



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

URBAN DEVELOPMENT AUTHORITY
(AMENDMENT)
ACT, No. 41 OF 1988

[Certified on 24th November, 1988]

Printed on the Orders of Government

Published as a Supplement to Part II of the Gazette of the Democratic
Socialist Republic of Sri Lanka of November 25, 1988

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO

Price : 90 cents

Postage: 75 cents

Urban Development Authority (Amendment)

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L. D.—O. 18/87.

AN ACT TO AMEND THE URBAN DEVELOPMENT AUTHORITY LAW,
No. 41 OF 1978BE it enacted by the Democratic Socialist Republic of
Sri Lanka as follows:—

1. This Act may be cited as the Urban Development
Authority (Amendment) Act, No. 41 of 1988.

Short
title.

2. Section 8L of the Urban Development Authority Law,
No. 41 of 1978 (inserted by Act No. 49 of 1987) (hereinafter
referred to as the "principal enactment") is hereby
amended as follows:—

Amendment
of section
8L of Law
No. 41 of 1978.

(1) in subsection (1) thereof, by the substitution for all
the words from "Where any building is construct-
ed" to "in respect of such construction; and", of the
following:—

"(1) Where any building, being a building
comprised in a property development project
approved under section 22 (B) of the Inland
Revenue Act, No. 28 of 1979, is constructed in a
development area under, and in accordance, with
a permit issued under section 8J, then, notwith-
standing anything in the Municipal Councils Or-
dinance and the Urban Councils Ordinance—

(a) a remission of eighty *per centum* of the rates
assessed on such building, under any such
Ordinance shall be allowed by the Municipal
Council or the Urban Council, as the case
may be, for a period of five years calculated
from the date of first assessment of such
building; and"; and

(2) in subsection (2) of that section, by the substitu-
tion, for the words "any building is redeveloped",
of the words "any building being affected property
within the meaning of the Rehabilitation of
Persons, Properties and Industries Act, No. 29 of
1987, is redeveloped".

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Insertion
of new Part
VA in the
principal
enactment.

3. The following new Part is hereby inserted immediately after Part V and shall have effect as Part VA of the principal enactment :—

PART VA

RECOVERY OF POSSESSION OF HOUSES, FLATS AND ANY OTHER BUILDINGS CONSTRUCTED IN PURSUANCE OF A JOINT VENTURE AGREEMENT WITH THE AUTHORITY FOR THE PURPOSE OF CARRYING OUT A DEVELOPMENT PROJECT OR SCHEME APPROVED BY THE GOVERNMENT

Houses, flats or other buildings to which this Part applies.

19A. This Part shall apply to every house, or unit of a registered condominium property (within the meaning of the Apartment Ownership Law, No. 11 of 1973) or other building or portion thereof (hereinafter in this Part referred to as "buildings"), constructed—

(a) in pursuance of a joint venture agreement, referred to in section 3(e), for the purpose of carrying out a development project or scheme approved by the Government;

(b) and made available for occupation at any time on or after the coming into operation of this Law to any person, whether such occupation is for business or residential purposes, and whether on payment of rent or otherwise.

Interpretations of the expressions "landlord" and "occupier".

19B. Where a building constructed in pursuance of a joint venture agreement is made available for occupation as aforesaid to any person, then with reference to that building, the expression "landlord" in this Part means the Chief Executive of the Joint venture company, and the expression "Occupier" in this Part means that person.

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Obligation
to vacate
building
to which
this Part
applies.

19c. (1) The occupier of any building to which this Part applies, and his dependants and every other person occupying such building shall not be entitled to occupy such building (or portion thereof) after the date of the lawful termination of the occupation by the occupier of such building; and accordingly the occupier shall on that date vacate the building, deliver possession thereof to his landlord, and depart from the land or premises in which such building is situated together with his dependants and every other person occupying such land or premises.

(2) Where any building to which this Part applies is made available by the landlord for occupation to any person in the employment of that landlord that person's occupation of such building shall be deemed, for the purposes of this Part, to be lawfully terminated on the date of the termination of the employment of that person.

