

**THE BANGLADESH TRANSFER OF IMMOVABLE
PROPERTY (TEMPORARY PROVISIONS) ORDER, 1972**

PRESIDENT'S ORDER NO. 142 OF 1972

[20th November, 1972]

WHEREAS it is expedient to make provisions for restricting the transfer of immovable property in Bangladesh in public interest;

NOW, THEREFORE, in pursuance of the Proclamation of Independence of Bangladesh, read with the Provisional Constitution of Bangladesh Order, 1972, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:-

1. (1) This Order may be called the Bangladesh Transfer of Immovable Property (Temporary Provisions) Order, 1972.

(2) It extends to the whole of Bangladesh.

(3) It shall come into force at once.

2. In this Order, unless there is anything repugnant in the subject or context, "transfer" includes transfer by sale, exchange, gift, *heba*, will, mortgage, lease, sub-lease or any other manner of transfer or any agreement for such transfer or change of management through a power-of-attorney or otherwise, but does not include-

(i) a mortgage to the Government or to a local authority or to a Scheduled Bank or to a statutory Corporation or to a Co-operative Society, and

(ii) any transfer by the Government or any local authority.

3. Notwithstanding anything contained in any other law for the time being in force or in any contract or agreement, no transfer of any immovable property made after the commencement of this Order shall be deemed to be valid and legal unless the provisions of this Order have been complied with.

4. No document of transfer of immovable property shall be submitted for registration unless it is accompanied by an

affidavit stating the nationality of the transferor and affirming the following facts-

- (a) that the immovable property proposed to be transferred is not under attachment under the Bangladesh Collaborators (Special Tribunals) Order, 1972 (P.O. No. 8 of 1972);
- (b) that the immovable property proposed to be transferred is not an abandoned property within the meaning of the Bangladesh Abandoned Property (Control, Management and Disposal) Order, 1972 (P.O. No. 16 of 1972);
- (c) that the immovable property proposed to be transferred has not vested in, or does not stand forfeited to, the Government under any law for the time being in force;
- (d) that the proposed transfer does not contravene any provision of any other law for the time being in force;
- (e) that the proposed transfer is not liable to be void under Article 5A of the Bangladesh Land Holding (Limitation) Order, 1972 (P.O. No. 98 of 1972); and
- (f) that the immovable property proposed to be transferred has been correctly described and has not been undervalued and the applicant has transferable rights in such property.

5. No Registering Officer shall register any document of transfer of immovable property unless it is accompanied by the affidavit referred to in Article 4.

6. No person shall, without joining the Government which shall be a necessary party, file or proceed with any suit-

- (a) for the specific performance of any contract relating to the transfer of any immovable property or for declaration of title to, or assertion of ownership of, any such property,
- (b) for enforcement of mortgage security in relation to any immovable property except where the mortgagee is the Government or a local authority or a scheduled Bank or a statutory Corporation or a Co-operative Society, or
- (c) for partition of immovable property where the total area or the property involved exceeds one hundred standard bighas.

7. A transfer of immovable property in contravention of the provisions of this Order shall be null and void and the property so transferred shall stand forfeited to the Government.

Explanation.- Any wrong, incorrect or false statement made in the affidavit referred to in Article 4 or in the document of transfer or any other relevant document relating to the property shall be deemed to be a contravention of the provisions of this Order for the purpose of this Article.

8. Notwithstanding anything contained in any other law for the time being in force, if, in the opinion of the Government, any transfer of property was made under duress or was not a *bona fide* transfer for consideration, within the period from the 26th March, 1971, to the date of commencement of this Order, the Government may take such action in respect of such transfer (including the setting aside thereof) as it thinks fit and the action so taken shall not be called in question in any Court.

9. Every officer acting under this Order shall be deemed to be acting judicially within the meaning of the Judicial Officers' Protection Act, 1850 (Act XVIII of 1850).

10. Every officer acting under this Order shall have the powers of a Civil Court for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents.

11. An officer acting under this Order may, by notice, require any person to make and deliver to him a statement or to produce records or documents in his possession or control relating to any immovable property at a time or place specified in the notice and every such person shall be legally bound to do so within the meaning of sections 175 and 176 of the Penal Code (Act XLV of 1860).

12. The Government may make rules and issue instructions for carrying out the purposes of this Order.
