

EXPROPRIATION, VALUATION AND PAYMENT OF COMPENSATION; THE LAW AND THE PRACTICE IN ADDIS ABABA CITY, ETHIOPIA

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Abstract

The land right in Ethiopian is not an ownership right, rather a usufructuary right, which is more that holding right but less ownership, since it does not contain right to sell and mortgage. The paper defines what expropriation and the general concepts of it. The aim of the paper is to show the current problems of the city with regard to expropriation, valuation and payment of compensation. The methods used for the preparation of the paper is based on a desk review made on legal issues of the country as well as research papers made on the area. The experiences of the writer is also a firsthand source for it. Generally, the expropriation, valuation and payment of compensation practices in Addis Abeba are now a days becoming a cause for dispute and unrest. Especially, the government is solely capturing the value of the land which it has expropriated from surrounding farmers. The government is expected to amend its expropriation laws so that expropriates share the value increment of their land.

Key words: Expropriation, Valuation, Rehabilitation, representation, and grievance handling

Introduction

The right to land, in Rural Ethiopia as well as in urban areas, merely gives farmers and residents of the urban a possessory or holding privilege which include the rights to use and enjoy, rent, donate and inherit the land and the properties affixed on it. To secure such usufructuary rights, the FDRE Constitution allows the expropriation of land for public purpose, only after the payment of the holders of the land a commensurate compensation.¹

Expropriation is a compulsory surrender of land to the government for public purpose activities. Although land is owned by the state and the Ethiopian people, rural farmers as well as urban residents are given the rights to use, lease/rent, or inherit the land and properties attached to it which are in their holding. Moreover, the Constitution guarantees their holding rights in that no land may be taken by way of expropriation without advance payment of “commensurate” amount of compensation. It is argued that commensurate means equal or just compensation. But, because of the backward type of valuation system, cost replacement method, compensation being paid is not adequate and this creates insecurity on their land holdings.²

The term paper is important by identifying the legal frameworks that are found in relation with expropriation, valuation and payment of compensation, the institutional arrangements for the payment of compensation and finally the experiences of payment of compensation and then recommends the problems identified as far as Addis Ababa city is concerned. It is important for researchers, students and the government who needs to know about the strengths and weaknesses associated with expropriation, valuation and payment of compensation. The recommendation will have pivotal role for the government to understand the meanses to alleviate the problems attached with the topic at hand.

The objectives of the term paper are as follows:-

- To assessse the legal frameworks that are in practice as far as expropriation, valuation and payment of compensation is concerned which are applicable to Addis Ababa city;
- To show the institutional arrangement that are found in Addis Ababa for the expropriation, valuation and payment of compensation and the problems and the strengths attached to this;
- To scrutinize the experiences of expropriation, valuation and payment of compensation in Addis Ababa ; and
- To recommend on the strengths and weaknesses of payment of compensation practices.

The methods used for the purpose of this term paper are generally relied on primary and secondary data. Specifically it uses laws, reflection of previous work experience and experience sharing of members of the group. In the case of Secondary data, relevant official reports, legal documents and research papers were used in the study. They were also gathered from various published journals, reports, books, project reports and related materials

The scope of the term paper is limited on the legal frame works, institutional arrangements, practical experiences, strengths and challenges of expropriation, valuation and payment of compensation for Addis Abab land and land related properties.

¹ Francis, Amendola, William, John, and Kennel quoted in Daniel Weldegebriel AMBAYE, Land Valuation for Expropriation in Ethiopia: Valuation Methods and Adequacy of Compensation, p4.

² Land Valuation for Expropriation in Ethiopia: Valuation Methods and Adequacy of Compensation, Daniel Weldegebriel AMBAYE, Ethiopia

Review of literature

Land administration has no any unique definition. The definition varies through time and it also varies based on the defining body. Any scholar defines it differently.

The most commonly accepted definition of land administration is set out in the United Nations Economic Commission for Europe (UNECE) Land Administration Guidelines (1996) “Land administration is the processes of recording and disseminating information about ownership, value, and use of land when implementing land management policies.”³

Ownership relates to the possession of rights in land; value normally relates to market value; use relates to the rights to use and profit from the land.⁴ Expropriation, valuation and payment of compensation is one component of land administration. As a one component the government should establish and strengthen an institution responsible for this component.

In Ethiopia, land is the common property of the ‘state and the people’, and, hence, is not subject to sale, exchange or mortgage. Rural farmers and pastoralists are guaranteed a plot of land free of charge while urban residents can secure the same through ground lease arrangements.

Currently, Ethiopia is facing with rapid growing urbanization and modernization of infrastructures. Most towns and cities in regions have been expanding twice their size within the past ten years. After the downfall of the military junta, also called the Derg, in 1991, Ethiopia opened its doors for foreign and national investment. As a result, a large area of land is required for private and public investment, for the expansion of urban areas or the establishment of new ones, and for construction of roads and other types of infrastructure in all areas of the country. Thus, presently large tracts of land are being taken by way of expropriation for roads, streets, irrigation works, private mechanized farming, horticulture investment, real estate development and other massive infrastructure developments.⁵

The concept of public acquisition of land without the consent of the owner is known by different names depending up on the law of the nations. In this context Antonio Azuela (2007) explained that compulsory purchase, expropriation, eminent domain, or simply “taking” are different names for the legal institution that allows governments to acquire property against the will of its owner in order to fulfill some public purpose.⁶ To elaborate in specific consideration, in most common law countries the term “eminent domain” is used in United States of America and “compulsory purchase” in United Kingdom and other commonwealth countries. On the other hand, in continental Europe “expropriation” is the most utilized terminology. In this regard Ethiopia is being the follower of continental Europe legal system that the term expropriation is widely used in the constitution. The taking of rural or urban land for public interests is an inherent right of any state regardless of the land tenure system. Whether it is freehold, or state

³ Land Administration for Sustainable Development, *Ian Williamson, Stig Enemark, Jude Wallace, Abbas Rajabifard, ESRI PRESS ACADEMIC REDLANDS, CALIFORNIA*

⁴ LAND ADMINISTRATION IN THE UNECE REGION, Development trends and main principles, UNITED NATIONS, New York and Geneva, 2005

⁵ *ibid*

⁶ Antonio Azuela 2007, as quoted by EXPERIENCE OF AMHARA REGIONAL STATE IN EXPROPRIATION, VALUATION AND COMPENSATION OF RURAL LANDS, By Getahun Alemneh

owned or leasehold, states are authorized to evict land accompanied by payment of compensation.⁷

In the developed literature there are three fundamental valuation methods depending upon the country's legislation and the type of land tenure system. These methods include Comparable sales method, the income capitalization methods and cost replacement method.⁸ The client's instruction, the purpose of the valuation, the characteristics of the real estate, its market type and the data available for analysis could be possible factors to determine the methodology and the process.

Comparable Sales Approach

The comparable sales method is simply entails looking for similar properties that have been sold in the market place within a reasonable time period preceding the valuation date, and then adjusting the sales price of those comparable properties to reflect differences between the comparable and the subject property. In the comparable sales method the property that is sold earlier in the open market place should be identical with the subject property.

Income Capitalization Approach

As the name of method imply, income capitalization refers to the determination of an asset's market value expropriated for basic public services. Income capitalization method is the method that enables us to estimate the value of a land on the basis of the income the land produces. Therefore, the capitalization of income approach is basically employed to value income generating property, when the property is taken on permanent basis. The best example of such a property is the hotel for instance.

