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Urban Land (Ceiling and Regulation) Act, 1976 & Repeal Act, 1999 and its vestiges that Persist Presently

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This article tries to relate to the rudimentary point that a Law is much more than a law. Even considering that the law was implemented for righteous reasons at the time, may serve to have an alternative or even an adverse effect as opposed to what the law was originally meant to solve, further down the path, multiple years later. A Law must serve the test of time. There are repercussions even after its abolishment and/or how it still lingers on after a repeal of the Act was brought into the legislation. Why a law must be implemented with due caution and aside from just being brought in legislation to grant immediate-future relief; long-term policy-making or law-making requires policymakers to view through the lens of a distant future while relieving current issues; perceiving, judging, and estimating changing times is crucial to forecasting the longevity and future prospects of the particular law being considered to be implemented. By taking the Urban Land (Ceiling and Regulation) Act, 1976 (ULC Act) as an example case study, this article describes its history, some provisions, and why it was implemented in the first place. How it floundered or went awry from what it intended to do? And to save face, the introduction of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. The article finishes off with how some of the principal Act's aspects still linger even today and conclusion.

Keywords: ULC act, policy-making, forecasting, longevity, repeal.

INTRODUCTION

Soon after India's independence, in the year 1951, India's first Prime Minister, **Jawaharlal Nehru**, introduced the first **five-year plan**¹ which was focused on the development of the **primary sector**.² Following years,³ India saw **rapid industrialization**, which created a massive divide between the rich and the poor as capitalism was the next course of action.⁴ The poor were left with little to no savings, becoming worse off as time went on; the bourgeoisie or the individuals with an abundance of wealth be it self-accumulated, or passed down generationally, began investing in infrastructure and constructing factories.⁵ Education was still considered a privilege at that time with a literacy rate of 28.3% in the year 1961, and 34.45% in the year 1971.⁶ Most of the poor or vulnerable civilians weren't aware of their individual position in the Indian economy, let alone having knowledge about investing and saving or a bank account for that matter.⁷

Over 61% share of the Indian labour force was employed and working in the agricultural sector while having no affordable land or the ability to buy land in a promising or developing area. The planned development in 1951 grew agricultural output at a faster rate than before,⁸ however, the benefits of such growth were not even across lands and individuals. Not only did the number of people below the poverty line fail to exhibit a decline, but an increase in the proportion of the rural population below the poverty line in the 1960s was inferred with certain

¹ Hemant Singh, 'List of all Five Year Plans of India' (*Jagran Josh*, 2021) <<https://www.jagranjosh.com/general-knowledge/list-of-all-five-year-plans-of-india-1468309723-1>> accessed 27 June 2022

² *Ibid*

³ Sofia Ranchordás (n 1)

⁴ *Ibid*

⁵ *Ibid*

⁶ Hemant Singh, 'Census 2011: Literacy Rate and Sex Ratio in India Since 1901 to 2011' (*Jagran Josh*, 2016) <<https://www.jagranjosh.com/general-knowledge/census-2011-literacy-rate-and-sex-ratio-in-india-since-1901-to-2011-1476359944-1>> accessed 27 June 2022

⁷ *Ibid*

⁸ Hemant Singh (n 5)

interpretations of the data.⁹ This is one of the reasons **The Urban Land (Ceiling and Regulation) Act, 1976**¹⁰ was introduced.¹¹

The main objective of this act (“Act”¹²) was, to bring about an equitable distribution of land (stop monopolization) in urban and emerging developing regions, to stop the well-off individuals (People, entities, and corporate companies) from occupying and eventually hoarding the land which would result in scarcity of land available for sale and finally, these individuals would have used this scarcity to control the demand and supply of land to the Indian masses. Resultant of which would be a greater divide between the well-off individuals and the labourers.¹³

THE URBAN LAND (CEILING AND REGULATION) ACT, 1976

The Indian Government went through and passed the act; it was sanctioned by many states in India, among which the act was enforced in nine agglomerations (areas/masses of land) in Maharashtra by the State Government. The Act¹⁴ was made and formulated in such a way that all the individuals who are subject to provisions under this Act have a ceiling limit (maximum limit) of vacant land that they can legally own. Many agglomerations (areas/masses of land) were divided into four categories namely “A,” “B,” “C,” and “D,” the distinction for these was made on the basis of whether the said agglomerate (area of land) falls towards being considered urban or rural. The ceiling limit on owning vacant land was set to five hundred square meters, one thousand square meters, one thousand and five hundred square meters, and two thousand square meters respectively. “A” is or representing Urban and lastly, “D” is rural. If everything went accordingly (no ongoing legal deeds and no filing of return statement/s by the respondent in due time), the State Government under sub-section (3) of section 10, was deemed to acquire the vacant land in excess of the ceiling limit and that excess land was deemed to be vested with the State Government. The State Government had to pay the person or persons from whom the

