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SIND ORDINANCE NO. III OF 1982

THE SIND BUILDING CONTROL (AMENDMENT) ORDINANCE, 1982

[6th March, 1982]

An Ordinance to amend the Sind Building Control Ordinance, 1979.

WHEREAS it is expedient to amend the Sind Building Control Ordinance, 1979, in the manner hereinafter appearing; **Preamble.**

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977 and the Provisional Constitution Order, 1981, the Governor of Sind is pleased to make and promulgate the following Ordinance :---

1. (1) This Ordinance may be called the Sind Buildings Control (Amendment) Ordinance, 1982. **Short title and commencement.**

(2) It shall come into force at once.

2. (1) In the Sind Buildings Control Ordinance, 1979, hereinafter called the said Ordinance, for section 3, the following shall be substituted :--- **Substitution of section 3 of Sind Ordinance V of 1979.**

Definitions

"3. (1) In this Ordinance, unless there is anything repugnant in the subject or context,---

(a) "architect" means an architect who has been granted a licence under this Ordinance;

(b) Authority" means the Authority appointed under section 4;

(c) "builder" means a person or body of persons, including a society engaged in construction of a building on contract, or, as owner or agent of the owner for the purpose of transferring such building on hire or by sale or on the basis of owner-ship, but does not include a person or persons engaged as mason or such other artisan;

(d) "building" means a building or part thereof and includes all fittings, fixtures, installations, sign and display structures of the building, but does not include any building notified by the Authority;

(e) "building designer" means a building designer who has been granted a licence under this Ordinance;

(f) "building supervisor" means a building supervisor who has been granted a licence under this Ordinance;

(g) "developer" means a person or body of persons including a society, engaged in developing a plot, or plots for any kind of building activity, for transfer by allotment to the members if the developer be a society, or to other persons on basis of ownership or by sale;

(h) "fund" means the fund of the Authority, constituted under section 4-C;

(i) "Government" means the Government of Sind;

(j) "inspecting architect" means an inspecting architect who has been granted a licence under this Ordinance;

(k) "inspecting engineer" means an inspecting engineer who has been granted a licence under this Ordinance;

(l) "prescribed" means prescribed by rules or regulations made under this Ordinance;

(m) "private building" means a residential building of not more than three floors including ground floor constructed on a plot of any size or a commercial building of not more than three floors including ground floor constructed on a plot not exceeding four hundred square yards, (367 sq. meters) not meant for transfer by sale or on the basis of ownership and does not include a building like a mosque, auditorium, cinema or such other building;

(n) "proof engineer" means a structural engineer whose name is borne on the panel of proof engineers maintained by the Authority;

(o) "public building" means a building other than a private building;

(p) "quality control" means the standards fixed or any code of practice of quality control recognized by the Authority for construction of buildings or development of plots;

(q) "regulations" means the regulations made under this Ordinance;

(r) "rules" means rules made under this Ordinance;

(s) "society" means a society which directly or indirectly deals with providing plots to its members for housing, commercial or industrial purposes;

(t) "structural engineer" means a structural engineer who has been granted a licence under this Ordinance;

(u) "town planner" means a town planner who has been granted a licence under this Ordinance;

(2) The expressions used but not defined in this Ordinance shall have the meanings assigned to them in the Sind Local Government Ordinance, 1979".

Substitution of section 4 of Sind Ordinance V of 1979.

3. In the said Ordinance, for section 4, the following shall be substituted :---

Authority

"4. (1) Government may, by notification, appoint anybody corporate or council, or any department of such body corporate or council, or any Government department or functionary or any organization, to act as Authority for such area as may be specified in the notification.

(2) Where a body corporate, a council, or an organization, or any Government department or department of body corporate or council is appointed as Authority, the Chief Executive or incharge of such body corporate, or council or organization or department, as the case may be, shall act as the Chief Executive of the Authority.

(3) The Authority for any area shall be known after the name of that area and shall sue and be sued in such name.

Officers and Servants of the Authority.

4-A. (1) The Authority may appoint such Officers, advisers, experts, consultants, and employees for efficient performance of its functions and on such terms and conditions, as may be prescribed.

(2) All Officers, advisers, experts, consultants, and employees appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860) and shall be subject to such disciplinary action as may be prescribed.

Supervision over the Authority.

4-B. Government may appoint a Committee which may subject to the control and direction of Government oversee the functioning of an Authority.

Fund.

4-C. (1) There shall be a fund of the Authority to be known after its name.

(2) The fund shall consist of---

(i) Grant-in-aid made by Government or received from any other source including foreign aid;

(ii) loans raised or obtained by the Authority;

(iii) fees and other sums received by the Authority under this Ordinance.

(3) All the moneys in the fund shall be kept in a Bank approved by the Authority.