Replacement Cost Approach

The cost replacement method is the valuation method to estimate the values of real estate developed on the expropriated land by considering the replacement or reproduction cost of the properties developed and the improvements made on the land plus some amount of displacement compensation when the land holder is alienated from the land. Of course, in different circumstances depending upon the type of the land tenure system the market value of the land is compensated under this method⁹.

The Cost Approach also called the Contractor's Method: Used for only those properties not bought and sold on the market and for technical reasons such as accounts and statutory purposes only¹⁰. It is also recommended that cost replacement approach can be used in countries where the market value for real property is not developed well.

⁷ FAO 2008 (cited by Daniel 2013 p. 107), again quoted by EXPERIENCE OF AMHARA REGIONAL STATE IN EXPROPRIATION, VALUATION AND COMPENSATION OF RURAL LANDS, By Getahun Alemneh

⁸ Appraisal Institute (2001). The Appraisal of Real Estate. Appraisal Institute, Chicago, Illinois, 12th ed. ISBN 0-922154-67-8., as quoted by EXPERIENCE OF AMHARA REGIONAL STATE IN EXPROPRIATION, VALUATION AND COMPENSATION OF RURAL LANDS, By Getahun Alemneh

⁹ Appraisal Institute 2001, p.349-358, as quoted by EXPERIENCE OF AMHARA REGIONAL STATE IN EXPROPRIATION, VALUATION AND COMPENSATION OF RURAL LANDS, By Getahun Alemneh

¹⁰ The International Valuation Standards Committee, as quoted by EXPERIENCE OF AMHARA REGIONAL STATE IN EXPROPRIATION, VALUATION AND COMPENSATION OF RURAL LANDS, By Getahun Alemneh

In the Ethiopian legal system the compensation for cultivated land is limited to displacement compensation. This is because the absolute owner of both rural and urban land is vested in the government and in the peoples of Ethiopia (Proclamation No.1/1997 Article 40 Sub-Article 1). Concerning the cost replacement method scholars suggested that this approach can be used in countries where the market value for real property is not developed well.

In the application of replacement cost approach the value of real estate developed on expropriated land is estimated based on the existing labor and material cost required to pull together a similar asset of comparable utility. For instance, if the residential house is to be demolished located on expropriated land, the basis of compensation is computed based on how much is worth of the old house to construct the new house with the same size and standard in some other place.

Result and Discussion

Legal frame works for expropriation, valuation and payment of compensation

In Ethiopia, land is the common property of the ‘state and the people’, and, hence, is not subject to sale, exchange or mortgage. Rural farmers and pastoralists are guaranteed a plot of land free of charge while urban residents can secure the same through ground lease arrangements. Rural farmers’ right to the land is a kind of usufructuary right, which merely gives peasants possessory or “holding” prerogatives, including the rights to use and enjoy, rent, donate and inherit the land. In urban areas, its dwellers may obtain land on 15-99 years lease agreements depending on the purpose for which the land is needed and such right may be freely transferable. To secure such rights, the Constitution prohibits eviction of holders of the land without just cause and payment of compensation. But Without prejudice to the right to private property, the government may expropriate private property for public purposes subject to payment in advance of compensation commensurate to the value of the property.¹¹

Expropriation, as means of land acquisition for public works, has been a known concept of law since the ancient times of Greece and Rome. It has also been commonly applied in practice in Europe and America. In Ethiopia, it is believed that it was introduced, at least in law, during the Minelik II era. The concept is predominantly understood as the inherent power of the state over its territory under which all owners of property including land exercise their property rights subject to this power of the state.¹²

Based on the constitutional provisions the Federal government has also promulgated the Expropriation of Land Holdings for Public Purposes and Payment of Compensation Proclamation No. 455 in 2005 and its implementing regulation No. 135 in 2007) to guide regions in administering land expropriation and compensation fairly and thus enhancing tenure security. This law gave the regional states, and impliedly Addis Ababa and Dire Dawa city administrations, the power to enact directives to better implement the proclamation and the regulation. Based on this, Addis Ababa city administration has enacted directive number 19/2015.

¹¹ Federal Democratic Republic of Ethiopia (FDRE), Constitution of the Federal Democratic Republic Of Ethiopia. Addis Ababa, 1995, Art 40

¹² Supra note 2

Although few studies have dealt with the inadequacy of compensation in Ethiopia, it has been observed that the biggest source of the inadequacy of compensation is the outdated rates used in valuation for compensation and the methods used in determining compensation. Now a days magazines are putting the compensation issue to their headlines. Especially the case is severe when rural lands are expropriated for urban expansion. Addis Ababa surrounding farmers are now complaining to different authorities on the in adequacy of compensation and related issues. Reporter magazine published this issue. Especially the complaint is on the directive which is promulgated in the near past on the replacement land allocation when land is expropriated. The farmers committee said that even though the existing as well as the repealed laws allow a replacement of 500 square meter land for the household and 250 square meter for the major descendants, the laws are not been implemented still now. The size of the land stipulated by itself is not enough, according to the claimants.¹³ The farmers committee told the speakers of the HPR Ato Aba Dulla Gameda, that because of the absence of or the in adequacy of the rehabilitation works, farmers being displaced are in a serious problem. As the farmers' committee state, 250 square meter is being given for land holders who have 3 families; and for those land holders who have families of 7 up to 10, a land size of 400 square meter is allocated. The committee raised that this kind of allocation is irrational and have no any reason. They said that equivalent size of land to the land expropriated have to be replaced for those displaced land holders.¹⁴

Vast expropriation action in Addis Ababa was started since 1988 E.C. Now 20 thousand hectare of Addis Ababa expanding area is occupied by farmers surrounding the city.¹⁵ Many farmers have displaced from the area while others are in fright by believing that they will be displaced from the area in the near future. The farmers are not questioning the expropriation action, rather they question the amount of compensation. They said that the amount of compensation being paid is very low. Besides the low amount of the compensation, they said, they cannot utilize the paid amount properly because of the lack of skill they encountered. The farmers said, from the total 54 thousand hectare of Addis Ababa city, 18,174 hectare were occupied by farmers. But now these farmers are being expropriated. The problem is not on the expropriation rather on the amount of the compensation, which is not just, farmers added.¹⁶ The tricky thing now, as farmers said, is that the amount of compensation paid to the farmers and the lease price which the government is going to get. The compensation paid for the farmers is 2.9 birr per square meter but the government is leasing the square meter by thousands of birr. Why not the government share this lease value with the displaced land holders, farmers asked.¹⁷ The farmers committee have proposed to the government that the compensation being paid to the farmers have not be less than 2000 birr per square meter, which could be shared from the lease price and the farmers have not be totally displaced from their land. At least 1000 square meter land should be left for the farmers for their domestic work. The government's duty to construct residential house for the expropriated farmers is also part of the proposal.¹⁸ But Ato Solomon, Addis Ababa land development and management Bureau head, said the compensation being paid to Addis Ababa displaced farmers is much better than any region. He added, to the property, a minimum of 51 thousand birr was paid but now since this amount of many could not built a single house the

¹³ Reporter Magazine, volume 21, number 1675, Wednesday May 10, 2008 E.C.

¹⁴ Reporter Magazine, volume 21, number 1675, Wednesday May 10, 2008 E.C.

¹⁵ Reporter Magazine, volume 21, number 1678, Sunday May 21, 2008 E.C.

¹⁶ Reporter Magazine, volume 21, number 1678, Sunday May 21, 2008 E.C.

¹⁷ Reporter Magazine, volume 21, number 1678, Sunday May 21, 2008 E.C.

¹⁸ Reporter Magazine, volume 21, number 1678, Sunday May 21, 2008 E.C.

amount is raised to more than hundred thousand. But now study is being conducted to amend this procedure.

