

House Rent Control Laws of Bangladesh: A Question of Implementation

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Introduction:

Bangladesh is a small country with a huge population. Most of the people does not own a fixed premise to live. They rely on other house owners to stay as tenant in their premise. The rent in that case is always a big question. Most people living in big cities like Dhaka or Chittagong stay as tenant in other premises. The Premises Rent Control Act, 1991 was enacted to bring a fixed regulation for the control of rents of premises. And this Act is not only about the tenants. This Act tends to create a balance between the interests of both the house owners and the tenants by giving a justified set of rules. But this enacted law sees almost no implementation. Almost no tenant knows that there is a law regarding house rent control. The current scenario shows that the tenants are always at the mercy of the house owners. The house owners increase the amount of rent as much as they like, any time they like, violating the provision of the Premises Rent Control Act, 1991. The tenants have no way but to agree with such decision, because housing problem in big cities is already acute. And the house owners also cannot be blamed all the time. Because there are many other factors which forces them to increase their rent. The government from time to time increase different tax rates that is payable by the house owners. In many cases the government acts inconsiderately in increasing these tax rates. As a result, the house owners have no choice but to increase their house rents. And the burdens of taxes finally fall on the tenants. And legally the main problem in this regard is that the Premises Rent Control Act, 1991 is a bit vague in this aspect of taxes that is levied primarily on the house owners. And in many other instances this Act needs some serious adjustments.

Application of the Act:

As stated earlier there is very little implementation of the premises Rent Control Act, 1991 in Bangladesh. For example, Section 3 of the Act states about appointment of a controller and a deputy controller by the government for any area. They will be empowered to fix the amount of standard rent, hearing of applications made to him by house owners or tenants, they will have the power to enter and inspect premises and they will exercise any power and discharge any duty conferred and imposed upon them by the Act. Currently the government appoints assistant district judges from district courts as rent controllers under this Act.¹ But neither the tenants nor the landlords know where and how they can be reached.

Again, the power that has been imposed upon the controllers under this Act is the biggest fact noticeable. Section 15 of the premises Rent Control Act, 1991 gives the power to the controller to fix the standard rent of any premises payable by the tenants. Section 16(2) states:

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¹Dhaka Mirror, City people ignorant of rent controllers, Available at: <http://www.dhakamirror.com/other-headlines/city-people-ignorant-of-rent-controllers/>

The standard rent shall, on the basis of an application made by the landlord or the tenant, be refixed by the Controller in accordance with the provisions of section 15 every two years.

But most of the house owners and tenants do not know who is a controller. Even in cases where they know the controller, neither the landlord nor the tenant bother going to the controller due to the tiresome process of law. As a result, the house owners increase the rent without any participation of the controller and in many cases they increase the house rent more than once within two year. Although the landlords can increase house rent legally without filing application to the controller on two instances specified in section 8 and section 9 of the Act. According to section 8 the landlord can increase house rent if he has made any improvement to the premises that was not included in the necessary repairs or supplies any furniture to the premise after reaching into agreement with the tenant.

According to section 9 if the landlord pays any tax, toll or fee that is primarily levied upon the tenant, that amount of tax, toll or fee shall be added with the rent and payable by the tenant to the landlord. This Act also has a rule about advanced rents. According to section 10, landlords cannot receive any amount of rent exceeding one month as rent in advance without previous consent of the controller. But when no one even knows how to reach the controller, this section cannot be applied practically and in most cases the landlords do demand advanced rents for more than one month and the tenants have no choice but to pay that.

Section 23 states the punishment for violation of section 10. It also states the punishment for receiving a rent in excess of the standard rent except in the cases of section 8 and 9. Overall a plain reading of the Premises Rent Control Act, 1991 will seem more of a tenant friendly law. But the reality is far different. According to section 15 of the Act:

The Controller shall, on the basis of an application made by the landlord or the tenant, fix the standard rent of any premises at an amount per annum which shall be equivalent to fifteen per cent of the market-value of the premises to be assessed in such manner as may be prescribed

Again, in practical situation we don't see any activity of the controller and in the most cases the house owners undervalue their assets on legal documents to lower the amount of tax that is levied on them and fixes the rent amount way over the specified rate. There are though some activities of the rent controllers in few cases where the disputed matter is about commercial space rents or lease. But in case of residential spaces there is almost no activity as no one bothers to approach the controllers. So an overall situation is that the application of the premises Rent Control Act, 1991 is almost zero especially when it comes to residential rent houses.