⁹ K Sundaram, ‘The Structure of the Work Force in Rural India: 1950-51-1971’ (1977) 12(1) Indian Economic Review 15-41

¹⁰ Urban Land (Ceiling and Regulation) Act 1976

¹¹ K Sundaram (n 13)

¹² Urban Land (Ceiling and Regulation) Act 1976

¹³ K Sundaram (n 13)

¹⁴ Urban Land (Ceiling and Regulation) Act 1976

vacant land was deemed to have been acquired. An amount was specified in section 11 and its relevant schedule. Valuation of the excess vacant land was made using the market rate prevailing in that particular region, at that time. An individual could check the rates of lands using a Ready Reckoner for the year and cross-check the region to determine the rate. Certain exemptions were granted by the State Government under section 20 to person/s continuing to occupy the vacant land depending on the ex-post-facto nature of this act towards ongoing construction and registrations on vacant lands. Exemptions were also granted on conditions such as if the vacant land had tenements (dwellings/flats) each such unit spanning smaller than 80 sqm and such land had been utilized for the housing purposes of the weaker sections of society. Such land was known and referred to as "exempted land."

DISTRIBUTION AND DEVELOPMENT (DELHI)

Table 1 Distribution of land to different categories in Delhi (up to March 1982)

Category	Number of plots	Area (hectares)	% of area distribution
Low Income Group	14 669	108 1	20 9
Middle Income Group	5820	109 1	21 1
High Income Group (Auction)	9570	243 9	47 1
Alternative Allotment	2950	56 2	10 9
Total	33 009	517 3	100 0

Source DDA Records, June 1982 (adapted from Sanjay Arora 1982, op cit in note 33, p 34)

Table 2 Proposed and achieved additional development in Delhi (up to February 1982)

Land Use (1)	Area to be developed (2)	Area developed (3)	Area under development (4)	Achievement % (3) of (2)
Residential	12 140	7256	805	59.8
Commercial	769	890	112	115.7
Industrial	1943	1093	162	56.3
Government, Institutions and Roads	2468	2530	30	102.5
Recreational	10 117	2562	n.a.	25.3
Total	27 437	14 331	1109	52.2

Source: DDA Records, 1982 (adopted from Sanjay Arora, op. cit. in note 33, p. 33).

Note: n.a. means data not available.

ACCUMULATED ISSUES

As time went on, the ULC Act started to falter, i.e. resulting in many cases and issues arising from it. Let's consider the case that took place in the High Court of Bombay, **Indumati R. Mulay vs V.N. Karandikar**,¹⁵ **Competent Authority (State of Maharashtra) on 26 June 1980, Shri P.J. Vaidya**, the learned Advocate appearing for the petitioner argued that the definition for "vacant land" is being ignored by Competent Authority along with other arguments relating to the unfair acquisition. The bench consisting of V Deshpande and D Mehta ruled in favor of the petitioner and quashed the order of the State Government to acquire the said vacant land. This judgment is considered as a precedent among the few U.L.C advocates, that the actions of the Competent Authority shouldn't be taken as an example for blindly surrendering the excess vacant land, but instead, the provisions of the act should be taken as fact.¹⁶

In another case of Bombay High Court, the learned Judge held that "Any structure which is in existence prior to U.L.C. Act coming into force, has to be given the benefit of plinth area, appurtenant land, and additional extent". Thus even land with old slum hutments could now get the benefit of non-vacant land. This caused an uproar as the term 'vacant land' had become a "blanket term."

