

Text of the Law submitted to the Senate according to Art. 52 of the Sejm's Rules

LAW
of 25 June 2015
on an Amendment to the Law on Real Estate Management and the Law - the Family and Guardianship Code

Art. 1. In the Law of 21 August 1997 on Real Estate Management (Journal Laws of 2015, item 782), the following changes are made:

1) after Art. 111, the following Art. 111a shall be added:

"Art. 111a. 1. The State Treasury or the Capital City of Warsaw shall be entitled to pre-emptive right in the event of sale:

- 1) of the rights and claim specified in the Decree of 26 October 1945 on the Ownership and Use of Land in the Area of the Capital City of Warsaw (Journal of Laws No. 50, item 279 and of 1985, No. 22, item 99);
- 2) of the claims specified in Art. 214;
- 3) of the right of perpetual usufruct established in consequence of the satisfaction of the claims specified in points 1 and 2.

2. The transfer of the rights and claims specified in section 1 shall require the conclusion of an agreement in the form of a notarial deed.

3. In the matters referred to in section 1, the provisions of, respectively, Art. 109 section 3 points 1 and 2 and Art. 110 and Art. 111 shall apply.

4. The pre-emptive right shall be exercised by the President of the Capital City of Warsaw.

5. If the rights and claims referred to in section 1 concern the real estate of the State Treasury which are under the management of the minister responsible for the State Treasury or with regard to which the proprietor's rights are exercised by the Agricultural Real Estate Agency, Military Property Agency or the Military Housing Agency, the pre-emptive right shall be exercised by the relevant minister or agency.”;

2) in Art. 214, section 1 shall read as follows:

"1. Former owners whose rights to compensation for the land, buildings and other components of real estate taken by the state, as stipulated in Art. 7 sections 4 and 5 and Art. 8 of the Decree of 26 October 1945 on the Ownership and Use of Land in the Area of the Capital City of Warsaw, expired according to the provisions of the Law referred to in Art. 241 point 1, if, by 31 December 1988, they or their legal successors submitted applications for being granted rights of perpetual usufruct of the land, may receive back the real estate constituting their former property.”;

3) after Art. 214, the following Art. 214a and Art. 214b shall be added:

"Art. 214a. It may be refused to establish a right of perpetual usufruct to the benefit of former owner of the land, as defined in Art. 7 section 1 of the Decree of 26 October 1945 on the Ownership and Use of Land in the Area of the Capital City of Warsaw notwithstanding the reasons indicated in Art. 7 section 2 of that Decree, also due to:

- 1) the allocation or use thereof for the purposes specified in Art. 6;
- 2) sale or transfer for perpetual usufruct to the benefit of third parties;
- 3) development by the State Treasury or a self-territorial governmental unit performed after the effective date of the Decree of 26 October 1945 on the Ownership and Use of Land in the Area of the Capital City of Warsaw, whose value significantly exceeds the value of the land occupied for that purpose;
- 4) reconstruction or renovation carried out with the use of public funds and covering the buildings referred to in Art. 5 of the Decree of 26 October 1945 on the Ownership and

Use of Land in the Area of the Capital City of Warsaw, destroyed in 1939-1945 in more than 66%;

- 5) the lack of possibility of performing a division of the real estate according to the law and spatial order, if only a part of such real estate forms an object of the claim specified in Art. 7 sections 1 and 2 of the Decree of 26 October 1945 on the Ownership and Use of Land in the Area of the Capital City of Warsaw.

Art. 214b. 1. In matters concerning the consideration of the applications referred to in Art. 7 section 1 of the Decree of 26 October 1945 on the Ownership and Use of Land in the Area of the Capital City of Warsaw, proceedings shall be discontinued if it is not possible to determine the parties to the proceedings or their addresses.

2. The grounds for the discontinuation referred to in section 1 arise when the authority summons the applicant and his/her legal successors, if any, to participate in the proceedings by means of an announcement, and no letter is received in the matter from the party apart from the application referred to in section 1. The authority shall issue a decision on discontinuation if, within six months from the date of announcement, no-one submits a claim concerning his/her rights or, after submitting such claims, fails to support them within the next three months or fails to indicate his/her address.

3. The announcement shall specify:

- 1) the first name, the last name and the last place of residence of the applicant known to the authority;
- 2) information about the submitted application;
- 3) indication of the real estate covered by the submitted application;
- 4) summons for the applicant or his/her legal successors to submit and support, within the time limits specified in section 2 the second sentence, their rights, because otherwise the proceedings will be discontinued.

4. The announcement shall be placed in a nation-wide daily newspaper and also in the local press whose range covers the last place of residence of the applicant, and also on the website of the relevant authority, where it will be posted for a period of 30 days,

5. A decision on discontinuation of the proceedings shall form the basis for the disclosure of the State Treasury's or territorial self-governmental unit's ownership title to the real estate in the land and mortgage registers kept for the building and the premises separated from such building as separate real estate, and for the closure of such land and mortgage registers.”

Art. 2. In the Law of 25 February 1964 - the Family and Guardianship Code (Journal of Laws of 2015, item 583), in Art. 184, the following § 3 shall be added:

”§ 3. No custodian shall be appointed to protect the rights of a person, if there are prerequisites to consider such person to be deceased.”

Art. 3. 1. In all instituted and unfinished matters, the provisions of this Law shall apply.

2. In the event that, prior to the effective date of this Law, agreements of sale of the rights and claims referred to in the Decree of 26 October 1945 on the Ownership and Use of Land in the Area of the Capital City of Warsaw (Journal of Laws No. 50, item 279 and of 1985, No. 22, item 99), the claims specified in Art. 214 of the Law amended by Art. 1 or a right of perpetual usufruct established in consequence of satisfaction of such claims are submitted to the files of administrative proceedings, court-administrative proceedings or courts proceedings, the provisions of Art. 111a of the Law amended by Art. 1 shall not apply to such agreements.

Art. 4. This Law shall come into force after the lapse of 30 days from the date of announcement hereof.