Necessary Amendments in the Act:

The Premises Rent Control Act, 1991 is more of a tenant friendly law. But there are so many loopholes in the Act that needs amendment. Section 9 of the Act states that if the house owner pays any tax, tolls or fees that is levied primarily on the tenant. The tenant will have to pay that amount of money in addition to the rent. But the Act does not say anything about the taxes that are primarily levied upon the house owners. Whether the house owners can increase the rate of rent on the basis of the tax levied upon them. In recent times the government has increased the holding tax by a big margin. As a result of this increase the house owners are increasing the rate of rent which is causing much

trouble to the tenants. So there should a clear provision whether the house owner can increase house rent on the basis of increased tax rate upon the house owners.

Another loophole can be seen in section 13 of the Act. It states that “*Where a tenant has paid his rent, the landlord shall give forthwith to the tenant a signed receipt for the rent in the form determined by law.*” The problem is with the ‘form determined by law’ part. It is not clear what form is the section referring to². As a result, the house owners do not give any receipt of rent payment to the tenants and later when any dispute arises the parties can not show any receipt of such payment which could be used as evidence.

The concept of ‘Standard Rent’ is a bit contradictory with other rules set out by different city corporations. Section 15 has stated that the rent controller shall fix the standard rent of any premises at an amount per annum which shall be equivalent to fifteen percent of the market-value of the premises to be assessed in such manner as may be prescribed. But city corporations like Dhaka and Chittagong has area wise margin for house rents³. So, there is contradiction between the Acts and the rules of city corporations which needs to be solved.

Section 18(6) has defined ‘Rent Allowable by this Act’ for any premises. But there is confusion. Rent allowable by this Act means standard rent fixed under section 15 or where such standard rent has not been fixed, the rent agreed upon between the landlord and the tenant. Now question arises would it be logical to think that a tenant who wants to rent a house would file an application to rent controller asking to fix the standard rent after disagreeing with the house owner about the rate of the rent in the first place. The answer will always be, No. So, there is a scope to work on this section.

Section 18 of the Act states that the house owner can evict the tenant if he does not pay the house rent to the full extent allowable by this Act. But there is nothing in the Premises Rent Control Act, 1991 that states the process of recovering the unpaid rent of the evicted tenant. There should be a provision on how can a house owner recover his unpaid rents⁴.

And most importantly, the Act should be amended to give better identity of the rent controller as the implementation of this Act depends mainly on the rent controller. Usually, the government appoints the assistant district judges as rent controllers. So if the government wants to appoint assistant district judges as rent controllers it should be clearly stated in the Act. Otherwise the general house owners and tenants will always face the problem of reaching the controller in need. So there is a need to amend section 3 of this Act.

Recommendations:

As analyzed in the previous portions, here are some recommendations to the government to create better house rent control system-

²Ashif Islam Shaon, High Court orders for a house rent commission Available at: <http://archive.dhakatribune.com/bangladesh/2015/jul/02/high-court-orders-house-rent-commission>

³The Daily Independent, Form panel to fix house rent: HC, Available at: <http://www.theindependentbd.com/arcprint/details/6038/2015-07-02>

⁴BDNEWS24.COM, The House Rent Control Act, 1991: How Far Implementation, Available at: <http://www.banglanews24.com/law/article/19756/The-House-Rent-Control-Act-1991-How-far-implementation>

1. The government should appoint more rent controllers to certain places for better implementation of the premises Rent Control Act, 1991 and their office should be made easily noticeable so that the house owners and the tenants can approach the rent controllers easily.
2. There is nothing in the Premises Rent Control Act, 1991 that states the duty of the city corporations or municipality authority regarding house rent control. The city corporations and the municipality authorities should be given some power regarding the house rent control activity as they are the one who imposes different types of taxes and tolls like Holding taxes and others on the landlords and the tenants.
3. The government should provide specific forms to house owners where the necessary details of both house owner and the tenant and specific rules and conditions as per the Premises Rent Control Act, 1991 shall be provided. This will be of great help to both the house owners and tenants.
4. And finally, the government urgently needs to amend this Act. The part of the Act that should be amended that has been discussed in the previous part. Because those are the loopholes in the way of effectively implementing the Premises Rent Control Act.

Concluding Remarks:

In current economic situation an average earning member of a family has to spend almost 60% of his income for housing facility. It is one of the fundamental rights of a human. So there should be definite rules and regulations regarding house rents. The Premises Rent Control Act, 1991 was enacted providing that definite rules and regulations. But the main problem is the non-implementation of this Act. Only a hand full of tenants or house owners might know that there is a specific law regarding house rent control. And even the government is negligent in enforcing this Act justly. The government just appoints some rent controllers from time to time and no other person even gets to know who the rent controller is. As a result, there is almost no implementation of this Act. And there are some loopholes too that needs to be amended. So, there are non-implementation of the Act and the loopholes. Together these are making this very necessary law obsolete. So, to bring a disciplined regulation for the benefit of both the house owners and the tenants, the government should amend necessary provisions of the Act and take steps to effectively implement the Premises Rent Control Act, 1991.