

**¹THE ALIENATION OF LAND (DISTRESSED
CIRCUMSTANCES) (RESTORATION)
ORDINANCE, 1976**

ORDINANCE NO. XXVIII OF 1976

[29th April, 1976]

An Ordinance to provide for the restoration of agricultural lands transferred for reasons of economic distress.

WHEREAS it is expedient for the restoration of agricultural lands transferred during the period of economic distress for reasons of such distress;

NOW, THEREFORE, in pursuance of the proclamations of the 20th August, 1975, and 8th November, 1975, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:-

Short title

1. This Ordinance may be called the Alienation of Land (Distressed Circumstances) (Restoration) Ordinance, 1976.

Definitions

2. In this Ordinance, unless there is anything repugnant in the subject or context,-

- (a) “agricultural land” means land which is used for purposes connected with agriculture or horticulture and includes a homestead as defined in the State Acquisition and Tenancy Act, 1950 (E.B. Act XXVIII of 1951);
- (b) “authorised Officer” means any officer authorised by the Government;
- (c) “period of economic distress” means the period commencing the 1st April, 1974, and ending the 31st day of December, 1974; and
- (d) “transferee”, in relation to a land in respect of which the application for restoration has been made under section 4, includes, if the land is in possession of any person other than the transferee, such person.

¹ The Ordinance was declared void and non est by the Appellate Division of the Supreme Court of Bangladesh in Civil Petition for leave to Appeal Numbers 1044 and 1045 of 2009 and subsequently the Ordinance has been made effective as an Act of Parliament by ১৯৭৫ সালের ১৫ আগস্ট হইতে ১৯৭৯ সালের ৯ এপ্রিল তারিখ পর্যন্ত সময়ের মধ্যে জারীকৃত কতিপয় অধ্যাদেশ কার্যকরণ (বিশেষ বিধান) আইন, ২০১৩ (২০১৩ সনের ০৬ নং আইন), ধারা ৪।

3. (1) Notwithstanding anything contained in any other law for the time being in force, all agricultural lands transferred by sale for consideration during the period of economic distress for reasons of such distress shall, on application made in this behalf, be liable to be restored to the transferor with the provisions of this Ordinance.

Liability to
restoration of
alienated land

(2) For the purpose of this Ordinance, transfer of agricultural land within the period of economic distress shall be deemed to have been made for reasons of such economic distress if the transferor and the members of his family do not in the aggregate own, after the transfer, more than three acres of such land.

(3) For the purpose of this section, "family", in relation to a transferor, includes his wife, son, unmarried daughter, but does not include an adult and married son who has been living in a separate mess independently of his parents continuously for five years, and the wife, son and unmarried daughter of such son.

4. (1) A person who seeks restoration of agricultural land transferred by him during the period of economic distress for reasons of such distress may, within a period of six months from the commencement of this Ordinance, make an application to the authorised officer for the restoration of the land so transferred stating therein-

Procedure for
restoration

- (a) the name of the transferee and, if such land is in possession of any person other than the transferee, the name of that person;
- (b) the date of transfer;
- (c) the amount of consideration of such land.

(2) Upon receipt of an application under sub-section (1), the authorised officer shall, if he is satisfied after giving the transferee an opportunity of being heard that the land to which the application relates is liable to be restored under section 3, by order in writing,-

- (a) direct the transferee to restore the land to the applicant and do such other acts that may be necessary for effective restoration as may be specified in order; and

- (b) for the purpose of payment to the transferee direct the applicant to pay in such manner as may be specified in the order,-
- (i) one-sixth of the amount of consideration for which the land was transferred by the applicant in cash, by date specified in the order; and
 - (ii) the remaining five-sixths of the said amount of consideration together with interest on such amount at the rate of six and one-fourth per cent *per annum* from the date of the receipt of the amount by the applicant on account of the transfer of the land less the sum determined by the authorised officer of the net income, if any, derived from the land by the transferee, by five annual equal instalments:

Provided that the first of the aforesaid instalments shall be payable on a date not later than the first day of *Baishakh* next following the date of the order.

Effect of order for the restoration

5. (1) When the authorised officer makes an order under sub-section (2) of section 4 restoring any agricultural land, such order shall take effect on the 1st day of *Baishakh* next following the date of the order.

(2) If, on or before the date on which an order under sub-section (2) of section 4 takes effect, the land to which the order relates has not been restored as required by the order, the authorised officer may, on his motion, and shall, on the application of such person, restore the land to the applicant by evicting the person in possession of the land, and for such eviction the authorised officer may use such force as may be necessary.

Recovery of sums as a public demand

6. Any sum payable under an order made under sub-section (2) of section 4 shall be recoverable as a public demand.

Prohibition of alienation

7. No person to whom any agricultural land has been restored by an order under sub-section (2) of section 4 shall, as long as there remains unpaid any sum payable by such person under the order made under that sub-section, transfer or create

any charge upon such land or any portion thereof and, notwithstanding anything contained in any other law for the time being in force, any transfer made or charge created shall be void.

8. An appeal against an order passed by the authorised officer under this Ordinance, if preferred within thirty days of the date of such order, shall lie to the ¹[Assistant Judge] having territorial jurisdiction and the order of the ²[Assistant Judge] on such appeal shall be final. Appeal

9. Except as provided in section 8, any order passed, any action taken or anything done under the provisions of this Ordinance shall not be called in question in any court. Jurisdiction of court barred

¹ The words "Assistant Judge" were substituted for the word "Munsif" by section 3 of the Civil Courts (Amendment) Act, 1987 (Act No. XIV of 1987).

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