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Royal Government of Cambodia

No 47 ANK.BK/May 31, 2002

Sub Decree on Organization and Functioning of the Cadastral Commission

- Referring to the Constitution Kingdom of Cambodia
- Referring to Preah Reach Kret No NS/RKT/1189/72 of November 30, 1998 on the Appointment of Royal Government of Cambodia,
- Referring to Preah Reach Kram No 02/NS/94 of July 20, 1994 promulgating the law on the Organization and Functioning of the Council of Ministers;
- Referring to Preah Reach Kram No NS/RKM/0699/09 of June 23, 1999 promulgating the Law on the Establishment of the Ministry of Land Management, Urban Planning and Construction,
- Referring to Preah Reach Kram No NS/RKM/0801/14 of August 30, 2001 promulgating the Land Law,
- Referring to Sub-Decree No 62 ANK/BK of July 20, 1999 on the Organization and Functioning of the Ministry of Land Management, Urban Planning and Construction,
- Pursuant to the approval of the full session of the Council of Minister on May 24, 2002;

CHAPTER-1: General Provisions

Article 1.

This sub decree has the objective to define the structure, missions and functions of the Cadastral Commission.

Article 2.

This Sub Decree applies to disputes over unregistered immovable property. The Cadastral Commission has a preliminary right to decide about the recognition of the lawful possessor

CHAPTER 2: Mission and Structure

Article 3.

The Cadastral Commission has the mission to resolve the following conflicts related to unregistered immovable property.:

- (1) Disputes occurring outside adjudication areas;
- (2) Disputes arising within adjudication areas and that cannot be conciliated by the Administrative Commission.

Article 4.

The Cadastral Commission has the following structure:

District/Khan Cadastral Commission (DKCC)

Provincial/Municipal Cadastral Commission (PMCC)

National Cadastral Commission (NCC)

The PMCC and the NCC shall have Secretariats acting as their staff and in charge of investigations.

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CHAPTER 3: District/Khan Cadastral Commission

Article 5.

The chief of the District Office of Land Management, Urban Planning, Construction and Land Administration (OLMUPLA) shall chair the DKCC and shall be appointed by the Minister of Land Management, Urban Planning and Construction.

The staff of the District OLMUPLA shall assist the chief of the DKCC.

The chief of this commission may invite the concerned representatives of district/ Khan, commune/ Sangkat and village authorities and/or local elder trustees to join as ad hoc members.

Article 6.

The DKCC has the duty to conciliate conflicts arising outside adjudication areas.

Disputes conciliation shall be conducted following customary rules along with cadastral techniques.

CHAPTER-4: District/Khan Level Conciliation

Article 7.

The MLMUPC shall determine the complaint form.

The DKCC shall register and open a file for all disputes submitted to it.

The DKCC shall explain the procedure to the parties in conflict and inquire if they accept to resolve through conciliation following these procedures or not.

Article 8.

The DKCC shall investigate the dispute. The investigation includes specifying the location of the disputed parcel and parties concerned with the object of the dispute and collecting available documents, witness statements and information related to the disputed parcel. The DKCC shall make and certify copies of any document to be kept in the file and return the originals to the parties in conflict.

The DKCC shall make and enter this investigation documentation in the dispute file.

Article 9

The DKCC shall conciliate the disputes other than those specified in article 10.

The conciliation shall be conducted according to the guidelines on conciliation provided by the Ministry of Land Management, Urban Planning and Construction.

Article 10.

After the investigation, the DKCC shall submit the dispute file to the PMCC if the Chief determines, by the Chief's own initiative or at the request of both parties, that it is impossible that an equitable resolution can be reached at the District/Khan level for the following reasons:

- (1) One person claims several parcels that are also claimed by small possessors;
- (2) One of the parties is a high-ranking authority;
- (3) There is a conflict of interest with the Chief of the DKCC;
- (4) The dispute involves State public land;

Article 11.

If a settlement is reached through the unanimous agreement among the parties in dispute the DKCC shall report to the PMCC and shall submit a copy to the District/Khan Office of Land Management, Urban Planning, Construction and Land Administration so that it begins the

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process of conducting the registration procedure of the parcel over which the dispute had been resolved already.

