

Law _____ of _____ of 2009

By which insular lands are declared special development area, land award in coastal zones is regulated, and legislation for their exploitation by means of a regularization and massive titling of rights of possession is issued.

THE NATIONAL ASSEMBLY

DECREES:

Article 1. Insular land is hereby declared a special development area. In order to exploit it, the regularization and massive titling of rights of possession existing on insular land, duly evidenced as provided in this Law and pursuant to the criteria set forth in Law 24 of 2006.

Exploitation of insular land shall be subject to the national security measures as provided in the Political Constitution of the Republic.

Article 2. The Nation shall recognize, through the Cadastre and Patrimonial Assets Directorate of the Ministry of Economy and Finances, the possession with animus dominii over the Nation's patrimonial assets, insular land, coastal zones and national lands.

Possession shall be expressed through housing, residential, environmental, touristic, commercial or productive use. Documents issued by police authorities shall complement possession, and therefore, rights of possession.

No punishment shall proceed on the occupant when a duly recognized possession exists.

The Executive Branch, through the Cadastre and Patrimonial Assets Directorate of the Ministry of Economy and Finances, shall apply the awarding procedure set forth in Law 24 of 2006.

Article 3. Originary possession shall be recognized to persons who evidence occupation of lands referred to in the foregoing article, with animus dominii, use and enjoyment in an uninterrupted and permanent manner.

Originary possessor shall be understood as he who has had occupation for five or more years with said possession being accepted by neighbors or the community. In cases where the originary possessor transfers its possession, the derivative possession shall legitimize the new possessor.

Corporations who obtain property title through derivative possession shall submit a notarial certification on the ownership of issued shares, information which shall be registered in the definitive awarding resolution.

Article 4. To the effects of this Law, coastal zone shall be understood as the one comprising an area of two hundred meters from the high tide land into the mainland, notwithstanding the limitations set forth in legal or regulatory provisions.

To this effect seashore, transit easements and all other easements set forth by the respective authorities within the two hundred meters, shall be respected.

Article 5. No mangrove zones, indigenous shire territories, protected areas and any other land subject to legal restrictions on private property shall be the object of awarding. The respective authorities may identify said areas and lands for the ends foreseen in the respective provision.

In protected areas no rights of possession shall be adjudicated, unless these have been commenced prior to the date of protection of said areas. In this case, titling of rights of possession shall be subject to the applicable environmental law or regulation. Cases of rights of possession existing after the protection declaration may be titled under express provision of the National Environmental Authority when technical feasibility exists for this process.

Neither shall be subject to awards insular land declared as strategic area or set aside for governmental programs.

Article 6. In any regularization and massive titling processes, including pending individual processes, the exception criteria to the contracting selection procedure shall be applied, by virtue of the social character of the cadastral survey and titling endorsed by the State through special projects.

The Cadastre and Patrimonial Assets Directorate of the Ministry of Economy and Finances, within the framework of this Law, of Law 24 of 2006, of Executive Decree 228 of September 27, 2006, of Agreements of the Operational Technical Committee of the National Land Management Program and of the Field Operating Manuals, shall issue a definitive awarding resolution in favor of the applicant, which shall not require prior approval of the General Comptroller's Office, and shall be registered in the Public Registry.

Article 7. Vertexes of parcels shall be georeferenced pursuant to the World Geodesic System 1984 (WGS-84), which has been applied in the regularization and massive land titling processes zones, and which shall allow to correspond with the dynamic of the reference framework of the Geocentric Reference System for the Americas (SIRGAS).

Article 8. In awarding processes in which acts contrary to the law, consent defects or land grabbing actions are denounced, the Cadastre and Patrimonial Assets Directorate of the Ministry of Economy and Finances may appoint an evaluation commission to decide on the feasibility of said award, and shall send the file to the competent Courts of Justice in case it may be necessary.

The National Land Titling Program's Civil Society Consulting Council shall assist to facilitate the constitution of dialogue tables, as well as the support in conflict resolution and in all possessor identification cases which allow to overcome the situations in this article enumerated.