¹⁵ *Indumati Mulay v VN Karandikar, Competent Authority (State of Maharashtra) Writ Petition No 1058 of 1980*

¹⁶ *Ibid*

There have been many cases where owners filed statements u/s. 6 of the U.L.C. Act¹⁷ as a matter of abundant caution, even though the land held by them did not have any vacant land. However, a prospective buyer may have been inclined to offer a little extra price to the owner for that property for which the owner had obtained a clearance from the Competent Authority u/s. 6 of the U.L.C. Act.¹⁸ The confirmed declaration that there is no vacant land at the said property may possibly fetch a little higher price in the market than similar other properties where no such statement was filed due to non-applicability. This added to the issue that urban development and the housing industry had come to a halt, and land prices had risen significantly. This provided copious opportunities for corruption to rise. It exacerbated the growth of slums, which led to the eviction of many urban poor people; this led to the regularization of slums in India.

THE URBAN LAND (CEILING AND REGULATION) REPEAL ACT 1999¹⁹

The Central Government of India saw it fit to repeal the act and thought the pending cases would cease to exist along with its repeal. **THE URBAN LAND (CEILING AND REGULATION) REPEAL ACT, 1999²⁰** was enacted and the same was adopted by The State of Maharashtra on 29 November 2007. At first, this Act came in as a relief to the landlords, the intricacies that they wanted to know about were related to “what continues and what does not continue?” The Repeal Act made it clear that the previously excess vacant land that had been vested with the State Government under sub-section (3) of section 10,²¹ was not to be given up by the State for free. Also, if payment was made as of the implementation of this Act along with validation order but the possession of which hasn't been taken yet, be it from the government to acquire the land or payment made to the State as a condition for granting of exemption order under sub-section (1) of section 20²². If such an exemption order was made, the repeal shall not affect its validation. Section 3 of the Repeal Act, for instance, the exemption scheme sanctioned under section 20(1) of the ULC Act²³ provided that the developer /land owner shall construct

¹⁷ Urban Land (Ceiling and Regulation) Act 1976, s 6

¹⁸ *Ibid*

¹⁹ Urban Land (Ceiling and Regulation) Repeal Act 1999

²⁰ *Ibid*

²¹ Urban Land (Ceiling and Regulation) Repeal Act 1999, s 10(3)

²² Urban Land (Ceiling and Regulation) Repeal Act 1999, s 20(1)

²³ *Ibid*

tenements (apartments) of smaller sizes, of under 80 sq. meters and shall hand over 15 percent of the built-up area to the Government.

The question was, whether the landlord was still bound to construct tenements of only 80 sq. meters and hand over 15 percent of the built-up area to the Government. And what would the outcome be if the landowner doesn't comply with the same? Will the Government withdraw the exemption order given to the land owner / developer and act accordingly with the provisions under the ULC Act, although it has been repealed? In the end, The Municipal Corporation refused to sanction plans for the building of tenements of larger sizes on the said exempted lands. The Competent Authority called for the extension of the exempted order, that is, the exempted vacant land must be utilized within a specified allotment of time. The ULC Repeal Act's section 4²⁴ stated that all proceedings relating to any order under the principal Act that is immediately pending before the Repeal Act's commencement before any legal authority shall abate or cease to exist.²⁵ But provided that this section won't be applicable for proceedings relating to sections 11²⁶, 12²⁷, 13²⁸, and 14²⁹ of the Principal Act as all these sections are related to the land, and its possession.

Afterward

The Hon'ble High Court at Madras in *Simpson and General Finance Co. vs State of Tamil Nadu*³⁰ held that "no proceeding can be initiated under the provisions of ULC Act after its repeal". A Full Bench judgment of the Bombay High Court came to be challenged in the Supreme Court, in the *Maharashtra Chamber of Housing Industry & Ors. v State of Maharashtra & Ors.*³¹ During the pendency of the appeal,³² the State of Maharashtra constituted a committee

²⁴ Urban Land (Ceiling and Regulation) Repeal Act 1999, s 4

²⁵ *Ibid*

²⁶ Urban Land (Ceiling and Regulation) Act 1976, s 11

²⁷ Urban Land (Ceiling and Regulation) Act 1976, s 12

²⁸ Urban Land (Ceiling and Regulation) Act 1976, s 13

²⁹ Urban Land (Ceiling and Regulation) Act 1976, s 14

³⁰ *Simpson & General Finance v The State of Tamil Nadu* WP No 19002 of 2003

³¹ *Maharashtra Chamber of Housing Industry v The State of Maharashtra* Civil Appeal No 558 of 2017