If a settlement cannot be reached the DKCC shall submit the dispute together with a written report of the conciliation to the PMCC.

CHAPTER 5: The Provincial/Municipal Cadastral Commissions

Article 12.

The PMCC has the following composition:

- Provincial/Municipal Governor or Deputy Governor Chief
- Chief of Provincial/Municipal Dept. of LMUPCC Member

The Chief and the members of this Cadastral Commission shall be determined by a joint Prakas of the Ministers of Interior and the Ministers of Land management, Urban Planning and Construction.

The Chief of the PMCC may invite the representatives of District/Khan, Commune/Sangkat or Provincial/Municipal Departments of Concerned Ministries to join as ad hoc members.

Article 13.

The PMCC has a duty to conciliate disputes submitted under Article 10 and Article 11 paragraph 2 to this Sub-Decree.

Members of the PMCC shall participate in meetings in respect to invitation of the Chief of the PMCC.

Article 14.

The PMCC has a secretariat acting as its staff and as its investigation unit.

The officers working in the Secretariat are Public officers appointed by the Minister of Land Management, Urban Planning and Construction at the request of the Cadastral Commission.

The Secretariat of the PMCC has the following functions and duties:

- Receive the dispute files from the DKCC and nay complaint relate to land disputes,
- Investigate according to the guidelines of the PMCC,
- Report the investigation results,
- Arrange the PMCC meetings,
- Record Conciliation process and report about the conciliation result,
- Submit these reports and records to the NCC. If the conciliation is reached the result of the conciliation shall be sent to the District/Khan Office of Land Management Urban Planning Construction and Land Administration;
- Prepare and preserve the documents.

CHAPTER 6: Provincial/Municipal Level Conciliation

Article 15:

The PMCC has no right to decide but may finalize the dispute only when all disputants have agreed unanimously.

If the Chief of the PMCC has an interest in the dispute, this dispute file shall be submitted to the NCC.

Article 16:

If a settlement is reached, the PMCC shall send the result to the District/Khan Office of Land Management, Urban Planning Construction and Land Administration so that it begins the

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process of conducting the registration Procedure of the parcel over which the dispute has been resolved already.

If a settlement cannot be reached, the PMCC shall submit the dispute file together with a written report of the conciliation to the NCC.

CHAPTER-7: National Cadastral Commission

Article 18:

NCC has the following Composition:

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| - Minister of MLMUPC | Chief |
| - Secretary of State of Ministry of Interior | Member |
| - Secretary of State of the Office of the Council of Ministers | Member |

The Royal Government of Cambodia shall appoint the Chief and member of the NCC.

The Chief of the NCC may invite concerned ministries and institutions to join as ad hoc member

Article 19:

The NCC is Competent to decide disputes related to land that Can be possession that the lower Commission or the Administrative Commission were not able to conciliate as mentioned in article 16 and disputes mentioned in point 2 of article 3 of this Sub-Decree.

Members of the NCC shall participate in meetings in respect to invitation of the Chief of The NCC.

Article 20:

The NCC has a secretariat to act as its staff and as its investigation body.

This Secretariat is led by a Director and as many Deputy Directors as necessary who shall be appointed by the Royal Government of Cambodia.

The officers working in the Secretariat are public Officers appointed by the Minister of Land Management Urban Planning and construction at the request of the Cadastral Commission.

The Secretariat of the NCC has the following roles:

- Receive the dispute files from the PMCC and nay Complaint related to land dispute,
- Investigate according to the guidelines of the NCC;
- Report the investigation results;
- Arrange the meeting of NCC
- Record the hearings of the NCC and report the resolution result.
- It there is a Complaint against the decision of the NCC before a court; the statement of facts and all evidence shall be sent to the Court.
- Prepare and Preserve documents

CHAPTER 8: National Level resolution

Article 20:

The NCC has full jurisdiction to decide on the recognition of the lawful possessor or owner.

If the parties in dispute disagree with the decision of the NCC they have he right to complain before a Court as specified in article 23 of this Sub-Decree.