Article 9. The award price for rights of possession in coastal zones and insular lands that the Cadastre and Patrimonial Assets Directorate of the Ministry of Economy and Finances awards to those exercising possession pursuant to article 3 of this Law, shall be fixed pursuant to the following table:

1. Fifty balboas (B/.50.00) per hectare when the parcel area shall of one hectare o fraction of hectare up to twenty hectares.

2. One hundred balboas (B/.100.00) per hectare when the parcel area shall of more than twenty hectares up to fifty hectares.

3. One hundred and fifty balboas (B/.150.00) per hectare when the parcel area shall of more than fifty hectares thereon.

The owner of the parcel subject to a limitation of property shall have a term of up to ten years to pay the value of the land and cancel the respective annotation.

Article 10. Every possessor may opt to title free of charge due to poverty conditions and such titling shall be bound by the criteria set forth in the Agrarian Code.

Article 11. Land awards made by the Cadastre and Patrimonial Assets Directorate of the Ministry of Economy and Finances shall guarantee jointly with the Ministry of Housing the respective easements to allow public access to beaches in the mainland or on islands.

The breach of public access to beaches shall be considered an administrative infringement and shall be penalized with a fine of no less than one thousand balboas (B/.1,000.00) and no more than five thousand balboas (B/.5,000.00). In case of recurrence, the fine shall not be less than five thousand balboas (B/.5,000.00) and no more than twenty thousand balboas (B/.20,000.00). Any other infringement shall be penalized with a fine of no less than twenty thousand balboas (B/.20,000.00) and no more than one hundred thousand balboas (B/.100,000.00).

The penalty shall be imposed by the Cadastre and Patrimonial Assets Directorate of the Ministry of Economy and Finances.

Police authorities shall guarantee the compliance with this rule, in a way which allows at all times the public Access to beaches in the mainland or on islands.

Article 12. The parcels in which public utilities are executed in a permanent manner, and which shall be located in coastal areas and islands on municipal property, shall be awarded to the Ministry of Economy and Finances for it to assign them in use and management of the entity which executes the respective public utility.

Article 13. The first purchase and sale transaction executed on properties acquired by their occupants, pursuant to the foregoing articles, shall be levied with a twenty five per cent (25%) tax on the capital gain obtained by the seller.

The capital gains tax shall applied on the amount resulting from the market value and the award price and the titling cost of the rights of possession.

The accepted market value shall be within a margin of values with a range of ten percent (10%) of the average value as defined by the commission established for such ends. The marked value accepted at the time of the transaction shall be used as a reference.

Investments in infrastructure and basic utilities made by the possessor benefited with the property title shall be considered at the time of calculating the capital gains tax to make the reductions in such case.

Transfers or gifts made to the spouse or children of the possessor benefited with the property title shall be exempted of payment of the respective taxes. In case such person receiving the gift executes a sale of the land, said sale shall be levied with the tax in the manner set forth in the foregoing paragraphs.

Payment of the tax shall be required by the respective notaries prior to registration in the Public Registry.

This tax shall not be levied in case the possessor benefited with the property title, which keeps property over the land, becomes a party to a co-investment process in which the land is provided as investment in kind.

The capital gains tax provided for in this article shall be levied without prejudice to other transfer taxes on real estate property set forth by law.

Article 14. To define the market value a commission shall be created which will be composed by the Ministry of Economy and Finances, which will coordinate said commission, and two organizations specialized in the subject which will represent the organized civilian sector.

The Ministry of Economy and Finances shall request candidates or a list of three candidates to civilian organizations to appoint the persons who shall compose said commission.

The operation of this commission shall be regulated, setting forth its valuation technical principles in which the concepts of homogeneous valuation zones, market observatories and its technical support shall be included.

Article 15. Article 7 of Law 24 of 2006 shall be as follows:

Article 7. The awarding process of real estate property located in areas declared as regularization and massive land titling zones, as well as their respective registration in the Public Registry of the property rights over them constituted, shall be mandatory.