The law has defined compensation as payment to be made in cash or in kind or in both to a person for his property situated on his expropriated landholding.¹⁹ Here the mode of compensation could be in kind or in cash or in both. But the compensation to be paid is simply for the property found on the land. There is no compensation for the land itself. The displacement compensation paid for the land is not compensation per se. By this definition the money paid for the land is not compensation rather it is displacement compensation.

The law vaguely defined public purpose as the use of land defined as such by the decision of the appropriate body in conformity with urban structure plan or development plan in order to ensure the interest of the peoples to acquire direct or indirect benefits from the use of the land and to consolidate sustainable socio-economic development.²⁰ It is the decision of the appropriate body that makes any land taking for the public purpose. Other than this there is no any objective and elaborative definition for the phrase. When the urban administration decides that any land taking is for public purpose, no one can contest the decision there to, since the decision is non appealable.

The power to expropriate rural land holdings fall under three institutions.²¹ The wereda administration, urban administration or any other appropriate higher regional or federal government organ. Appropriate here indicates that the higher organ have to have the power to do so by the law. For example, Ministry of water, irrigation and energy may decide to take land from land holders for the construction of irrigation canals. But the same ministry couldn't have the power to decide to take the land for the construction of military comp. The institution is not appropriate to do so. But ministry of defense can decide to take land from land holders for the construction of military comp, which is the appropriate organ to do so.

When an expropriation decision is reached by the appropriate organ, such organ is duty bound to give written notification to the land holder stating the amount of compensation and the time when the land has to be vacated.²² The period to be given for such purpose has not to be less than 3 months.²³ Any notified land holder is obliged to hand over his holding within 90 days from the payment of compensation.²⁴ Here there exists inconsistency among the provisions of the law. Article 4(2) envisages that, the land holder is duty bound to hand over his holding within 90 days from the date of notification. On the other hand Article 4(3) says, the land holder has to hand over the land which is needed for public purpose within 90 days from the date of payment of compensation. Conceptually these two provisions are saying that the date of notification and the date of payment of compensation are similar, which is impossible. This inconsistencies are created because of poor draftsman.

¹⁹ Proclamation Number 455/2005, Art 2(1)

²⁰ Proclamation number 455/2005, Art 2(5)

²¹ Proclamation number 455/2005, Art 3(1)

²² Proclamation number 455/2005, Art 4(1)

²³ Proclamation number 455/2005, Art 4(2)

²⁴ Proclamation number 455/2005, Art 4(3)

Compensation for permanent improvement to land shall be equal to the value of capital and labor expended on the land.²⁵ The cost of removal, transportation and erection shall be paid as compensation for a property that could be relocated and continue its service as before.²⁶ The problem here might be knowing the cost of removal, transportation and erection is cumbersome.

The regulation²⁷ provides the payment of compensation for trees. But it does not enshrine how displacement compensation will be paid for lands which are covered by trees. The law only has provision for the compensation to be paid for the tree which is found on the land and has no any provision regarding displacement compensation. The problem is severe when the tree is Eucalyptus. Because Eucalyptus trees are fast to grow. Once they are cut they will be multiplied and be grown by being more than three. The law does not consider this multiplication.

By the way the expropriation, valuation and payment of compensation proclamation and implementing regulation were drafted by the ministry of federal affairs. The ministry at that time had a section to do with the issue at hand. But now such section is dissolved. Since the law assumes the existence of such section the powers with regard to following up and ensuring the implementation of the law²⁸, giving technical and capacity building support to regions²⁹ and the like have been given to the ministry. As stated earlier, there is no section in the Ministry of federal affairs which can accomplish such duties. The already existed section were dissolved. Now the Ministry of urban development and housing is accomplishing such tasks by the foot of the ministry of federal affairs as far as urban land and property is concerned.

The tricky thing with regard to legal frame works is proclamation number 66/1936 E.C.³⁰ The proclamation said that the High ways³¹ of the country have a width of 30 m, 15 meter from the center to the right and the other 15 meter from the center to the left.³² Based on this Dr. Kassu Ellala³³ has wrote a letter stating that for the width of the main road stated above is already paid compensation. So there is no need of paying compensation for the same land. But some individuals erroneously interpreted this letter and is not paying compensation for the newly constructed roads and if there is expansion of the main roads, as long as the expansion and the newly constructed roads width is not greater than 30 meter. This is totally misinterpretation of the law. The law is enacted to determine the classification and width of roads where as the letter, stated above is, to avoid the double payment of compensation.

Institutional arrangement for expropriation, valuation and payment of compensation in Addis Ababa

At federal level, Land expropriation, valuation and payment of compensation is under land administration case team and only one expert is assigned for this purpose as valuation expert. This is one cause for the problems that are found now. This institutional arrangement problem is

²⁵ Proclamation number 455/2005, Art. 7(4)

²⁶ Proclamation number 455/2005, Art. 7(5)

²⁷ Regulation number 135/2007, Art. 7

²⁸ Proclamation number 455/2005, Art. 12(1)

²⁹ Proclamation number 455/2005, Art. 12(2)

³⁰ The proclamation was enacted during Hileselassie Regime, before the adoption of the civil code which is a proclamation to provide for the classification of roads, Proclamation number 66/1944

³¹ Roads are divided by the proclamation in to three, high ways, secondary roads and district roads

³² Proclamation to provide for the classification of roads, Proclamation number 66/1944, Art. 2(a)

³³ Former Minister of Works and Urban Development

also found in the regional states. In some regional states even there is no expert at all on the valuation and compensation task.

But the institution should be organized in the way to include all the functions of land administration, especially land valuation. There has to be land expropriation, valuation and payment of compensation core process. Besides, the urban and rural land administration institutions has to be organized under the same ministry. This structure coordinates the urban-rural land linkage, for instance in case of expropriating rural land for urban expansion. The most critical problem now is the expropriation of rural lands by urban governments. We can take the case of Oromia protest as an example. If the urban and rural institutions are organized together, coordination will be created and it has its own pivotal role in the reduction of the problem.

When we come to Addis Ababa city Administration, the power of expropriation, valuation and payment of compensation falls under land management and urban renewal agency which is established by the Addis Ababa city administration executive and municipality service bodies' re-establishment proclamation number 35/2012. This agency is accountable to the Addis Ababa land management bureau. Besides this, an institution for the rehabilitation of affected individuals is on the way of establishment. Its purpose is intended to rehabilitate the already affected and affecting individuals with regard to expropriation.

Practical Experiences of expropriation, valuation and payment of compensation in Addis Ababa

General Description of Addis Ababa

Addis Ababa is the capital city of Ethiopia. The site was chosen by Empress Taytu and the city was founded in 1886 by her husband, Emperor Menelik II. Addis Ababa city administrative divisions were changed and restructured in to 10 KifleKetema in 2011 literally "Town Divisions" or sub-city administrations and the number of Kebele were reduced from 305 to 116 weredas.

Addis Ababa is located at an altitude of 7,546 feet (2,300 meters) and is a grassland biome, located at [9°1 48 N 38°44 24 E](#) Coordinates: [9°1 48 N 38°44 24 E](#). The city is located at the foot of [Mount Entoto](#). From its lowest point, around [Bole International Airport](#), at 2,326 meters (7,631 ft) above sea level in the southern periphery, the city rises to over 3,000 meters (9,800 ft) in the [Entoto Mountains](#) to the north.

