



**The Gujarat Vacant Lands In Urban Areas (Prohibition of Alienation) Act,
1972**

Act 12 of 1972

Keyword(s):

City, Collector, Compact Block, Municipal Borough, Trust, Urban Area, Vacant Land

Amendments appended: 24 of 1973, 10 of 1974

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PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature having been assented to by the President on the 11th August, 1972 is hereby published for general information.

R. C. MEHTA,
Deputy Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 12 OF 1972.

(First published, after having received the assent of the President in the Gujarat Government Gazette on the 12th August, 1972.)

An Act to prohibit alienation of certain vacant lands in urban areas in the State of Gujarat.

It is hereby enacted in the Twenty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force at once.

Short title,
extent,
commence-
ment and
duration.

(4) It shall remain in force for a period of one year and upon its expiry section 7 of the Bombay General Clauses Act, 1904 shall apply as if it had then been repealed by a Gujarat Act.

Declaration
as to giving
effect to
certain
Directive
Principles.

2. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clauses (b) and (c) of article 39 of the Constitution of India.

Definitions.

3. In this Act, unless the context otherwise requires—

(a) "appointed day" means the date of the coming into force of this Act;

(b) "City" means a City as constituted under the Bombay Provincial Municipal Corporations Act, 1949;

(c) "Collector" means the Collector having jurisdiction in the urban area concerned and includes an Additional Collector and an Assistant or Deputy Collector performing the duties and exercising the powers of a Collector under the Bombay Land Revenue Code, 1879;

(d) "compact block" means any block of vacant land in an urban area, exceeding one thousand square metres in extent, whether owned by one or more persons and whether or not divided by a private road, street, lane, footway, passage or drain, natural or artificial;

(e) "municipal borough" means a municipal borough as constituted or deemed to be constituted under the Gujarat Municipalities Act, 1963;

(f) "person" includes an individual, an undivided Hindu family, a trustee, a company, a society or an association of individuals, whether incorporated or not;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "trust" includes a trust created for public purposes of a charitable or religious nature;

(i) "urban area" means—

(1) any area which is comprised for the time being in a City or a municipal borough and also any such area in the vicinity thereof, within a distance, not exceeding sixteen kilometers from the local limits of the City, or as the case may be, of the municipal borough concerned, as the State Government may, having regard to the extent of and the scope for the urbanisation of that area or other relevant considerations, by a notification in the *Official Gazette*, specify in this behalf; and

(2) any other area which the State Government may, by notification in the *Official Gazette* declare to be an urban area, having regard to any

project existing in that area on the appointed day or having regard to the possibility in the near future of any project being established in that area, where any such project, in the opinion of the State Government, has led to or is likely to lead to urbanisation of that area;

(j) "vacant land" means land in an urban area, agricultural or non-agricultural, other than land on which any building has been or is being constructed in accordance with any law regulating such construction and the land appurtenant to such building, to the minimum extent required under such law or under the provisions of the Bombay Town Planning Act, 1954, or any other corresponding law for the time being in force.

Bom.
XXVII
of
1955.

Explanation.—For the purposes of this clause, any land which is vacant on the appointed day shall be deemed to be vacant land, notwithstanding that the construction of a building thereon has been commenced on or after the said day.

4. (1) No person who owns any vacant land shall, on or after the appointed day, alienate such land by way of sale, gift, exchange, usufructuary mortgage, lease or otherwise, or effect a partition or create a trust of such land; and any alienation made, or partition effected, or trust created in contravention of this section shall be null and void:

Prohibition
of aliena-
tion etc.

Provided that nothing in this sub-section shall apply to the alienation by any person of any one plot of vacant land owned by him not exceeding one thousand square metres in extent and not forming part of a compact block or to the effecting of a partition or creation of a trust of any such plot.

(2) The provisions of sub-section (1) shall apply to any sale, partition or creation of trust, of vacant land of any person in execution of a decree or order of a civil court or of any award or order of any other authority.

XVI
of
1908.

5. (1) Notwithstanding anything contained in the Registration Act, 1908—

Restrictions
on registra-
tion of
documents.

