

The 7th January 1956

No.LJL.78/55/30.—The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

(Received the assent of the Governor on the 7th January 1956)

ASSAM ACT III OF 1956

THE ASSAM URBAN AREAS RENT CONTROL ACT, 1955

(Passed by the Assembly)

[Published in the *Assam Gazette*, dated the 11th January 1956]

An Act

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

Preamble.—Whereas it is expedient to restrict temporarily the increase of rents of houses situated within the limits of urban areas in Assam including Cantonments.

It is hereby enacted in the Sixth Year of the Republic of India as follows :—

1. **Short title, extent, commencement and duration.**—(1) This Act may be called the Assam Urban Areas Rent Control Act, 1955.

(2) (a) It extends to all urban areas in Assam including Cantonments as defined in the Cantonments Act, 1924 (Act II of 1924); provided that nothing in this Act shall prohibit the Officer Commanding the Station to appropriate any premises under the Cantonments (House Accommodation) Act, 1923 (Act VI of 1923).

(b) The State Government may by notification in the Official Gazette extend it also to all such areas as are declared town lands under rule 64(a) of Settlement Rules under the Assam Land and Revenue Regulation, 1886 (Regulation I of 1886) or the Assam Land Revenue Reassessment Act, 1936 (Assam Act VIII of 1936).

(3) It shall come into force at once and shall remain in force for 10 years from the date of its enforcement.

Provided that the expiration of this Act shall not render recoverable by a landlord any rent, interest or other sum which during the continuance thereof was irrecoverable or affect the right of the tenant to recover any sum which during the continuance thereof was under this Act recoverable by him.

2. **Definitions.**—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, ground 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, but does not include any premises belonging to State Government or Central Government or a Local Authority;

(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 but does not include State Government or Central Government or a Local Authority ;

(iv) "standard rent" in relation to any house means the average monthly rent actually paid by any tenant for the house over a period of twelve months from the first day of January 1946 to the thirty-first day of December 1946 ;

(v) "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 ;

(vi) "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 (Assam Act I of 1923) and includes a Cantonment as defined in Cantonments Act, 1924 (Act II of 1924).

3. **Fair Rent.**—(1) 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 standard rent.

(2) If at any time, after the thirty-first day of December 1946, any addition, improvement or alteration (not being repairs within the meaning of the provisions of Section 7 below) has been effected in respect of the house at the landlord's expense, then the landlord shall be entitled to charge an increase per month over the standard rent, not exceeding one-twelfth of the seven and half per cent, per annum of the cost of such addition, improvement or alteration, with effect from the date on which the addition, improvement or alteration was completed.

(3) If it is not possible in any particular case to determine the standard rent of the house, or if the construction of the house was not completed before the thirty-first day of December 1946, then the monthly rent for such house shall be an amount equal to one-twelfth of the seven and half per cent, per annum of the cost of construction of the house.

4. **Procedure for determination of fair rent.**—(1) If any dispute arises regarding the rent payable in respect of any house, it shall be determined by the Court.

(2) The Court shall, on application made by either the landlord or the tenant, issue notice on both the parties, and after making such enquiry as it thinks fit determine the monthly rent for the house in accordance with the provisions of section 3 above, and the rent so determined shall be binding on both the parties.

(3) Where the Court determines the monthly rent for any house under this section, it shall do so for the house in an unfurnished state, but it may allow the landlord to charge an additional amount per month on account of the furniture included in the house ;

Provided that such additional amount shall not exceed one-twelfth of seven and half per cent, per annum of the cost of such furniture on the date on which the Court determines the monthly rent for the house.

Explanation.—Where the rent is charged by the landlord or actually paid by the tenant 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 is charged or actually paid.

5. Refixing of fair rent.—(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 both the parties and after making such enquiry as it thinks fit, refix the rent of the house and the rent so refixed shall be binding on both the parties.

(2) Any increase in monthly rent allowed under sub-section (1) of this section shall not exceed one-twelfth of 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.

6. Bar against passing and execution of decree and orders for ejection.—(1) No order or decree for the recovery of possession of any house shall be made or executed by any Court 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 108 of the Transfer of Property Act, 1882 (Act IV of 1882), or to the spirit of the aforesaid clauses in areas where the 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 *bonafide* 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, or

(d) where the tenant sublets the house or any part thereof or otherwise transfers his interests in the house or any part thereof without permission in writing from the landlord, or

(e) where the tenant has not paid the rent lawfully due from him in respect of the house ; or

(f) where the tenant has built, acquired, or been allotted a suitable residence.

(2) The fact 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 *bonafide* 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 may, 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 (Act V of 1908), and to be capable of execution as such under the provisions of that Code.

(5) Where the landlord refuses to accept the lawful 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, and on receiving such deposit, the Court shall cause a notice of the receipt of such deposit to be served on the landlord, 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 clause (e) of the proviso to sub-section (1) of this section.

7. Duties of landlords.—Every landlord shall be bound to keep wind proof and water proof any house which is in occupation of a tenant 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 arrangement, water-supply, supply of electricity or drainage service in respect of the house.

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

8. Notice on landlord to perform duties.—(1) If the landlord neglects to make such repairs or to maintain such existing essential supplies and services as he is bound to do under the provisions of section 7 above, the Court may, on the application of the tenant, direct the landlord by notice to appear before it and to show cause against the application of the tenant.

(2) If the landlord fails to show sufficient cause, the Court may direct him to make such repairs or as the case may be, to take such measures for the restoration of the essential supplies and services as contemplated in section 7 within a period fixed by the Court.

(3) If the landlord fails or neglects to make such repairs or take such measures within the period fixed by the Court, the Court may on application of the tenant permit the tenant to make such repairs or take such measures, as the case may be, at a cost not exceeding the amount determined by the Court after taking such evidence as it may consider necessary; and it shall thereafter be lawful for the tenant to make such repairs or take such measures and to deduct the cost thereof from the rent or to recover the amount from the landlord through the Court by execution, and for the purpose of this sub-section the order of the Court shall be treated as a decree of a Civil Court.

9. Appeals.—A landlord or a tenant aggrieved by any decision or order of the Court under the provision of sections 4, 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 ejectment of the tenant from the house and such appellate court's decision shall be final.

10. Rules.—The State 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.

11. **Previous decisions orders, etc., to continue.**—Notwithstanding the expiration of the Assam Urban Areas Rent Control Act, 1949 (Assam Act XIII of 1949), any decision given, order made or anything done or any action taken or any proceedings commenced under any of the provisions of the said Act and in force immediately before the commencement of this Act shall, in so far as they are not inconsistent with the provisions of this Act, continue in force and shall be deemed to have been given, made, done, taken, or commenced under the corresponding provisions of this Act.

J. C. MEDHI,
Secy. to the Govt. of Assam, Leg. & Judl. Deptt

...