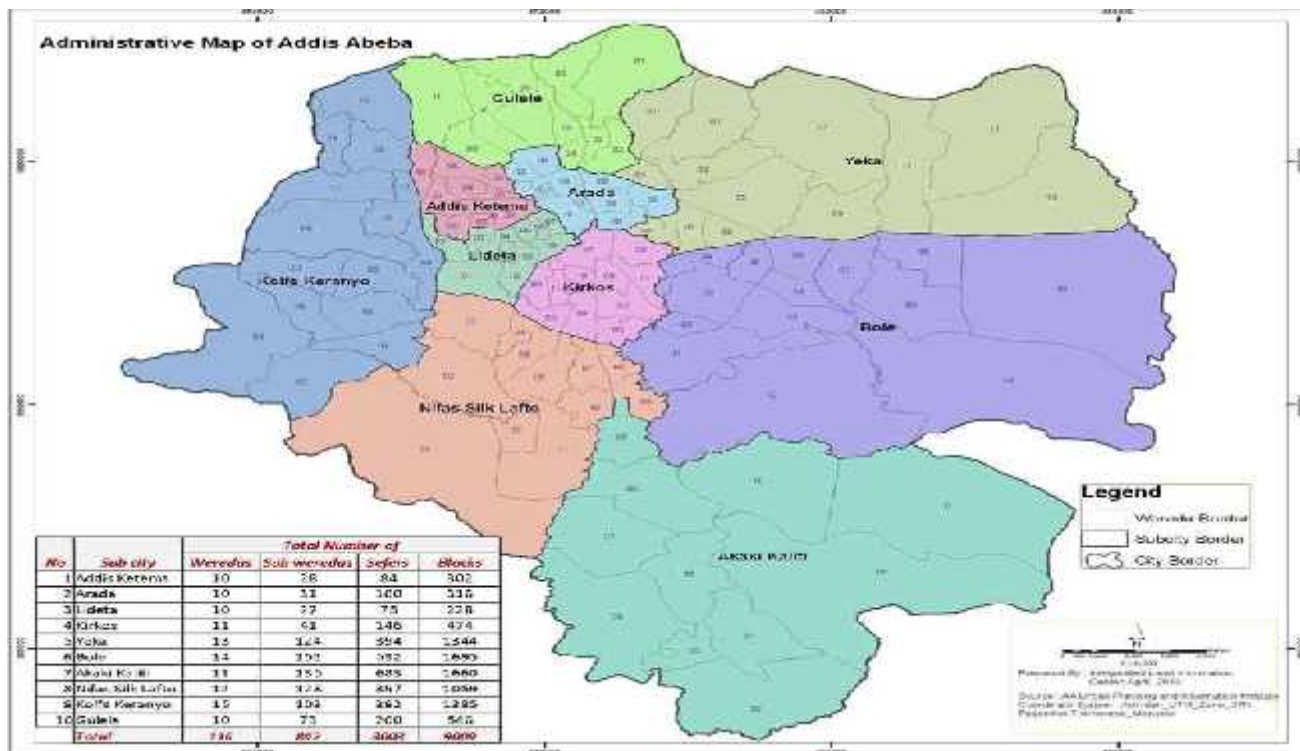


Fig: 1 Addis Ababa administrative divisions

Based on Ethiopian central statistical agency census in 2007, Addis Ababa has a total population of 2,739,551, of whom 1,305,387 are men and 1,434,164 women; all of the populations are urban inhabitants. Currently the population is estimated to be above 5 million.

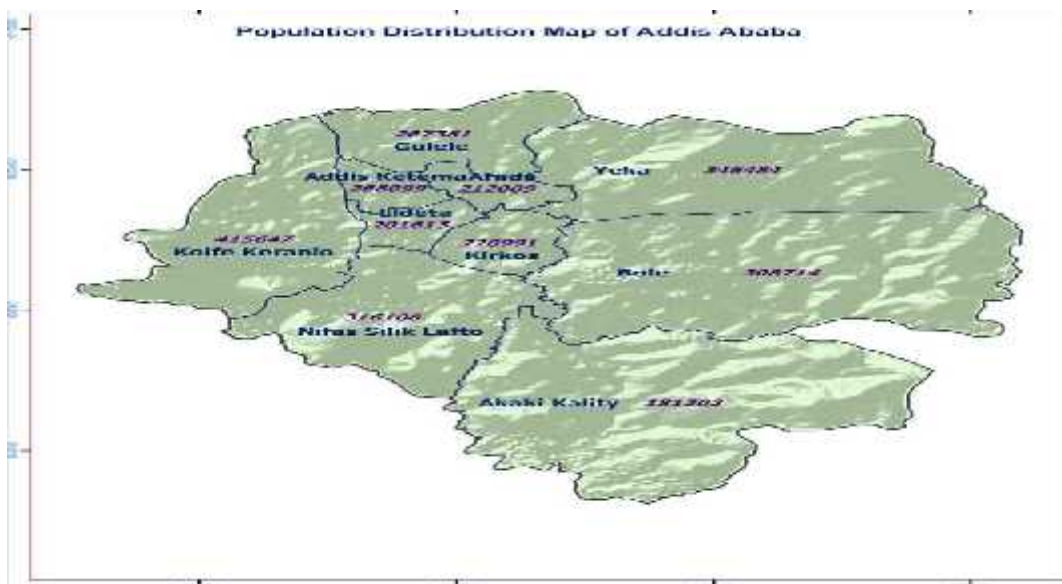


Fig: 2 the population distribution map of Addis Ababa

Planning and Power of Expropriation

Article 3(1) of the expropriation proclamation authorizes the urban administration to expropriate rural or urban land holding for public purpose up on payment of compensation in advance. The

demand for an urban or rural land may either come from investors or from a government body engaged to carry out the construction of infrastructures. In case of Addis Ababa the agency, land management and urban renewal agency, is duty bound to present its plan or the plans of other government agencies to the cabinet of the city administration before one year from the implementation of the intended project for the confirmation of the plan.³⁴ The expropriation practice starts from this. The plan may be emanated from the agency itself or from other government agencies. Any ways what is expected from the agency it to present its plan or the plan of other agencies for the city administration cabinet. By the way private individuals can not present a plan for the expropriation of private holdings because the urban land holding system at this time is solely dependent on lease system. The institutions that can present a plan for the expropriation of land holdings are government institutions like roads authority and institutions responsible for urban renewal. The implementing agency is expected to present the data regarding the required land and the location of the same to the agency before one year from the commencement of the planed project.³⁵ This provisions are practically implemented in the city. The decisions made by the cabinet is sent in written form to the respective administrative bodies as well as stakeholders for its implementation.³⁶ The urban land lease holding proclamation under article 26 states the power to clear urban land. The appropriate body have the power for the public interest activities, to clear and take over urban land upon payment of commensurate compensation for the properties to be removed from the land. Appropriate body is a body of regions or city administration vested the power to administer and develop urban land. In the Addis Ababa case urban land management Bureau is vested such power.

The discussion to expropriate land is carried out not only with the land holders, but with the local community at large. The landholders that are going to be affected will also become aware of a planned project and that their land is going to be expropriated at this conference. In general, stakeholders from the city, sub city and wereda should participate in the public discussion. In the public discussion it is mandatory that 75 % and more of the affected persons have to participate.³⁷ If not second meeting will be called. In this second meeting majority of the affected individuals is expected to conduct the public discussion.³⁸ This majority vote sometimes may not be attainable. In this case a third meeting will be called and in this meeting the public discussion have to be made by the presented individuals.³⁹ Practically, these processes are hardly implemented. The affected people are persuaded to accept the proposal and are informed that the exercise is inevitable. They will also be informed that they would be compensated or resettled before the eviction. Therefore, practically this stage is the awareness creation stage. In other words, the evicted persons will not be given the chance to give decision on the appropriateness of the expropriation or on the existence of public interest. Except for hearing to the recommendations of the bodies, the affected peoples do not have the chance to voice their opinions and to impact on decisions. The landholders cannot refuse or challenge the decision given by government body on the expropriation of a given land. Because, it is only the government body which can determine whether the expropriation of a land is for a public interest considering the job opportunity and the economic advantages that the project will have to the country as provided in the proposal presented to it by the project owner.