From the publication of this Law henceforward, beneficiary possessors shall be personally notified of the initiation of the regularization and massive land titling process. If after thirty calendar days of said notification the beneficiary possessor shall not have elected one of the existing titling options, the respective entity shall onerously award the respective parcel, and shall proceed to its registration in the Public Registry. In such cases, in the registration entry an annotation limiting property rights shall be included, until the owner has paid the price for the land and the respective titling proceedings.

Once title has been registered, the owners shall be notified by fixing notices in the mayor's office and the county police station of the location of the property, for a term of five working days, and a one-time publication in a national daily newspaper.

Possessor of parcels surveyed since 1999 through programs financed with government funds, shall have from the moment of publication of this Law henceforward, ninety calendar days to finish the awarding process and the

respective registration. Otherwise, the procedure in this article set forth shall be applied.

Article 16. Article 7-A shall be added to Law 24 of 2006 as follows:

Article 7-A. To ensure the execution of the national cadastral survey, in all regularization and massive land titling processes when an opposition or any other conflict is identified in the execution of the survey or within the awarding stage which paralyzes the respective titling process, alternate dispute resolution methods shall be applied thereto. In case the conflict remains until the awarding notices stage, the publication of said notices as a parcel in conflict shall be made, and once the term for opposition elapses, the files shall be sent to the respective courts. Once said procedures have been fulfilled an award resolution shall be issued with a property limitation annotation, recognizing the conflict condition of the parcel. Once a decision is issued by court and this is standing, the Public Registry shall cancel the respective annotation and register the parcel to the person favored by said decision.

When an opposition or any other conflict case is identified within a judicial proceeding before the cadastral survey of the respective parcel, the judicial decision issued by the respective court shall be complied with.

In any case the possessor dies, the award shall be made to the presumptive heirs which request the opening of the inheritance process of the deceased. Once the procedures of the respective regularization process are fulfilled, an award resolution shall be issued which sets forth an annotation limiting property rights due to the pending inheritance proceeding. Once the court's decision on the inheritance process is issued, the Public Registry shall cancel the respective annotation the Public Registry shall cancel the respective annotation and register the parcel to the heirs recognized by said decision.

Article 17. Paragraph g of article 2 of Law 63 of 1973 shall be as follows:

Article 2. The following are duties of the Cadastre and Patrimonial Assets Directorate of the Ministry of Economy and Finances:

...

- g) Manage, carry out, award, concede, lease and custody of national rural or urban empty lands, insular land, coastal zones, as well as the Nation's patrimonial assets, except those set aside for agrarian and agropecuarian ends, which are jurisdiction of the Agropecuarian Development Ministry.

...

Article 18. Paragraph 11 shall be added to 27 to the Agrarian Code as follows:

Article 27. The following lands shall be exempted from the application of the provisions of the foregoing articles:

...

- 11°. Maritime, lacustrian and fluvial lands of the Panama Canal, including land dikes of its lakes, lands bordering Gatun lake comprised from the water shore to a height of 100 feet PLD, those bordering Alajuela lake from the water shore to a height of 260 feet PLD, those bordering rivers which spill to the basin up to their maximum flooding level, lands on islands

and insular lands part of the lakes of the Panama Canal and its maritime waters, pursuant to the provisions of Title XIV of the Political Constitution as developed by Law 19 of 1997.

...

Article 19. This Law amends article 7 of Law 24 of July 5, 2006 and paragraph g of article 2 of Law 63 of July 31, 1973, and adds article 7-A to Law 24 of July 5, 2006 and paragraph 11 to article 27 of the Agrarian Code.

Article 20. This Law shall be in force from its publication.

BE NOTIFIED AND COMPLIED WITH.

Bill 459 of 2008, as approved in third passing in the Justo Arosemena Palace, city of Panama, on April ____ of the year two thousand nine.

The President,

Raul E. Rodriguez Arauz

The General Secretary,

Carlos Jose Smith S.