(4) The Authority may invest its funds in any security of the Federal Government or Provincial Government or any other security approved by Government.

(5) The fund shall be utilized for carrying out the purposes of this Ordinance.

(6) The Authority shall maintain or cause to be maintained complete and accurate accounts of the fund in such manner or form as may be prescribed by rules.

(7) The accounts of the Authority shall be audited at least once in every financial year by such auditors or accountants, as may be approved by Government".

Substitution of section 5 of Sind Ordinance V of 1979.

4. In the said Ordinance, for section 5, the following shall be substituted :---

Sale of Plots.

"5. (1) No developer shall transfer any plot or plots on the basis of ownership or by sale or advertise such transfer, without obtaining a no objection certificate from the Authority in the manner and on payment of such fee as may be prescribed.

(2) Where the Authority is satisfied that the development of the plots made or proposed to be made, is below the standard laid down by the Authority, it shall refuse to give the no objection certificate under sub-section (1).

(3) Where the developer has failed to deliver the possession of the plot mentioned in sub-section (1) by the date specified in the agreement with the transferee, he shall, unless the date has, on his application, been extended by the Authority, pay such interest not exceeding the interest payable by a Scheduled Bank as may be prescribed on the amount paid by the transferee.

(4) The provisions contained in sub-sections (1), (2), (3), (4), (5) and (8) of section 12 shall mutatis mutandis, be complied with by the developer in respect of the plot or plots mentioned in sub-section (1).

(5) The provisions contained in section 15 shall mutatis mutandis apply to the transferee of a plot or plots mentioned in sub-section (1)".

(i) after proviso, the following explanation shall be inserted :--

"Explanation.---The word "construct" with all its variations used in this section and hereafter shall include 'reconstruct' with all its variations and, additions or alterations.";

(ii) for sub-section (2), the following shall be substituted:---

"(2) No building mentioned in sub-section (1) shall be occupied by any person or shall be allowed by the builder to be occupied, before the Authority

has, on application of the occupant or owner, issued occupancy certificate, in such manner as may be prescribed.

(3) No building mentioned in sub-section (1) shall, except with the permission of the Authority, be used for the purpose other than that for which its plans were approved.

(4) Where the Authority is satisfied that the purpose for which the building is desired to be used is consistent with the approved plans of the building, it may grant the permission under sub-section (3) on such conditions and on payment of such fees as it may fix.".

Insertion of section 6-A in Sind Ordinance V of 1979.

6. In the said Ordinance, after section 6, the following shall be inserted :---

Information for no objection certificate.

"6-A. A builder or developer shall for the purpose of obtaining no objection certificate under section 5 or as the case may be, under section 6 furnish full and true information as to the following duly attested in the manner as may be prescribed :---

(a) his own title, and title or interest of any other persons or any encumbrance such as mortgage or lease or licence in respect of the land on which a building is to be constructed or which is to be developed into plots:

(b) plans, specifications, design, and materials to be used, as approved by the Authority;

(c) all money payable under any law for the time being in force in respect of the building or plot as the case may be, which may include taxes, ground rent, revenue assessment, electricity and water charges;

(d) such other information and documents as may be specified by the Authority.".

Substitution of section 7 of Sind Ordinance V of 1979.

7. In the said Ordinance, for section 7, the following shall be substituted :---

Preparation of plans.

"7. (1) The plan submitted to the Authority under section 6 shall be prepared by and under the

supervision of, and signed by, such person or persons referred to in sub-section (1) of section 8 as may be prescribed :

Provided that a structural engineer shall be associated with the architect to prepare the structural designs and drawing and sign them if the building :---

(i) is sixteen meters or more in height from the plinth level;

(ii) consists of five or more storeys, in addition to the ground floor;

(iii) consist of two or more storeys, in addition to the ground floor, situated in the coastal areas notified by the Authority;

(iv) is considered by the Authority to be of special nature :

Provided further that a town planner shall, in addition to structural engineer, be associated to assist the architect in preparation of the plan if the building is constructed on a plot of two acres or more and the Authority deems that association of town planner is necessary and in that case the plan shall be signed also by the town planner.

(2) An Inspecting engineer shall be engaged for supervision of construction of a building other than a single or double storeyed building on an area not exceeding four hundred square yards the construction whereof may, instead of inspecting engineer, be entrusted to the supervision of a building supervisor, and the inspecting engineer or as the case may be the building supervisor shall sign the plan of the building.

(3) The builder and any person or persons associated in any manner with the building including its plan and construction shall be liable for the defects in the structure, plan and construction thereof to such extent and manner as may be determind by the Authority.