³⁴ Addis Ababa directive 19/2014, art 4(1)

³⁵ Ibid, art 4(2)

³⁶ Ibid, article, 4(4)

³⁷ Ibid, article 5(1)

³⁸ Ibid, article 5(2)

³⁹ Ibid, article 5(3)

Valuation of property

As to the valuation of the property, the law assumes it to be carried out by certified private or public institutions or individual consultants.⁴⁰ Still there is no such institutions or individuals for the properties found on the land. This is because there are no professionals in the area. By understanding this problem Bahirdar University Institute of land administration has opened property valuation and compensation department this year at undergraduate level. At post graduate level the University is giving education on the aforementioned area on summer class. The law, by understanding the capacity problems on the area, enshrined that such valuation shall be carried out by committees to be established⁴¹ and not more than five experts having the relevant qualification and to be assigned by the wereda administrator.⁴²

But where the land to be expropriated is located in an urban center, the property situated thereon shall be valued by a committee of experts having the relevant qualification and to be designated by the urban administration.⁴³ The number of committees is not mentioned in the proclamation when the expropriated land is an urban land. But the Addis Abeba directive⁴⁴ stated that the data of the properties being expropriated shall be collected by at least two experts committee which is established by the agency. The agency here is an institution named as land management and urban renewal agency which is established by the Addis Ababa city administration executive and municipality service bodies' re-establishment proclamation number 35/2012.

Expropriate is expected to present a legal written evidence showing that the property found on the land is his own.⁴⁵ Land holders are also expected to show an evidence to this regard. Such evidence has to comply with the document which the government have. Compensable interests in the urban case is for the properties situated on the land and permanent improvements made to the land.⁴⁶ There is no compensation to the land as well as the location of the same. The valuation process for properties erected on the land in Addis Ababa is made based on a single value which is calculated by the construction industry development authority; and bureau of finance and economic development jointly and confirmed by the city's cabinet.⁴⁷ Based on this the single price of construction inputs as well as labor cost shall be reviewed annually.⁴⁸ But practically it is not reviewed annually. Non-renewal of the single price is affecting the land holders and property owners. Besides this the valuation does not take in to account depreciation value of the properties being expropriated which is also practically implemented.⁴⁹ In this regard property owners are beneficiaries because the depreciation that their properties show does not reduced in case of valuation. This implies that they can get a new property while theirs is old and depreciated. Once the single value of a property is assessed and confirmed by the cabinet, it is based on the valuation software that the value of the properties being expropriated is made.⁵⁰ This software is designed solely for this purpose.

⁴⁰ Proclamation number 455/2005, Art. 9(1)

⁴¹ Proclamation number 455/2005, Art. 9(2)

⁴² Proclamation number 455/2005, Art. 10(1)

⁴³ Proclamation number 455/2005, Art. 10(2)

⁴⁴ Addis Ababa directive on expropriation valuation and payment of compensation number 19/2014, article 10(8)

⁴⁵ Ibid, article 7(1)

⁴⁶ Ibid, article 10(1)

⁴⁷ Ibid, article 10(2)

⁴⁸ Ibid, article 10(3)

⁴⁹ Ibid, article 10(4)

⁵⁰ Ibid, article, 10(5)

If there are properties which require special knowledge, the agency may establish special committee or assign to work to other government organs.

The committees together with the representatives of the affected individuals makes a property inventory by using the form which is already prepared.⁵¹ The property owners are also expected to be available at the time of property inventory. They have to be served a notice to this effect one week prior to the inventory time. If there are individuals who are not willing to accept the notice letter or who have accepted the letter but are unwilling for the inventory, the court order for the inventory of the property in the absence of those parties is mandatory.⁵² This process shows that, at a lesser extent there is the involvement of courts.

When because of the fault of the government the land holder or the owner of the property have not been paid compensation and new single value of properties is enacted, the property shall be valued based on the newly enacted single value of the properties.⁵³ This is because of the fact that the fault is attributable the government organ. This rule applies also when the owner has been paid compensation but does not get replacement land because of the fault of the government organ and a new single price of properties is set.⁵⁴

In general as stipulated in the federal compensation proclamation 455/2005, the Addis Ababa directive has also repeated that the compensation that is being paid have to be following the cost replacement approach.⁵⁵ But practically it is not true. The compensation paid does not replace the property which is already taken. This is because of the fact that the single price determined by the appropriate organ does not updated based on the market increase. It is an outdated one, which is affecting the expropriated individuals. So cost replacement approach is simply found on the paper and does not implemented practically. The law also added that in any case the compensation being paid shall not be less than the amount which can built a single saving house.⁵⁶ Now this amount is raised to be 111 000 birr.

When the house is to be demolished in part or part of the holding is to be taken, it is up to the owner or the holder to choose. If he choose to hold and continue part of it, he can. If not the agency can take the rest land and property and give it to the land bank. The holder/owner then be treated as though he is totally expropriated. But if the holder of the land in the above case wants to retain and continue his life without affecting the urban plan, he will get compensation only for the demolished property.⁵⁷ Compensable interests according to the 455/2005 proclamation, its implementing regulation 135/2007 and the Addis Ababa directive number 19/2014 are the following.

- House (building in general)
- Fence- including things related to the fence like electricity and the beautification of the fence
- Crops
- Perennial crops

⁵¹ Ibid, article, 10(11)

⁵² Ibid, article 10(15)

⁵³ Ibid, article 10(16)

⁵⁴ Ibid, article 10(17)

⁵⁵ Ibid, article 11.1.4

⁵⁶ Ibid, article 11.1.5

⁵⁷ Ibid, article 11.1.7

- Trees
- Reserved grass
- Garden vegetables
- Permanent improvement made on agricultural land
- For costs to demolish and re-erect, if it is possible

There are also properties which are non-compensable according to the Addis Ababa directive.⁵⁸ The following are of them.

- Properties established after the holder is being served clearance order;
- When there is a building which is not found on the holding certificate and there is no legal permit to build the same, but this does not include buildings built on the holding of farmers;
- Temporal holdings which the time period of the holding is elapsed or the non-payment of compensation in this scenario is enshrined under the contract;
- Properties demolished by the owners before the start of the intended project; and
- Properties of the urban administration.

In addition to the above lists the lease proclamation said that the appropriate body have the power, without the need to issue a clearance order and payment of compensation to clear an illegally occupied urban land by merely serving a written notice of seven working days to the occupants in person or by affixing it to the property situated on the land.⁵⁹ Illegal houses are those houses which are built without the authorization of the concerned urban administration. For example, at present more than 20,000 illegal occupant houses are demolished. For instance, in Nifas Silik Lafto sub city, areas named Qersa and Kontoma are places in which illegally demolished houses, without payment of compensation, are found.

Besides the compensation for the properties, one year's rent of the property is paid to the owner as a displacement compensation. As an option, the expropriated individual may be let to leave in the house of the city administration for one year without payment as a displacement compensation.⁶⁰ This is practically implemented, most of the time, by paying the one year's rent of the house. This amount, sometimes, becomes more than the compensation paid for the properties. This payment system is benefiting the expropriated individuals. The displacement compensation paid for the land holders whose land is covered by crop and perennial crop is ten times the average last five years income of the land, which is similar to the displacement compensation paid for rural lands. Average income is similarly enshrined in the directive like that of the proclamation. In all cases if owners of the house opt to buy a condominium house, they could not have a right to get displacement compensation.

