

THE PROVINCIALY ADMINISTERED TRIBAL AREAS SKIING CUM-
TOURIST RESORT PROJECT (CONTROL ON MUSHROOM CONSTRUCTION
AND PREVENTION OF SPECULATION IN LAND) REGULATION, 1983.

N.-W. F. P. REGULATION NO. 1 OF 1983.

[07 JUNE, 1983].

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A
REGULATION

to control construction on land and their alienation in the Skiing-cum-Tourist Resort Project Area in Malam Jabba.

WHEREAS Government contemplates to commence the Preamble. execution of a Skiing-cum-Tourist Resort Project at Malam Jabba in Swat District in order to conserve and utilize to the best advantage the aesthetic beauty of the area for the purpose of attracting picnickers and the lovers of the game of skiing;

AND WHEREAS considerable purchases of land of speculative character are likely to be made in the area;

AND WHEREAS it is necessary that Government should control the area, the construction of buildings thereon and the alienation of land;

AND WHEREAS the Governor of a Province, with the prior approval of the President, may with respect to any matter within the legislative competence of the Provincial Assembly, make regulations for a Provincially Administered Tribal Area or any part thereof;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, and in exercise of all powers enabling him in that behalf, the Governor of the North-West Frontier Province, with the prior approval of the President, is pleased to make the following Regulation:

1. (1) This Regulation may be called the Provincially Short title, extent Administered Tribal Areas Skiing-cum-Tourist Resort Project (Control 24 on Mushroom Construction and Prevention of Speculation in Land commencement.

Regulation, 1983.

(2) _ It shall extend to such areas and villages in Swat District as Government may, from time to time, by notification in the official

Gazette, specify.

(3) — It shall come into force at once.

2. In this Regulation unless the context otherwise requires,— Definitions.

(a) "alienation" includes sale, mortgage, lease, gift and exchange, but shall not include alienation of land in lieu of dower;

(b) "Collector" means a Collector appointed under section 3;

(c) "Commissioner" means the Commissioner, Malakand Division;

(d) "Government" means the Government of the North-West Frontier Province;

(e) "prescribed" means prescribed by rules made under this Regulation;

(f) "project area" means the areas and villages to which this Regulation for the time being extends; and

(g) "project land" or "land" means land in the project area.

3. (1) Government may, by notification in the official Gazette, Appointment

appoint, either by name or by designation Collector for the project area. of Collector, his status and

duties.

(2) The Collector so appointed shall perform such duties and exercise such powers as may be prescribed.

(3) The Collector and every member of his staff appointed to assist him shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act V of 1860).

4. No person shall construct any building within two miles of the Baron — project area: provided that the Commissioner may, on application, if constuction. satisfied that the building is of such a design that it will not effect the

beauty of the area, allow the construction on such conditions as he may deem fit to impose.

5. No person shall alienate any land in the project area until the Bar on expiry of fifteen years from the commencement of this Regulation; @lienation of provided that the Commissioner may, on application, if satisfied that Project land. there are sufficient grounds for doing so, permit the land to be alienated

before the expiry of the said period on such payment to Government

and subject to such condition as the Commissioner may determine or deem fit to impose.

6. (1) ~~ No alienation of any land in the project area made by any Annulment of owner, his agent, assignee or attorney on or after the first day of May, certain 1980, and until the commencement of this Regulation shall be effective alienation.

so as to confer any right or remedies on the party to such transfer or

any person claiming under him unless such transfer is proved to the satisfaction of the Collector, to be bona fide, for a reasonable consideration and not speculative in character.

(2) _ Every such alienation shall be speculative in character—

(a) — 1f made in favour of a non-resident of the revenue estate concerned, irrespective of the area of the land involved, or

(b) if made in favour of a resident of the revenue estate concerned, when the total area involved is more than five kanals of irrigated land or more than ten kanals of un-irrigated land.

(3) | Upon the commencement of this Regulation or upon the determination of issues under clause (1), as the case may be, the alienated land shall immediately vest in Government.

(4) | Government shall pay such consideration to the alienee as may be determined by the Collector.

(5) The Collector shall, after hearing the alienor and the alienee and after making such inquiry as he may deem fit, determine the consideration, and while doing so, he shall be guided by the principles laid down in clause (2) of section 7.

(6) Upon an application made to the Collector, and upon deposit of such consideration in favour of the Government or in favour of the alienee, as the case may, be within a period of two years from the date of order under clause (5), the Collector shall order and the Government shall transfer the alienated land to the alienor.

Explanation 1—For the purpose of this Regulation, the expression "consideration" means—

(a) incase of sale, sale price;

(b) in case of lease or mortgage, the lease or mortgage money; and

(c) incase of exchange, the market price of the land.