Article 21:

The NCC shall review all documents related to the dispute and, if considered necessary, it may order further investigations, consult the involved parties and arrange hearing before deciding the dispute.

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The NCC shall hold a hearing on the dispute if either party requests a hearing.

If the NCC consults with either party, the other party has a right to advance notice of the consultation to be present at the consultation if deemed necessary by the NCC.

Article 22:

The decision shall be in writing and shall contain a summary of facts of the case and detailed reasons for the decision.

Article 23:

The parties to the dispute have the right to request judicial review of the decision of the NCC through complaint to the Court within 30 days of the receipt of the decision.

If the Court remands the case to the Cadastral Commission for the reason that proper procedures have not been followed, or that there has been a conflict of interest, or that proper have not been given or that it has acted beyond its powers, the Cadastral Commission shall promptly take actions as directed by the Court.

The party requesting judicial review shall file a written notice of appeal with the Secretariat of the NCC. The Secretariat shall ensure the defense of the decision of the Cadastral Commission before the Court.

If no appeal is filed within the 30 days specified in this article, the decision of the Cadastral Commission shall be considered final.

CHAPTER 9: Registration

Article 24:

After the decision of the National Cadastral Commission has gained legal force, the NCC shall send the decision to the Provincial/Municipal Department of Land Management, Urban Planning, Construction and Cadastre in order to organize the registration of the parcel following the determined procedures.

CHAPTER-10: Administrative Provisions

Article 25:

If a member of the DKCC has an interest in the dispute, such member shall decline to deal with the dispute and the PMCC shall appoint a new member in replacement.

If a member of the PMCC or the NCC has an interest in the dispute, the member shall decline to deal with the dispute. If necessary, the Minister of LMUPC can appoint a member in replacement.

In the case the chief of the NCC has an interest in the dispute, the Minister of Land Management, Urban Planning and Construction has the right to appoint a member of the NCC as its ad hoc president in order to resolve this conflict.

Article 26.

The person who has been confirmed as a lawful owner or possessor of the disputed parcel under the procedure established by this Sub Decree shall pay the fee for registration of the parcel determined by article 230 of the Land law.

Article 27.

- Disputants shall be given reasonable advance notice of any meeting to conciliate or decide a dispute under this Sub Decree.

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- Disputants have the right to appear in person and to have a person or organization assist them during the conciliation of disputes at any level.
- Disputants have the right to appear in person and to have a person or organization represent them during any meetings to decide a dispute by the Cadastral Commission.
- Meetings of the Cadastral Commission shall be open to the public.
- Disputants have the right to present relevant oral or documentary evidence related to the dispute, which shall be considered as a part of the official record of the dispute.
- The Cadastral Commission shall maintain the official record of each dispute to include all documents and oral and documentary evidence submitted in the dispute. The official records related to disputes are open to the concerned parties for inspection.
- Decisions of the NCC shall be in writing and shall be accompanied by a report of the case and dispute resolution process supported by all reliable and substantial evidence that is part of the official record.
- A copy of the decision of the NCC shall be given to each disputant.

The MLMUPC shall issue the instruction Prakas for the implementation of this Sub Decree.

Article 28:

The DKCC has the right to use the seal of the District/Khan Office of Land Management, Urban Planning, Construction and Land.

The PMCC has the right to use the seal of the Governor Administration.

The NCC has the right to use the seal of the MLMUPC.

CHAPTER 11: Resources

Article 29.

The Cadastral Commission has a specific budget that is an annex of the budget of the MLMUPC.

Article 30.

Resources and budget of the Cadastral Commission shall be provided by:

- the National budget;
- Financing from other counties or International Aid Organizations;

CHAPTER-12: Final Provisions

Article 31.

All provisions in contradiction with this Sub-Decree shall be null and void.

Article 32.

The Minister in charge of the Office of the Council of Minister, the Minister of Interior, the Minister of LMUPC, Minister, Secretaries of State, all provincial/municipal Governor and concerned officers have the task to implement this Sub-Decree according to each of their tasks from the date of its signature.