(3) Where in any case referred to in subsection (2) the employment of the occupier is terminated without notice the reference in that subsection to the date of the termination of his employment shall be deemed to be a reference to the date fourteen days after the actual date of termination.

Application
to Court
for recovery
of possession
and service
of order
nisi.

19D. (1) In any case where the occupier of any building to which this Part applies fails to comply with the provisions of subsection (1) of section 19c, it shall be lawful for the landlord to file in the Magistrate's Court of the division in which the building is situated an application praying for the recovery of possession of the building, and for the ejectment from the land or premises on which the building is situated of the occupier, his dependants and every other person occupying

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such land or premises or any portion thereof ; and every such application shall be supported by an affidavit setting forth the time and manner of the termination of the occupation of the occupier.

(2) On receipt of an application under subsection (1), the court shall cause to be served on the occupier a copy of the application and affidavit and an order nisi requiring him—

(a) to appear on a date specified in such order, being a date not later than one calendar month after the date of service of the order ; and

(b) to show cause why he should not deliver possession of the building as required by section 19c and depart from the land or premises on which it is situated together with his dependants and every other person occupying such land or premises or any portion thereof.

(3) An order nisi under subsection (2) shall be deemed to have been served on the occupier if it is delivered to him by the Fiscal or by any person authorized by the Fiscal, or where it cannot be so delivered, if it is pasted by the Fiscal, or person authorized as aforesaid, on some conspicuous part of the building to which the order relates.

Adjournment of hearing.

19E. (1) If any occupier upon whom an order nisi is served under this Part appears before the court on the date specified in the order and, by affidavit or by statement on oath or affirmation raises any defence, which in the opinion of the court necessitates an adjournment of the hearing, the court shall immediately settle and record the issue or issues raised and shall, have regard to the circumstances of the case, appoint as early a date as possible for the hearing of evidence ; and in such case the Registrar of the

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court shall thereupon issue a summons to every such witness as may be required by the parties commanding his attendance at the time and place specified in the summons.

(2) Where any date is appointed under subsection (1) for the hearing of any case, the hearing shall not again be adjourned for any later date—

(a) unless all the parties to the case consent to such adjournment; or

(b) unless the court is satisfied, upon evidence furnished on oath or affirmation or by affidavit that such adjournment is necessary by reason of the absence, otherwise than by collusion, of the occupier or of a witness who knows and is able to prove facts material to the case.

(3) On the date appointed under subsection (1) for the hearing of the case or on such other date, if any, to which such hearing may be adjourned under subsection (2), the court shall hear and determine the issues raised and give judgment thereon, notwithstanding anything to the contrary in any written law other than the Constitution.

Issue and execution of writ for delivery of possession.

19F. (1) If any occupier upon whom an order nisi has been served under this Part, does not appear on the date specified in such order or on such other date, if any, to which the hearing may be adjourned under this Part or, having appeared fails to show good and valid cause why he should not deliver possession as required by section 19c of the building specified in the order and depart from the land or premises on which it is situated together with his dependants and every other person occupying such land or premises or any portion thereof; or where the Court has given judgement under section 19E (3) against the occupier the order nisi shall be made absolute, and the court shall forthwith issue, and if need be reissue, a

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writ of possession to the Fiscal requiring and authorising him before a date specified in the writ not earlier than two calendar months and not later than two calendar months from the date of the issue of such writ, to deliver possession of the building to the landlord or to any other person appointed in writing by the landlord for the purpose and to eject from the land or premises no which the building is situated the occupier, his dependants and every other person occupying such land or premises or any portion thereof :

Provided, however, that where the court is satisfied that it is expedient for any reasonable cause as hereinafter defined that the issue of the writ should be postponed, the court may direct that such writ shall not be issued unless the occupier fails to deliver possession of the building and to depart from such land or premises together with his dependants and every other person occupying such land or premises or any portion thereof before a date specified in that behalf by the court.