(a) no document relating to alienation of a vacant land or to partition or creation of a trust of such land shall be registered on or after the appointed day by any registering officer appointed under the said Act, unless the person presenting the document furnishes a declaration by the transferor in the prescribed form, which shall be subject to verification in the prescribed manner,—

(i) that the plot of vacant land owned by him and intended to be alienated or partitioned or as the case may be, in respect of which a trust is intended to be created does not exceed one thousand square metres in extent;

(ii) that such vacant land does not form part of a compact block; and

(iii) that no other plot of vacant land, or no plot of vacant land other than a plot to which the provisions of this Act do not apply under section 4, 6, or 7 owned by him has been alienated or partitioned on

or after the appointed day, or, that no trust has been created in respect of such plot on or after the appointed day;

(b) a document relating to alienation or partition of vacant land or the creation of any trust of any vacant land registered on or after the appointed day shall, for the purposes of section 4, take effect and operate only from the time of such registration.

Act not to
apply in
certain cases.

6. Nothing in this Act shall apply to any transfer of vacant land by or in favour of—

(a) a State Government or the Central Government or a local authority;

(b) a Government Company as defined in section 617 of the Companies Act, 1956; I of
1956.

(c) a corporation established by or under a Central, Provincial or State Act, which is controlled or managed by a State Government or the Central Government;

(d) such co-operative house building societies established for the purpose of providing housing accommodation to weaker sections of the people, as may be approved by the State Government in this behalf:

Provided that in giving such approval the State Government shall have regard to the income of the members of such societies or their social backwardness or such other considerations :

Provided further that if at any time the State Government is satisfied that the approval accorded to any society has not served the purpose for which it was accorded, it may withdraw such approval, after giving an opportunity to the society, for making a representation against the proposed withdrawal.

Power to
exempt.

7. (1) The State Government may, by a general or special order in writing and for reasons to be recorded therein, exempt any area or any alienation or other transfer of any vacant land from all or any of the provisions of this Act.

(2) The State Government may, if it considers it necessary so to do for avoiding any hardship, exempt, by an order in writing, any alienation or other transfer of any vacant land from all or any of the provisions of this Act.

(3) Subject to any rules that may be made in this behalf or to any general or special orders of the State Government, the Collector may, by order in writing, exempt any alienation or other transfer of any vacant land from the provisions of this Act in case the land is to be used for any educational, scientific, industrial or commercial purpose or for such other purpose as may be prescribed.

(4) Every order issued by the State Government under sub-section (1) or (2) and by the Collector under sub-section (3) shall be laid before the State Legislature as soon as possible after it is issued.

8. (1) Where, on or after the 1st day of July, 1972, but before the appointed day, any person has alienated, whether by way of sale, gift, exchange, usufructuary mortgage, lease or otherwise, any vacant land owned by him or has effected a partition or created a trust of any such land, then notwithstanding anything contained in any law for the time being in force, such alienation, partition, or, as the case may be, trust shall, unless it is proved to the contrary, be deemed to have been made, effected, or, as the case may be, created in anticipation in order to defeat the object of this Act or any law that may be enacted in future for imposing restrictions on holding property in excess of certain limits in urban areas (hereinafter referred to as the "ceiling law"), if such alienation, partition, or, as the case may be, trust would have been null and void under the provisions of this Act had it been made, effected, or as the case may be, created on or after the appointed day.

(2) Any person affected by the provisions of sub-section (1) may, within the prescribed period and in the prescribed form, make an application to the Collector for a declaration that the alienation, partition, or, as the case may be, trust was not made, effected, or, as the case may be, created in anticipation to defeat the object of this Act or of the ceiling law.

(3) On receipt of such application, the Collector shall hold an inquiry and after giving an opportunity to the alienator and the alienee, to the parties to the partition, or, as the case may be, to the creator of the trust and the persons interested in the trust, to be heard, by serving on them a notice in such manner as may be prescribed, and after considering the evidence which may be produced by them, decide whether the alienation, partition, or, as the case may be, trust was or was not made, effected or as the case may be, created in order to defeat the object of this Act or of the ceiling law, and accordingly may—

(i) reject the application, or

(ii) by order in writing make a declaration that the alienation, partition or, as the case may be, trust was not made, effected, or, as the case may be, created in anticipation to defeat the object of this Act or of the ceiling law.