³² *Ibid*

under the leadership of retired Supreme Court justice, Shri B. N. Srikrishna³³ to explore the possibilities of imposing a one-time premium for the completion of exempted land schemes³⁴ under section 20 of the ULC Act³⁵, to suggest measures for the land exempted for agricultural use and industrial purposes, and for the redevelopment of the already constructed, on said exempted land.³⁶ The Report was submitted on 9th August 2018 and the suggestions made by the Committee in its Report were accepted by the Appellant and the State of Maharashtra.³⁷ Subsequently, a one-time premium was levied.³⁸ The Civil Appeal in the Supreme Court came to be disposed of; thereby permitting the State Government to implement the recommendations made in the Report of the Committee. Below is the deduced Schedule³⁹-

Serial No.	Category	Premium	Conditions (if any)
1	<i>Housing, Talegaon Dabhade Plotting Scheme, Agriculture, poultry, farming, gardens, etc.</i>	<i>10% of the current annual scheduled rates for the total area mentioned in the Order.</i>	<i>Tenements to be constructed on such freehold land shall not exceed 80 Square Meters (Carpet Area)</i>
2	<i>Industrial Purpose</i>	<i>15% of the current annual scheduled rates for the total exempted land.</i>	<i>Nil</i>

³³ Yogesh Naik, 'State appoints Justice BN Srikrishna on ULC Act panel, Mumbai Mirror' (*Mumbai Mirror*, 2017) <<https://mumbaimirror.indiatimes.com/mumbai/other/state-appoints-justice-bn-srikrishna-on-ulc-act-panel/articleshow/59227238.cms>> accessed 22 June 2022

³⁴ *Ibid*

³⁵ Urban Land (Ceiling and Regulation) Act 1976, s 20

³⁶ *Chief Manager Finance Mr. Chandra Prakash Goyal & Ors v The State of Maharashtra & Ors* Civil Appeal No 558 of 2017

³⁷ *Ibid*

³⁸ 'Government Order No ULC-2018/Case No. 51/ULC-1' (*Urban Development Department*, 1 August 2019) <<https://www.maharashtra.gov.in/Site/Upload/Acts%20Rules/Marathi/Notification%20Premium%20issues%20Real%20Estate%20Industries.pdf>> accessed 22 June 2022

³⁹ *Ibid*

3	<i>Gardens, Open to the sky, and other such lands over a period of time have been included in the Residential Zone.</i>	<i>2.5% of the current annual scheduled rates for the total exempted land.</i>	<i>However, if FSI in respect of those lands is not utilized, then 10% of the current annual scheduled rates for the total exempted land.</i>
4	<i>Redevelopment of dilapidated buildings</i>	<i>2.5% of the current annual scheduled rates for the total exempted land.</i>	Nil

Annual scheduled rates are available in Ready Reckoner⁴⁰ for the current year and along with particular land requirements.⁴¹

In recent times (Pune)-

The Pune district administration over the past year has notified over or up to 1,000 companies/industrial plot holders in Pune city, demanding that they pay 15% of the transfer fee out of their transactions involving the conversion of commercial land space from industrial to residential purposes.⁴² This was a result of complaints from the civil society members that the exempted land was supposed to be for used industrial purposes and this conversion has been taken lightly by the earlier authorities and resulting in losses to the State. In response, Pune District Collector Rajesh Deshmukh said.⁴³ “The notices have been issued as per the procedure wherein replies of the property holders have been sought. We are taking necessary steps in this regard.”⁴⁴

⁴⁰ ‘Definition of “ready reckoner”’, (Collins) <<https://www.collinsdictionary.com/dictionary/english/ready-reckoner>> accessed 22 June 2022

⁴¹ Government Order (n 42)

⁴² Nadeem Inamdar, ‘Pune district administration sends notices to 1,000 firms seeking 15% premium on exempted land’ (Hindustan Times, 2021) <<https://www.hindustantimes.com/cities/pune-news/pune-district-administration-sends-notices-to-1-000-firms-seeking-15-premium-on-exempted-land-101633542417322.html>> accessed 22 June 2022

⁴³ *Ibid*

⁴⁴ *Ibid*

CONCLUSION

Barebone or skeletal remains of the law remain even after its repealing. Any act or legislative changes brought forth into the system are therefore to be brought under after thorough investigation; legal research needs to be conducted with special care to ensure the Legal scripture is extremely very ambiguous and vague as to cause the public more harm than good, and to consider implementing laws after viewing through the lenses of the 'Liberal Democratic Capitalist'⁴⁵ society that exists today.

⁴⁵ Francis Fukuyama, *The End of History and the Last Man* (Free Press 1992)