(4) The Authority may, for the reason of safe and sound construction, refer structural design of any building for further examination to a proof engineer who shall scrutinize the design and, if necessary, modify it and the fees orany charges in connection therewith shall be borne by the builder.".

Insertion of section 7-A in Sind Ordinance V of 1979.

8. In the said Ordinance, after section 7, the following shall be inserted :---

Violation of certain provision.

"7-A. Where the provisions of sub-section (1) of section 6 are violated the building may without prejudice to any other action including sealing of the building or ejectment of the occunan's be ordered by the Authority or any officer of the Authority authorized in this behalf to be demolished, at the cost of the builder in the case of public buildings and the owner in other cases.".

Substitution of section 8 of Sind Ordinance V of 1979.

9. In the said Ordinance, for section 8, the following shall be substituted :---

Grant of licence.

"8. (1) No person or body of persons shall act as architect, building designer, inspecting engineer inspecting architect, building supervisor, structural engineer or town planner except with a licence granted by the Authority in manner, and on the terms and conditions as may be prescribed;

Provided that nay licence granted under any other law for the time being in force shall expire after six months from the date of the coming into force of the Sind Buildings Control (Amendment) Ordinance, 1982.

(2) No licence under sub-section (1) shall be granted unless an architect building designer inspecting engineer, inspecting architect, building supervisor, structural engineer or town planner possesses such qualifications as may be prescribed.".

(3) The functions of and remuneration payable to an architect, building designer, inspecting engineer, inspecting architect, building supervisor, structural engineer or town planner shall be regulated in such manner as may be prescribed.".

Substitution of section 9 of Sind Ordinance V or 1979.

10. In the said Ordinance, for section 9, the following shall be substituted :---

Grant of licence to builder or developer.

"9. No builder or developer shall engage in construction or transfer of a building or, as the case may be, development or transfer of a plot, or plots except with a licence granted by the Authority in the manner and on the terms and conditions including fees as may prescribed.".

Substitution of section 10 of Sind Ordinance V of 1979.

11. In the said Ordinance, for section 10, the following shall be substituted :---

Licensing Board.

"10. (1) Notwithstanding any other provision of this Ordinance, Government may, by notification, constitute a Licensing Board for the whole Province to grant licences to the persons referred to in sub-section (1) of section (8).

(2) Where a Board has been constituted under sub-section (1) the Authority shall cease to exercise the power under section 8 and to frame regulations in respect of the matters specified therein and in that case all such matters shall be regulated in the manner prescribed by rules.

Appointment of Committees and Sub-Committees.

10-A. The Authority may appoint committees or sub-committees which shall subject to control and direction of the Authority exercise such powers and perform such functions as may be assigned to them by the Authority.".

Amendment of section 11 of Sind Ordinance V of 1979.

12. In the said Ordinance, in section 11, for sub-section (1), following shall be substituted :---

Inspection of building or plot.

"(1) The Authority may authorized any officer not below grade 17 of the national scales of pay to inspect any building under construction or any plot developed or being developed in any locality or localities or as may be assigned to such officer for the purpose of quality control.".

Amendment of section 12 of Sind Ordinance V of 1979.

13. In the said Ordinance, in section 12---

(i) for sub-section (1) the following shall be substituted :---

"(1) No builder shall sell or, advertise for sale any building, through any audiovisual aids or any other means before he has obtained approval in writing of the Authority, and he shall mention such fact in the advertisement which will further specify all such details about the building as may be prescribed.";

(ii) after sub-section (3), the following shall be added :---

"(4) Where any application is made in response to the advertisement, and agreement shall be executed between the builder and the applicant for construction and transfer of the building and the agreement shall, interalia, specify the date by which the construction shall be completed and possession of the building shall be delivered and the total price to be paid in lump sum or in instalments and also the interest payable by either party in the event of default :

Provided that the payment if any made by the applicant before the execution of the agreement shall not exceed such maximum of the total price as may be specified by the Authority.

(5) Notwithstanding the agreement mentioned in sub-section (4) no builder shall cancel the transfer by sale or otherwise without observing the prescribed procedure.

(6) No builder shall without approval of the Authority, make any alterations in the structures described in the plans, design and specifications approved by the Authority.

(7) The builder shall take out a contractors All Risk Insurance Policy in respect of the building which shall also cover losses arising out of defects in design and earthquake.

(8) The builder shall maintain a list of buildings already constructed or transferred by him with full particulars as may be specified by the Authority, including the names, and addresses of the transferees, and the terms and conditions on which the buildings were transferred and shall, on demand of the Authority furnish a copy of such list or part thereof.

(9) Where any structural defect in the building or the material used in construction thereof or any unauthorized change therein is brought to the notice of the builder within a period of one year in respect of structure and, six months in respect of the fixtures, from the date of offering physical possession to the transferee such defect or unauthorised change shall be removed without any additional cost from the transferee or appropriate compensation be paid to him and in the case of dispute as to the as to the defect or change or

quantum of compensation the decision of the Authority shall be final.".

