

THE 'KHYBER PAKHTUNKHWA GOMAL ZAM PROJECT

(CONTROL AND PREVENTION
OF SPECULATION IN LAND)
ORDINANCE, 1971.

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THE *KHYBER PAKHTUNKHWA GOMAL ZAM PROJECT (CONTROL
AND PREVENTION
OF SPECULATION IN LAND)
ORDINANCE, 1971.

Peshawar, 22nd December, 1971.

AN
ORDINANCE

to control the lands and their alienation in the Gomal Zam Project Area.

WHEREAS Government contemplate to commence the execution of the Gomal Zam project in order to conserve and utilize to the best advantage the waters of the Gomal River;

AND WHEREAS considerable purchases of land which are of speculative character have been made or are likely to be made in the area which is to be irrigated when the project is complete;

AND WHEREAS it is necessary that Government should control the areas as well as the alienations;

NOW, THEREFORE, in pursuance of the Martial Law Proclamation of 25th March, 1969, read with the Provisional Constitution Order, and in exercise of all powers enabling him in that behalf, the Governor of the *Khyber Pakhtunkhwa is Pleased to make and promulgate the following Ordinance:-

1. (1) This Ordinance may be called the "Khyber Pakhtunkhwa Gomal Zam Project (Control and Prevention of Speculation in Land) Ordinance, 1971.

(2) It shall extend to such areas and villages in Dera Ismail Khan District as Government may, from time, by notification in the official Gazette, specify.

(3) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires, the following

expressions shall have the meanings hereby respectively assigned to them, that is to say-

1 Subs. Vide the Khyber Pakhtunkhwa Act, IV of 2011.

? Subs. Vide the Khyber Pakhtunkhwa Act, IV of 2011.

5 Subs. Vide the Khyber Pakhtunkhwa Act, IV of 2011.

4 Subs. Vide the Khyber Pakhtunkhwa Act, IV of 2011.

Preamble

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Definitions.

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

(b) "Commissioner" means the Commissioner, Dera Ismail Khan Division;

(c) "Government" means the Government of the 'Khyber Pakhtunkhwa';

(d) "project area" or means the area consisting of the villages or portion of villages or areas notified by Government under sub-section (2) of section 1;

(e) "project land" or "land" means land in such area;

(f) "prescribed" means prescribed by rules made under this Ordinance.

3. (1) Government may, by notification in the official Gazette, appoint, either by name or by designation, a Collector for the project area.

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

(3) Every such Collector and every member of his staff appointed to assist him shall be deemed to be 'public servant' within the meaning of section 21 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

4. No person shall alienate the project land from the commencement of this Ordinance until the expiry of fifteen years after such date as may be notified by Government as the date on which water from the Gomal Zam Project is made available for the irrigation of the land:

Provided that the Commissioner may, on application if satisfied that there are sufficient grounds for doing so, permit the land to be alienated before the expiry of the above said period, on such payment to Government and subject to such conditions as the Commissioner may deem fit to impose.

5. (1) No alienation of any land in the project area made by any owner, his agent, assignee or attorney on or after the first of January, 1966, and until the commencement of this Ordinance, shall be effective 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 price and not speculative in character.

(2) Every such alienation shall be speculative in character-

1 Subs. Vide the Khyber Pakhtunkhwa Act, IV of 2011.

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- (a) if 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 one hundred (100) Kanals of irrigated land or more than two hundred (200) Kanals of unirrigated land.

(3) Upon the commencement of this Ordinance or upon the determination of issues under sub-section (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) Government shall pay such consideration to the alienee and after making such inquiry as he may deem fit, determine the consideration, and while doing so shall also be guided by the principles laid down in sub-section (2) of section 6.

(6) Upon an application made to the Collector and upon deposit of such consideration in favour of Government or in favour of the alienee, as the case may be within a period of two years from the date of the order under sub-section (5), the Collector shall order and Government shall transfer the alienated land to the alinor.
Explanation-1 The expression "consideration" used in this section means-

- (i) in case of sale, sale price;
- (ii) in case of lease or mortgage, the lease or mortgage money;
- (iii) in case of exchange, the price of such land.

Explanation-II For the purpose of this section "alienor" means the person who was owner of the alienated land before the 1st day of January, 1966.

6. (1) The Collector shall value all lands in the project area at the average price of such land prevailing during the five years commencing from the first of January, 1956 and ending with 31st of December, 1960.

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

- (i) the price or value actually received by the vendors from the vendees in the sale of project lands during the said five years;
- (ii) the estimated amount of the average annual net assets of the land;

Valuation of
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Project area.

(iii) the land revenue assessed upon the land; and
(iv) the value of lands as shown in mortgages during the said five years.

(3) Subject to the provisions of the next succeeding section, valuation fixed by the Collector shall be final and shall not be called in question in any civil, revenue or criminal Court.

7. Government may revise the value of any land fixed by the Collector under section 6 and fix any other valuation of such land as it deems fit, in which case the value fixed by Government shall be final and shall not be questioned any civil, revenue or criminal Court.

8. Government may, at any time, within fifteen years after such date as may be notified in the official Gazette as the date on which water from the Gomal Zam Project is made available for the irrigation of the land, revalue the lands in the project area, which valuation shall not in any case be less than case may be, and valuation so fixed shall be final and shall not be called in question any civil, revenue or criminal Court.

9. The difference which is found in re-valuation between the first valuation under section 6 or section 7 as the case may be, and second valuation under section 8 shall be 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.

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

11. (1) Any person owing any land in the project area shall, on demand made by Government by notice in writing within fifteen years from the commencement of this Ordinance, 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.

12. Any alienation or project land made by a person against the provisions of this Ordinance 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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to Revise
valuation.

Power of
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to reevaluate
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Difference
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13. 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 proceeding taken under this Ordinance by any authority or officer, for the purpose of satisfying itself or himself as to the legality, regularity or propriety of such order or proceeding and may pass such order in regard thereto as it or he may think fit.

14. No order passed by Government or any authority or officer under this Ordinance shall be called in question in any civil, revenue or criminal Court.

15. (1) No suit 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 Ordinance or any rule made thereunder.

(2) 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 Ordinance or any rule made thereunder, without the previous sanction of Government.

(3) 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 Ordinance or any rules made thereunder.

16. (1) Government may take rules to carry out the purposes of this Ordinance.

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

(a) all matters expressly required or allowed by this Ordinance to be prescribed;

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

(c) the penalties which may be imposed for contravention of any of the provisions of this Ordinance and the authority which may impose such penalties, provided that penalty shall not in any one case exceed one thousand rupees;

(d) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Ordinance and fixing the time within which such proceedings shall be initiated.

be null and void.

Power of Government to call for and examine the records.

Finality of

Orders.

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proceedings.

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make rules

(3) All rules made under this section shall be published in the official Gazette and upon such publication shall have effect as if enacted in this Ordinance.

17. If any difficulty arises in giving effect to the provisions of this Ordinance, 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 Ordinance 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 a person under provisions of Displaced Persons (Land Settlement) Act, 1958 (Act XVLVII of 1958), or any scheme made thereunder; or

(c) by Government or by an Agricultural Development Bank;

(d) at a sale conduct 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

(e) by exchange in accordance with any scheme made or approved by Government;

Provided that in cases falling under clause (d) and clause (e) 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 Ordinance.

19. Any person which obstructs or a bets obstruction to the execution of the project shall be liable to a term of imprisonment which may extend to one year or fine or both.

20. The provisions of this Ordinance shall take effect notwithstanding anything contained to the contrary in any other enactment for the time being in force.

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for Obstructi
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evacuation
of the
project.

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