When a lease hold land is expropriated before the expiry of the lease period, the lessee have the right to get a land which is equivalent in grade and size with the previous land for the rest lease period time.⁶¹ But this is not practical because much of lease hold lands in Addis Ababa are found at the periphery of the city and are less vulnerable for expropriation. Even though this is the case the lease proclamation has gave much protection for lands which are acquired by lease system from expropriation. No lease hold land may be cleared, prior to the expiry of the lease period, unless the lessee has breached the contract of lease, the use of the land is not compatible with the urban plan or the land is required for development activity to be undertaken by

⁵⁸ Ibid, article 12

⁵⁹ Proc. 721/2011, article 26(4)

⁶⁰ Ibid, article 13

⁶¹ Ibid, article 18(4)

government.⁶² This shows that lease hold lands could not be expropriated for the use of the land by private investors. They could only be expropriated when the government by itself wants to undertake development activity or when the lessee breached the terms of the contract. Therefore lease hold lands are different from other lands as far as expropriation is concerned.

Lessees' of government house when expropriated have the right to buy condominium house⁶³ which is practically implemented. A person displaced from his holding in the urban area should be provided with a substitute land within the urban center the size of which will be determined by the regions or city administrations.⁶⁴ Practically those displaced individuals have been given a land based on the standard size of the town. Therefore, the displaced individual could not get an equivalent size of land. Besides, the location of the new land is most of the time at the periphery of the city which is cheap in price. Because of the non-consideration of location value, displaced individuals are being affected.

Replacement land could not be allocated in the following instances⁶⁵ when:-

- The holder of the property or the land cannot present an evidence to this effect;
- Expropriates are not Ethiopian nationals and there no any special law to get replacement land;
- When the holders of the land or owners of the property are dies and the heirs or legatees are not registered this property by their name;
- Properties under injunction until decided by the appropriate organ;
- Matrimonial properties which are under court case until decision is passed;
- Properties of the city administration;
- In case of houses of the government housing agencies, the agency could not get replacement land;
- Etc.

Now the problem with regard to expropriation of rural lands for the purpose of urban expansion is that the amount of compensation paid to rural farmers is very low. At this movement they have been paying 33.5 birr per square meter for their crop land. This single price rate is revised every year. Until this year the single price was 25 birr per square meter. But the government is selling the same land averagely from 4,000 to 12,000 birr. The argument raised by some scholars is that the government is becoming a trader by buying selling the land. The government is making much amount of profit.

The form prepared for the inventory of the properties is shown as follows.

⁶² Proc. 721/2011, article 26(3)

⁶³ Ibid, article 18(8)

⁶⁴ Proc. 721/2011, article 26(2)

⁶⁵ Addis Ababa directive, article 20

ሕሕዝብ ጥቅም ሲባል የሚሰጥ መሬት ላይ የሰፈረ ንብረት ስለሚከፈል ካሳና ምትክ ቦታ አሰማጥ የተሻሻለ የአፈጻጸም መመሪያ ቁጥር...../2006

እዝል ስድስት፡ የካሳና ምትክ መረጃ መመዝገቢያ ፎርማት

1. ጠቅላላ መግለጫ

20.3.1.1. የተነሻው መሬት ስም ከነላያት፡-

መኖርያ አድራሻ፡- ክፍለ ከተማ _____ ወረዳ _____ ብሎክ _____

ፓርሲል _____ የቤት ቁጥር _____

የሚነሳው ንብረት አድራሻ፡- የቀድሞ ወረዳ _____ ቀበሌ _____ ብሎክ _____

ፓርሲል _____ የቤት ቁጥር _____

20.3.1.2. የይዞታው ባለቤትነት ፡-

የግል ☐ መያድ ☐ ሌላ ☐

የቀበሌ ☐ የሕዝባዊ ድርጅት ☐

የመንግሥት ቤቶች ኤጀንሲ ☐ የሃይማኖት ተቋም ☐

20.3.1.3. የይዞታው አገልግሎት መኖሪያ፡-

ድርጅት ☐ መኖሪያና ድርጅት ☐ የተከል ቦታ ☐

የእርሻ ቦታ ☐ ጊዜያዊ መጠቀሚያ ☐ የጓሮ አትክልት ☐

የግጥሽ ቦታ ☐ ሌላ ☐

20.3.1.4. ስለ ይዞታው የቀረበ ሰነድ ፡-

የይዞታ ማረጋገጫ ካርታ ☐ የቦታ መጠቀሚያ ደረሰኝ ☐

ደብተር ☐ የመሰረተ ልማት አቅርቦት ደረሰኝ/ቢል/ ☐

የሀይለስላሴ ካርታ ☐ የቦታ ጊዜያዊ መጠቀሚያ ወረቀት ☐

የግብር ማስታወቂያ ቢል ☐ ሌላ የገጠር መጠቀሚያ ደረሰኝ ☐

5. ለልማት የተፈለገው መሬት ላይ የሰፈረው ንብረት ዓይነት፡-

ቤት ☐ የግጥሽ መሬት ☐ አጥፎ ☐

የተከል መሬት ☐ ተነቅሎ የሚተከል ☐

የጓሮ አትክልት መሬት ☐ የእርሻ መሬት ☐

6. ለልማት የተፈለገው ንብረት የሚነሳበት አግባብ ፡-

መሬት በመሬት ☐ በከፊል ☐

7. ለልማት የተፈለገው የመሬት ይዞታ መጠን _____ ካ/ሜትር ወይም _____ ሂ/ር

8. ይዞታው የተፈለገበት የልማት ዓይነት ወይም ፕሮጀክት መጠሪያ _____



ገጽ 54/54

ሕጋዊ ተቃውሞ ሲባል በሚለቀቅ መሬት ላይ ለሰፈረ ንብረት ስለሚከፈል ካሳና ምትክ ቦታ አሰማጥ የተሻሻለ የአፈጻጸም መመሪያ ቁጥር...../2006

II. የይዞታዉ የባለመብትነት ማረጋገጫ

1. ይዞታዉ ከያገባኛል ባይ ነጻ ነዉ ነጻ ሆኖአልም ☐
2. ከያገባኛል ባይ ነፃ ካልሆነ ምክንያት _____

III. የካሳና ምትክ ባለመብትነት አግባብ

- | | | | |
|-----------------------|--------------------------|-------|--------------------------|
| 1. የካሳ ባለመብት :-ነዉ | <input type="checkbox"/> | አይደለም | <input type="checkbox"/> |
| 2. የምትክ ቦታ ባለመብት:- ነዉ | <input type="checkbox"/> | አይደለም | <input type="checkbox"/> |
| 3. የምትክ ቤት ባለመብት:- ነዉ | <input type="checkbox"/> | አይደለም | <input type="checkbox"/> |

IV. የካሳና ምትክ መጠንና ስታንዳርድ

(ሀ) የተወሰነ የካሳና ምትክ መጠን

በዚህ መመሪያ የካሳ ክፍያናምትክኦልሰርተግባርናኃላፊነት ስር በተደነገገው መሠረት የዚህ ማጠቃለያ ሠነድ የፊደል ተራ (ሀ) እና (ሐ) በካሳ ክፍያናምትክኦልሰር ተሞልቶ፣ የኦፊሰሩ ስም ተመዝግቦ እና ተፈርሞ ከአያንዳንዱ ተነሺ የካሳና ምትክ ማሳደር ጋር መያያዝ አለበት፡፡