Amendment of section 13 of Sind Ordinance of 1979.

14. In the said Ordinance, in section 13 :---

(i) in sub-section (1), for the words and comma "shall not, after the advertisements" the words and comma "or agreed upon between the parties for sale before the commencement of this Ordinance shall not, after the advertisement or agreement" shall be substituted;

(ii) in sub-sections (2) and (3), for the word "advertisement" the words "advertisement or offer" shall be substituted.

Insertion of section 13-A in Sind Ordinance V of 1979.

15. In the said Ordinance, after section 13, the following shall be inserted :---

Formation of Co-operative Societies.

"13-A. Where a building, after its completion, is transferred to such number of persons who can form a co-operative society under the Sind Co-operative Societies Act, 1925, all such persons shall, for the purpose of maintenance of building, form such society.".

Substitution of section 14 of Sindh Ordinance V of 1979.

16. In the said Ordinance for section 14, the following shall be substituted :---

Dangerous Buildings.

"14. (1) If it comes to the notice of the Authority that a building is likely to collapse, the Authority may, after such enquiry as it deems fit order for carrying out the specific repairs or demolition of the whole or part of the building.

(2) Where the specific repairs are to be carried out, the Authority may, by notice, require the owner of building or in the event of his failure the occupier thereof to carry out such repairs within such period as may be specified in the notice and if the repairs are not carried out within the specified period, the Authority may, notwithstanding any other law for the time being in force proceed to have the building demolished and the cost of demolition shall be recovered from the owner as arrears of land revenue.

(3) Where the whole or a part of the building is to be demolished, the Authority may, by notice, require the occupier or occupiers thereof to vacate the building within the period specified in the notice and if the building has not been vacated within such period, the Authority may, notwithstanding any other law for the time being in force order that occupier or occupier of the building be ejected, if necessary, by force.".

Amendment of section 19 of Sind Ordinance V of 1979.

17. In the said Ordinance, in section 19, for sub-section (1), the following shall be substituted---

"(1) Whoever contravenes any provision of this Ordinance, shall be punished with simple imprisonment for a term not exceeding two years or with fine not less than twenty thousand rupees or with both and if the offence is a continuing one, further line not exceeding five hundred rupees for each day after the date of the first commission of the offence.

(1-A) The Authority or any person authorized by it in this behalf may compound any offence under this Ordinance on such terms and conditions as may be prescribed.".

Insertion of section 20-A in Sind Ordinance V of 1979.

18. In the said Ordinance, after section 20, the following shall be inserted :---

Notice for Institution of sent.

"20-A. No suit shall be filed against the Authority or any of its employees in respect of anything done or purported to be done by the Authority or such employee under this Ordinance except after expiration of sixty days next after notice in writing has been delivered to or left at the office of the Authority or employee as the case may be.".

Insertion of section 21-A in Sind Ordinance V of 1979.

19. In the said Ordinance, after section 21, the following shall be inserted :---

Regulations.

"21-A. (1) The Authority may, frame Regulations not inconsistent with the provisions of this Ordinance and the rules made thereunder, for carrying out the purposes of this Ordinance.".

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

(a) the recruitment, tenure of office, terms and conditions of service of the officers, advisers, experts, consultants and employees appointed by the Authority and disciplinary action against them;

(b) the manner of approval, grant of no objection certificates to builders or developers and rates of fees therefor;

(c) the manner of grant of occupancy certificate and fees therefor;

(d) the manner of attestation of documents or information;

(e) the manner of preparation, supervision and submission of building plans;

(f) the qualifications, manner of grant and terms and conditions of and fees for licences to architects, building designers, inspecting engineers, inspecting architects, building supervisors, structural engineers or town planners and regulation of their functions and remuneration;

(g) the manner of grant and terms and conditions of licence to builders or developers and fees for such licences;

(h) procedure for cancellation of transfer or sale;

(i) the details of the building or plot required to be mentioned in the advertisement for its sale by the builder or developer, as the case may be;

(j) rates of fees for supplying copies of any document or information;

(k) terms and conditions of compounding of offences;

(l) rates of interest payable under this Ordinance.

(3) The Karachi Building and Town Planning Regulations, 1979, in the case of the Authority of Karachi and the bye-laws of the council concerned in other cases, duly published shall until the regulations are framed under this section, be deemed to be the regulations, no framed; provided that they are not inconsistent with the provisions of this Ordinance and the rules framed thereunder.".

20. In the said Ordinance, the Schedule shall be omitted.

Omission of schedule to Sind Ordinance V of 1979.

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