for purposes of repairs or re-building, 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.

(2) The fact that the period of the lease has expired, or that the interest of the landlord in the house has been transferred shall not, of itself, be deemed to be a satisfactory cause within the meaning of the proviso to sub-section (1), provided that the tenant is ready and willing to pay rent to the full extent allowable under this Act.

(3) Where the landlord recovers possession of a house from a tenant on the ground that the house is *bona fide* required by him for purposes of repairs or re-building or for his own occupation or for the occupation of any person for whose benefit the house is held and the repairs or the re-building 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 shall 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 Civil Procedure Code, 1908 and to be capable of execution as such under the provisions of that Code.

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(4) No tenant shall be entitled to any benefit under this section in respect of any house if he is a defaulter, that is, if he has not paid the rent due by him in respect of such house to the full extent allowable under this Act within the time fixed in the contract with his landlord or in the absence of any such contract, by the fifteenth day of the month next following that for which the rent is payable and, where any rent has accrued due before the commencement of this Act, if he has not also paid within three months of the date of such commencement all arrears of rent due by him in respect of such house to the full extent allowable by this Act.

(5) Where the landlord refuses to accept 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 (or upon each of the landlords, where the landlords number more than one), and on receiving such deposit, the Court shall cause a notice of the receipt of such deposit to be served on the landlord (or each of the landlords) and the amount of the deposit may thereafter be withdrawn by the landlord on application made by him to the Court in that behalf. A tenant who has made such deposit shall not be treated as a defaulter under sub-section (4) of this section.

Duties of landlords.

7. Every landlord shall be bound to keep the house in the occupation of a tenant wind-proof and water-proof 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 arrangements, water supply, supply of electricity or drainage service in respect of the house.

Explanation.—'Repair' includes annual white-washing and recolouring.

Notice on landlord to perform duties.

8. (1) The Court shall, on application made to it in that behalf by a tenant in possession of any house, cause a notice to be served on the landlord thereof directing him, to appear before the Court and show cause against the application by the tenant, or within such reasonable time as the Court may fix, to make any repairs which such landlord is bound to make to the house or to take any measures for the due maintenance of any essential supply or service, such as sanitary arrangements, water supply or supply of electricity or for the due maintenance of drainage service in respect of such house.

(2) If, after receipt of such notice, the landlord does not appear and satisfy the Court as to why he should not be directed to make such repairs or take such measures and also fails or neglects, within the time fixed by the Court (or such extension thereof as the Court may allow on application by the landlord), to make such repairs or to take such measures, as the case may be, the tenant may submit to the Court an estimate of the cost of such repairs or measures, and apply for permission to make such repairs or to take such measures himself; and thereupon the Court may, after considering such estimate of cost and taking such evidence as it may consider necessary, by an order in writing permit the tenant to make such repairs or to take such measures, as the case may be, at a cost not exceeding such amount as may be specified in the order and to recover such cost from the landlord; and it shall thereafter be lawful for the tenant to make such repairs or to take such measures himself and to deduct the cost thereof, which shall in no case exceed the amount so specified by the Court, from the rent or to recover the amount from the landlord through the Court by execution.

Appeals.

9. A landlord or a tenant aggrieved by any decision or order of the Court under the provisions of sections 4 (1), 5, 6 and 8 (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 ejection of the tenant from the house.

Rules.

10. The Provincial 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 the Act and also for the purpose of the carrying out of the provisions of this Act.

H. C. STORK,

Secy. to the Govt. of Assam in the Leg. Deptt.

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