1. የካሳ ክፍያ መጠን:- _____
2. የምትክ ቦታ መጠን:- ለመኖሪያ በካ.ሜ _____ ለድርጅት በካ.ሜ _____
3. የምትክ ቤት መጠንና ዓይነት:- ኮንዶሚኒየም _____ የቀበሌ ቤት _____

የወሰነው ኦፊሰር ስም _____
ፊርማ _____
ቀን _____

(ለ) የተከፈለ የካሳና የተሰጠ ምትክ መጠን

በዚህ መመሪያ የመረጃና ዶክመንቲሽንኦልሰርተግባርናኃላፊነት ስር በተደነገገው መሠረት የዚህ ማጠቃለያ ሠነድ የፊደል ተራ (ለ) በመረጃና ዶክመንቲሽንኦልሰር ተሞልቶ፣ የኦፊሰሩ ስም ተመዝግቦ እና ተፈርሞ ከአያንዳንዱ ተነሺ የካሳና ምትክ ማሳደር ጋር መያያዝ አለበት፡፡

1. የካሳ ክፍያ መጠን:- _____
2. የምትክ ቦታ መጠን:-
ለመኖሪያ በካሬ ሜትር _____ ለድርጅት በካሬ ሜትር _____
3. የምትክ ቤት መጠንና ዓይነት:-
ኮንዶሚኒየም _____ የቀበሌ ቤት _____
መረጃውን አግርቶ የሞላው ኦፊሰር ስም _____



፳፻ 55/54



In the process of inventory, first the properties found on the land holding are recorded by a video camera and captured by photo camera and will be used as a permanent evidence.⁶⁶ This process is a crucial point to which due process of the law is safeguarded. It is a precondition for the system to be transparent and accountable. Practically this process is being utilized.

Process of notification

Notifying the land holders to be evicted in writing is a precondition to expropriate a land and a property (article 4/1/ of proc. No 455/1997). Such a notification serves different purposes. The notification may help the land holders to know their eviction and to present their complaint, if any. It may also help them to move the properties they have on the land. The written notice, clearance order in the case of lease proclamation and Addis Ababa directive, to be given to the affected landholders is required to indicate two things. These are the time when the land has to be vacated and the amount of compensation to be paid. Besides this, the clearance order have to contain points like the time of the clearance, amount of compensation, the area of the replacement land and house; and its location, the value of the one year's rent, and other displacement compensations.⁶⁷ The clearance order have to be given to the expropriated in person. If he is not able to receive the order in person, it has to be posted on the property, on the notice board of the agency and on those other public places. A person who have been served with a clearance order can take compensation for the properties, displacement compensation and replacement land which are stipulated in the clearance order within 90 days.⁶⁸ The practice in this regard in Addis Ababa is not similar. Sometimes land holders may not get compensation even a year after his expropriation. If the land holder is not eager to accept those compensations, the amount should be deposited in the block bank account by the name of the agency. Where the plot of the land to be cleared has a government house on it, the clearance order shall be served to the body administering the house.⁶⁹ But the government house lessees have the right to buy condominium house.

⁶⁶ Ibid, article 10(12)

⁶⁷ Ibid, article 22 (1), and proc. 721, article 27(1)

⁶⁸ Ibid, article 16(1)

⁶⁹ proc. 721, article 27(3)

The clearance order to be given to the expropriated individuals is shown in the following figure.

ለሕዝብ ጥቅም ሲባል በሚለቀቅ መሬት ላይ ለሰፈረ ንብረት ለሚከፈል ካላ ምትክ ቦታ አስጣጥ የተሻሻለ የአፈፃፀም መመሪያ ቁጥር...../2006

እዘል ሰባት፡ የቦታ ይዞታ ማስለቀቂያ ትእዛዝ አስጣጥ ፎርም

ቁጥር _____
ቀን _____


ለ
አዲስ አበባ

ለሕዝብ ጥቅም ሲባል የከተማ ቦታ ይዞታ ለማስለቀቅ የተሰጠ ትዕዛዝ

ለሕዝብ ጥቅም ሲባል የመሬት ይዞታ የሚለቀቅበትን ለንብረት ካላ የሚከፈልበትን ሁኔታ ለመወሰን በመጣው አዋጅ ቁጥር 455/1997 እና የከተማ ቦታን በሊዝ ስለመያዝ በመጣው አዋጅ ቁጥር 721/2004 በተደነገገው መመሪያ በአዲስ አበባ ከፍለ ከተማ ወረዳ _____ የታዘሩት ሚኒስትር ካሬ የከተማ ቦታ ይዞታ ለሕዝብ ጥቅም እንዲውል ስለተወሰነ፡-

1. በሚለቀቀው ይዞታ ላይ ለሰፈረ ካላ ለሚከፈልበት ንብረት የተወሰነውን ካላ በአኋዝ ብር _____ በፈጽላ _____
2. የአስራ ሁለት ወራት የቤት ኪራይ በአኋዝ ብር _____ በፈጽላ _____
3. በ _____ ከፍለ ከተማ ወረዳ _____ ውስጥ ሚኒስትር ካሬ ምትክ ቦታ ተቀብለው ካላውን ከተቀበሉበት ቀን ጀምሮ በዘመናዊ /10/ ቀናት ውስጥ ይዞታውን እንዲለቁ ይህ የከተማ ቦታ ይዞታ ማስለቀቂያ ትእዛዝ የተሰጠው መሆኑን እናስታውቃለን፡፡

ከመላምታ ጋር

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Representation of land Holders in the committee

Even though the expropriation proclamation doesn't clearly stipulate it, the representation of land holders in decision making is necessary in every democratic society. As noted above, the power to make decision of expropriation solely vests on government organ and the affected persons are not given any decision-making power during the expropriation, at least through representation. Even though they lack the chance to impact on decisions of the expropriation, the landholders have the opportunity to participate in the public discussion forum and during the inventory of the properties attached to the evicted land. During the inventory and measurement of the property, the affected persons can participate through their representatives. As stated earlier, there is a public discussion regarding the impact and the advantage of the project. During this discussion, affected individuals elect their representatives, their number is between 3 and 7, by taking in to account the number of affected individuals.⁷⁰ Memorandum of understanding will

⁷⁰ Ibid, article 5(3)

be signed between the representatives and head of the agency or the office.⁷¹ Those representatives will participate in the collection of data regarding the holding and properties of the affected persons.

Process of grievance handling

Article 11 of proc. 455/2005 provides that in rural areas and in an urban center where an administrative organ to hear grievances related to urban landholding is not yet established, a complaint relating to the amount of compensation shall be submitted to the regular court having jurisdiction. Where the holder of an expropriated urban landholding is dissatisfied with the amount of compensation, he may lodge his complaint to the administrative organ established by the urban administration to hear grievances related to urban landholdings. Such administrative organ have to give decision regarding the complaint within a short period of time. A party dissatisfied with a decision rendered may appeal, as may be appropriate, to the regular appellate court or municipal appellate court within 30 days from the date of the decision. The decision of the court shall be final. The appeal will be entertained by the appellate court only when the appellant has hand over the land to the urban administration. Proof about the handing over of the land is shouldered on the appellate. Likewise the directive to this regard has enshrined that any complaint party can present his complain to the administrative body which gave the clearance order. The complaint have to contain details of it and supportive evidences and should be presented to the organ within 15 working days. The organ which received the complaint have to render a decision within 15 working days and should give the decision in writing to the complaint.⁷² A party dissatisfied with the decision of the administrative body can lodge his appeal to the Addis Ababa city administration urban land clearance and compensation cases appellate tribunal⁷³ within 30 days from the decision given.⁷⁴ Decisions of the tribunal except relating to compensation, on issues of law and facts including claims for substitute land shall be final.⁷⁵ Even though, the complaint related to substitute land is a case of compensation the law clearly makes it non appealable. An individual dissatisfied by the decision of the tribunal can only lodge an appeal which is related to monetary compensation issues excluding even cases of replacement land. Only cases related with compensation issues could be entertained by the appellate tribunal. A person dissatisfied with the decision of the tribunal on the issues of compensation can appeal within 30 days from receipt of the decision, to the relevant municipal appellate court or, in the absence of it, to the regular high court.⁷⁶ In Addis Ababa since there are municipal courts such appeal relating to compensation are being presented to those municipal courts. As stated earlier, the appeal may be admitted only if the appellate has hand over the land subject to clearance order to the appropriate body and attached evidence to this effect.⁷⁷ Otherwise the appeal will be rejected. The decision of this appellate court is final.⁷⁸ But we can explain this article in the sense that the decision rendered by this court is final with regard to the question of fact. But still if there any a fundamental error of law, the party can lodge his petition the federal Supreme Court cassation division.⁷⁹