Explanation III—For the purpose of this Regulation, the expression "alienor" means the person who was owner of the alienated land before the first day of May. 1980.

7. (1) — The Collector shall value all lands in the project area at the prevailing market rate.

(2) For the purpose of determining the value of land, the Collector shall consider the following among other matters as evidence of such value:—

(a) _ the price or value actually received by the vendors from the vendees in the sale of the project lands during the year of transaction;

(b) the estimated amount of the average annual net assets of the land;

(c) the land revenue, if any, assessed upon the land; and

Valuation of land
in the project area.

(d)

the value of the land as shown in mortgages during the year of transaction.

(3) Subject to the provisions of section 8, valuation of land fixed by the Collector shall be final.

8. Government may revise the value of any land fixed by the Collector under section 7 and fix any other valuation of land as it deems fit, in which case the value fixed by Government shall be final.

9. Government may, at any time, within fifteen years from the commencement of this Regulation, revalue the lands in the project area, which valuation shall not in any case be less than hundred percent above the valuation fixed under section 7 or section 8, as the case may be, and valuation so fixed shall be final.

10. The difference which is found in revaluation between the first valuation under section 7 or section 8, as the case may be, and second valuation under section 9 shall be a debt which the owners of the land for the time being shall be deemed to owe to Government and on demand shall be liable to pay this debt in five equal annual installments to Government.

11. The debt or part of the debt due from the owner of the land shall be recovered as an arrear of land revenue.

12. (1) | Any person owning any land in the project area shall, on demand made by Government by notice in writing within fifteen years from the commencement of this Regulation, be bound to sell the land or part of the land, as the case may be, at the price mentioned in the notice.

(2) Government may dispose of any project land which it owns or which it acquires by purchase, in any manner it thinks fit.

13. Any alienation of project land made by a person against the provisions of this Regulation shall be null and void and shall not confer any right or remedies on the parties to such alienation or any person claiming under them.

Power of
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Difference
between the two
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Alienation made of contravention of the Regulation to be null and void.

14. | Government or the officer appointed by it in that behalf may, at any time either suo moto or on application, call for and examine the records relating to any order passed or proceedings taken under this Regulation by any authority or office, for the purpose of satisfying itself or himself as to the legality, regularity or propriety of such order or proceedings and may pass such order in regard thereto as it or he may think fit.

15. (1) Any valuation of land by the Collector or revision of such valuation or revaluation by Government or any order passed by Government or any authority or officer under this Regulation shall not be called in question in any civil, revenue or criminal Court.

(2) No suit or other proceeding shall lie against Government for anything done or purported to be done under this Regulation or any rule made thereunder.

(3) No suit, prosecution or other proceeding shall lie against any officer or servant of Government for any act done or purported to be done by such officer or servant under this Regulation or any rule made thereunder, without the previous sanction of Government.

(4) No suit, prosecution or legal proceeding shall lie against any officer or servant of Government for anything which is in good faith done or purported to be done in pursuance of this Regulation or any rules made thereunder.

16. (1) Government may make rules to carry out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the opening and maintenance of a common register for the project area, showing the owner-ship, and changes in the ownership of lands therein and any other particulars which may be deemed necessary;

(b) the penalties which may be imposed for contravention of any of the provisions of this

Power to
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Regulation and the authority which may impose such penalties, provided that penalty shall not, in any one case, exceed one thousand rupees; and

(c) generally regulating the procedure to be followed and the forms to be adopted in proceeding under this Regulation fixing the time within which such proceeding shall be initiated.

(3) All rules made under this section shall be published in the official Gazette.

17. If any difficulty arises in giving effect to the provisions of this Regulation, Government may, as occasion may require, by order do anything which appears to it necessary for the purpose of removing the difficulty.

18. Nothing in this Regulation shall apply to the acquisition of land—

(a) at a sale held by any civil, revenue or criminal Court in execution of a decree or order; or

(b) by, Government or by an Agricultural Development Bank ; or

(c) at a sale conducted under any law for the time being in force for recovery of any revenue due to Government or of any sum recoverable as an arrear of land revenue; or

(d) by exchange in accordance with any scheme made or approved by Government:

Provided that in cases falling under clauses (c) and (d) the Court which, or the officer who, ordered the land to be sold, may of its or his own motion or on the application of Government or any party to the proceedings, set aside the sale, if the court or officer is satisfied that the sale was a collusive transaction or was made with a view to defeat or evade the provisions of this Regulation.

19. Any person who obstructs or abets obstructions to the execution of the project shall be liable to imprisonment for a term

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of difficulties.

Savings.

Punishment for
obstruction in the
execution of the

which may extend to one year or fine or both. project.

20. The provisions of this Regulation shall take effect Effect on other notwithstanding anything contained to the contrary in any other law for @ctments. the time being in force.