(2) In the preceding provision, "reasonable cause" means—

(a) the illness of the occupier or any of his dependants ; or

(b) the failure of the landlord in any case referred to in subsection (2) of section 19c to pay any wages lawfully due to the occupier or to grant him any benefits or privileges to which he is entitled under any other written law to receive from the landlord in his capacity as an employer ; or

(c) the failure of the landlord in that capacity to issue to the occupier any discharge certificate or identification certificate which should properly be given to him ; or

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(d) the failure of the landlord in any case where the building is made available for occupation on terms enabling the occupier to become the owner after making a certain number of specified payments, to repay to the occupier any sum for the repayment of which provision is made in the event of the termination of his occupation in the agreement entered into between the landlord and the occupier.

Recovery
of rent.

19c. (1) Where the occupier makes default in the payment of rent or other payment payable in respect of the building, the landlord may issue a certificate stating the amount due as rent or other payment and the name and place of residence of the occupier, to the Magistrate having jurisdiction in the division in which the building is situate. The Magistrate shall, thereupon, summon the occupier before him to show cause why further proceedings for the recovery of the amount due as rent or other payment should not be taken against him and in default of sufficient cause being shown, the amount due as rent or other payment shall be deemed to be a fine imposed by a sentence of the Magistrate on such occupier for an offence punishable with fine only and not punishable with imprisonment and the provisions of subsection (1) of section 291 (except paragraph (a), (d) and (i) thereof) of the Code of Criminal Procedure Act, No. 15 of 1979, relating to default of payment of a fine imposed for such an offence shall thereupon apply and the Magistrate may make any direction which by the provisions of that subsection, he could have made at the time of imposing such sentence.

(2) The landlord's certificate shall be prima facie evidence that the amount specified therein is due as rent or other payment for the building.

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(3) Every sum recovered by court under this section shall be paid to the landlord.

(4) Nothing in subsections (2) to (5) of section, 291 of the Code of Criminal Procedure Act, No. 15 of 1979, shall apply to any case referred to in subsection (1) of this section.

(5) In any case referred to in subsection (1) in which the occupier is sentenced to imprisonment in default of payment of the fine deemed by that section to have been imposed on him, the Magistrate may allow time for the payment of the amount of that fine or direct payment of that amount to be made in instalments.

(6) Where a Magistrate directs under subsection (5) that a payment be made in instalments and default is made in the payment of any one instalment, proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(7) Proceedings for the recovery of any amount due as rent or other payment may be instituted by the landlord or any person authorized in that behalf by the landlord and the landlord or such person may notwithstanding anything to the contrary in any other written law, conduct such proceedings.

Appeal.

19A. (1) Any person who is dissatisfied with an order under section 19E (3) or 19F (1) by a Magistrate's Court may before the expiry of a period of fourteen days from the date of such order, appeal to the Court of Appeal against such order.

(2) Sections 321, 322. (1), 322 (2), 324, 325, 326, 328 (c), 329 and 330 of the Code of Criminal Procedure Act, No. 15 of 1979 shall, *mutatis mutandis*, apply to the presenting and hearing of an appeal under this section.

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Provisions of this Act to apply exclusively in all sections for ejection from buildings to which this Part applies.

19J. No action for the recovery of possession of any building to which this Part applies or for the ejection of the occupier from the land or premises in which the building is situated, shall be taken except under the provisions of this Part.

Stamp duties.

19K. For the purpose of the application of the provisions of the Stamp Duty Act, No. 43 of 1982, in respect of proceedings under this Part and of the provisions of the Civil Procedure Code in respect of costs and charges, proceedings under this Part shall be deemed to be a money case of the value of fifty rupees, and an application under section 19D shall be deemed to be a Civil proceeding for the recovery of a debt of that value.

Certificate by the Chairman of the Authority.

19L. A certificate under the hand of the Chairman of the Authority to the effect that the Authority has entered into a joint venture agreement with the person referred to in the certificate for the purpose of carrying out a development project or scheme, approved by the Government, and that the building referred to in the certificate was constructed by such person in pursuance of such agreement and stating the name of the Chief Executive of such joint venture, shall be admissible in evidence in any legal proceedings under this Part and shall be prima facie evidence of the facts stated therein."

4. The amendment made to the principal enactment by section 2 of this Act shall be deemed for all purposes to have come into operation on November 12, 1979.

Retrospective effect.