(4) Where no such application has been made within the prescribed period, or where any such application is rejected, the vacant land in respect of which such alienation, partition, or, as the case may be, trust was made, effected, or, as the case may be, created shall, for the purposes of the ceiling law, be deemed to belong to the owner thereof to whom it belonged immediately before such alienation, partition, or, as the case may be, trust was made, effected, or, as the case may be, created, as if no such alienation, partition, or, as the case may be, trust was made, effected or, as the case may be, created, unless the ceiling law provides otherwise.

Appeal against order of collector.

9. Any person aggrieved by the order of the Collector under sub-section (3) of section 7 or sub-section (3) of section 8 may appeal to the State Government within the prescribed period and in the prescribed manner.

Bar of jurisdiction.

10. No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Collector or the State Government.

Penalty for contravention etc.

11. (1) If any person contravenes any of the provisions of this Act or the rules made thereunder or makes a declaration which he knows or has reason to believe to be false, he shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to five thousand rupees or with both.

(2) No court shall take cognizance of an offence punishable under this Act except with the previous sanction of the Collector.

Power to make rules.

12. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modifications so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

Act to override other laws.

13. The provisions of this Act shall have effect, notwithstanding anything inconsistent therewith in any other law for the time being, in force, or any custom, usage or agreement, or decree or order of a court, tribunal or other authority.



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated and Regulations made by the Governor.

The following Act of the Gujarat Legislature having been assented to by the president on the 8th November 1973 is hereby published for general information.

S. S. SHAH,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. 24 OF 1973.

(First published, after having received the assent of the President in the *Gujarat Government Gazette* on the 8th November 1973).

An Act to amend the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972 for the purposes hereinafter appearing.

It is hereby enacted in the Twenty-fourth Year of the Republic of India as follows :—

1. This Act may be called the Gujarat Vacant Lands in Urban Areas Short title. (Prohibition of Alienation) (Amendment) Act, 1973.

2. In the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972 (hereinafter referred to as "the principal Act"), in section 1, in sub-section (4), for the words "one year" the words "two years" shall be substituted.

3. In the principal Act, in section 3, —

(1) in clause (d), for the words "whether owned by one or more persons" the words "whether owned by one person or jointly by more than one person" shall be substituted.

person or owned in contiguous parts separately by one or more members of a family unit" shall be substituted;

(2) after clause (d), the following clause shall be inserted, namely :—

“(dd) “family unit” means an individual, his or her spouse and their children.”.

Amendment of section 4 of Guj. 12 of 1972. 4. In the principal Act, in section 4, in sub-section (1), for the words “usufructuary mortgage,” the words “mortgage other than simple mortgage,” shall be substituted.

Amendment of section 6 of Guj. 12 of 1972. 5. In the principal Act, section 6 shall be renumbered as sub-section (1) of that section and —

(1) in sub-section (1) as so renumbered,

(i) in clause (d)—

(a) after the first proviso, the following further proviso shall be inserted, namely :—

“Provided further that in giving such approval the State Government may impose such conditions as to the alteration in the constitution of the society, or in the number of its members, the nature of construction of houses by the society, the area of the land to be obtained and used by the society or its members and such other matters as it may think fit to impose.”;

(b) in the second proviso, for the words “Provided further” the words “Provided also” shall be substituted;

(ii) after clause (d), the following new clause shall be added, namely :—

“(e) a bank.”;

(2) after sub-section (1) as so renumbered, the following sub-section and Explanation shall be added, namely :—

“(2) Notwithstanding anything contained in sub-section (2) of section 4, nothing in this Act shall apply to the disposition by sale or other transfer of vacant land directed to be made in execution of a decree or an order of a civil court relating to the recovery of any amount due to the Government or any local authority or bank or in enforcement of any order made or any process employed by any officer or authority under any law for the time being in force for the recovery of such amount.