⁷¹ Ibid, article 5(4)

⁷² Ibid, article 23, and proc. 721, article 28

⁷³ This appellate tribunal is established based on article 30 (1) of the lease proclamation 721/2011

⁷⁴ Directive 19/2014, article 24 and proclamation number 721/2011, article 29 (2)

⁷⁵ proclamation number 721/2011, article 29 (3)

⁷⁶ Ibid, article 29(4)

⁷⁷ Ibid, article 29 (5)

⁷⁸ Ibid, article 29(6)

⁷⁹ Federal courts proclamation re-amendment proclamation number 454/2005

Rehabilitation of evicted land holders

Proclamation 455/2005 under its article 13 enshrined the responsibilities of the wereda and urban administrations. With respect to the implementation of the law, wereda and urban administrations are duty bound to provide for the land holders expropriated rehabilitation support to the extent possible.⁸⁰ The problem here is the term “extent possible”. It is susceptible to interpretation. It is open for abuse. It is because of this that most expropriated individuals are not getting rehabilitation support. The Addis Ababa directive contains one section for rehabilitation issues. The agency is duty bound to identify those expropriated land holders who need rehabilitation support and send a letter to different concerned organs.⁸¹ As part of rehabilitation, expropriated land holders have the right to get 6000 birr for the social bond they loose and psychological interruptions they sustained. This amount have to be revised by taking in to account the changes in value.⁸² This is a kind of moral damages. As per the civil code,⁸³ the compensation paid is enshrined to be a maximum of 1000. Compared to this amount the 6000 birr moral damage compensation said to be better. But still the compensation is not enough. There is no compensation for the location of the land. A land holder displaced at Arat kilo could be given a land at Bole Bulbula. The moral damage compensation could not cover the location value that this individual sustained because of his relocation. So even the 6000 compensation paid is unfair as far as the loss that the expropriated is sustained. Those individuals are also getting 5000 transportation cost compensation⁸⁴. Practically this 11000 birr is being given to the expropriated.

To rehabilitate the displaced farmers, Addis Ababa City Administration is going to establish an independent rehabilitation institution. This decision aims at rehabilitating the already displaced farmers and who are found in a problem.⁸⁵ Ato Diriba Kuma, Addis Abeba Administration mayor, said⁸⁶ the City administration is now ready to pay commensurate compensation to the expropriated land holders and to rehabilitate those already expropriated and is going to be expropriated. An Agency is going to be established for the rehabilitation of those expropriated land holders. But Ato Solomon⁸⁷ was said the institution is already established.⁸⁸ Ato Diriba outlined that, the major thing at hand is not the expropriation of land holders. The existence of expropriation is inevitable since the capitalist system exists.⁸⁹ The main thing is to pay those land holders commensurate compensation and to make them rehabilitated. For this purpose the experience of other countries is being studied. The cause for the Oromia protest is attached to those compensation and rehabilitation issues.⁹⁰ Now a directive is promulgated for the rehabilitation of affected land holders. The institution is still not yet established.

The expropriation and payment of compensation laws and the practice there to in general have the following deficiencies. Even though the federal law orders regional states to have their own

⁸⁰ Proclamation 455/2005, article 13(1)

⁸¹ Directive 19/2014, article 29

⁸² Ibid, article 29(5)

⁸³ Ethiopian civil code, article 2117(3)

⁸⁴ Ibid, article 29(6)

⁸⁵ Reporter Magazine, volume 21, number 1678, Sunday May 21, 2008 E.C.

⁸⁶ Reporter Magazine, volume 21, number 1680, Sunday May 28, 2008 E.C

⁸⁷ Addis Ababa land management bureau head

⁸⁸ Reporter Magazine, volume 21, number 1678, Sunday May 21, 2008 E.C.

⁸⁹ Reporter Magazine, volume 21, number 1680, Sunday May 28, 2008 E.C

⁹⁰ Reporter Magazine, volume 21, number 1680, Sunday May 28, 2008 E.C

directive, still some regional states have no the aforementioned directive. So this makes a gap for the full implementation of the federal proclamation and regulation. The valuation methods there in the law are not fair now because of inflation. At the time of expropriation consultations are crucial, but practically not. Sometimes convincing meetings may be held, when objections are raised threats or force may be used.

Because Vagueness of the law and openness to subjectivity creates a loophole for corruption, land laws should be formulated in a manner that is clear, unambiguous and easy for citation. There are rise of speculative tendencies and little attempt to budget for compensation. Local administrators feel as if they are “between the fire and the frying pan” are the most problems in practice

Conclusion

In order to regulate the process of expropriation of holding land for the requirement of basic public services and the realization of advance payment and commensurate compensation in accordance to the law mitigation measure should begin from what can be done immediately. Hence, awareness creation and provision of information on the legal framework to all concerned parties such as implementing institutions, project owners and affected segment of the society is very essential.

There is a big gap between what is stated in the laws and the actual practice on the ground. Lack of using standardized valuation methods and procedures have created situations of unfair valuation and compensation regimes.

There was ambiguity in the definition of “public interest”. Public interests are not defined explicitly in either statutory or case law, giving the government virtually unlimited power in taking property for any purpose. Allowing government exercise of eminent domain power for private investment interests gravely distorts the land market, resulting in government intervention in land transactions that could be otherwise achieved through private negotiation. When compared to rural land expropriation system we can say that there is procedural safeguards. Expropriates’ right to notice, participation and appeal in land expropriations is found in the legal regime and in practice. The law requires notifying the affected people of the planned expropriation, this notification is implemented on the ground.

Recommendations

The compensations paid now are not adequate. This non adequacy is the result of the problem found on the law as well as on the valuation system. To reduce the problem the laws to this effect has to be revised considering the current market condition.

Rehabilitations works has to be done. The government should give this responsibility to one institution or one independent institution should be established. Compensation paid individuals are becoming extravagant and they are spending the compensation unwisely. This rehabilitation work has to be given due concern. The rehabilitation institution which is going to be established has to be established as quickly as possible.

Ensure the joint working of urban and wereda administration as far as compensation, expropriation and rehabilitation is concerned.

The government is making much profit by expropriating the land from the rural land holders at a least price and by selling the same land at a high price. The government have to share such price for the expropriated land holders.

Now in Addis Ababa transportation cost of 5000 is being paid similarly to all expropriated land holders. This amount does not consider the distance that the expropriated individuals will travel and the number of properties that is going to be transported. This shows that the transportation compensation is being paid without taking in to account the costs of transportation. But the government has to devise a mechanism so that the transportation compensations to cover the transportation. The transportation compensation have to be directly equal to the transportation cost that the expropriated individuals will pay.

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