Explanation.—For the purpose of this section, a “bank” means —

(i) a banking company as defined in section 5 of the Banking Regulation Act, 1949 ;

Act No. 23 of 1955. (ii) the State Bank of India constituted under the State Bank of India Act, 1955 ;

Act No. 33 of 1959. (iii) a subsidiary bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959 ;

Act No. 5 of 1970. (iv) each of the corresponding new banks constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 ; and

(v) any other financial institution notified by the State Government as a bank for the purpose of this Act." .

6. In the principal Act, after section 8, the following section shall be inserted, namely :—

Insertion of new section 8A in Guj. 12 of 1972.

"8A. The State Government or the Collector may, by general or special order, call upon any person to furnish to it, or, as the case may be, him such information as would in its or, as the case may be, his, opinion be useful for, or relevant to, any of the purposes of this Act and as may be stated in such order and it shall be the duty of such person to furnish true and correct particulars relating to the information, so called for from him." .

Supply of information.

7. In the principal Act, in section 11, in sub-section (1), after the words "makes a declaration" the words "or furnishes information" shall be inserted.

Amendment of section 11 of Guj. 12 of 1972.

Guj. Ord. 3 of 1973. 8. The Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) (Amendment) Ordinance, 1973 is hereby repealed and the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904 shall apply to such repeal as if that Ordinance were an enactment.

Repeal of Guj. Ord. 3 of 1973.

Bom. I of 1904.



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PART VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 7th August, 1974.

No. 15535/B.—The following President's Act assented on the 5th August 1974,
is published for general information:—

**THE GUJARAT VACANT LANDS IN URBAN AREAS (PROHIBITION
OF ALIENATION) AMENDMENT ACT, 1974.**

[Act No. 10 of 1974]

Enacted by the President in the Twenty-fifth Year of the Republic of India.

AN ACT

*further to amend the Gujarat Vacant Lands in Urban Areas
(Prohibition of Alienation) Act, 1972.*

In exercise of the powers conferred by section 3 of the Gujarat State Legislature
11 of 1974. (Delegation of Powers) Act, 1974, the President is pleased to enact as follows:—

1. (1) This Act may be called the Gujarat Vacant Lands in Urban Areas Short title
and commen-
cement.
(Prohibition of Alienation) Amendment Act, 1974.
- (2) It shall come into force at once.

Amendment
of section 1.

2. In the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Guja-
Act, 1972, in section 1, in sub-section (4), for the words "two years" the words ^{rst Act} 12 of
"three years" shall be substituted. 1972.

V. V. GIRI,
President.

K. K. SUNDARAM,
Secretary to the Government of India.

REASONS FOR THE ENACTMENT

With a view to thwarting speculation and large scale alienation of vacant lands, intended to defeat the object of the legislation regarding imposition of ceiling on urban properties which is under consideration, the Gujarat State Legislature enacted on 12th August, 1972 the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972 (Gujarat Act 12 of 1972), prohibiting alienation, partition and creation of trusts in respect of certain vacant lands in urban areas in the State of Gujarat, pending the enactment of the aforesaid legislation. The Act came into force also on 12th August, 1972. The Act was to remain in force for a period of one year. However, as the circumstances which existed at the time of the enactment of the said Act continued to exist at the time the duration of the Act was about to expire, the duration of the Act was extended by one year by Gujarat Ordinance No. 3 of 1973 which was later on replaced by the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Amendment Act, 1973 (Gujarat Act 24 of 1973). The duration of the principal Act thus expires on 11th August, 1974. The enactment of the legislation regarding imposition of ceiling on urban properties, power with respect to which has been surrendered by the State Legislature of Gujarat to Parliament by a Resolution under article 252 of the Constitution is still likely to take some time. The circumstances that existed at the time of the enactment of the Act and at the time of its amendment last year thus continue to exist. It is, therefore, considered necessary to extend the duration of the Act by a further period of one year from 11th August, 1974. This measure seeks to give effect to the above proposal.

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1974 (11 of 1974) has been consulted before enacting this measure as a President's Act.

A. N. BANERJI,
Secretary to the Government of India,
Ministry of Works and Housing.

By order and in the name of the Governor of Gujarat,

A. M. AHMADI,
Secretary to Government.