CHAPTER 259

MANOEL ISLAND (SPECIAL PROVISION) ACT

To provide for the dissolution of the emphyteusis of parts of Manoel Island granted to the Manoel Island and Malta Marina Company Limited and to provide for matters connected therewith or ancillary thereto.

(5th March, 1976)*

ACT IV of 1976, as amended by Act XIII of 1983 and Legal Notice 423 of 2007.

Short title.

1. The short title of this Act is the Manoel Island (Special Provision) Act.

Interpretation.

2. In this Act, unless the context otherwise requires -

"the Company" means the company known by the name of "Manoel Island and Malta Marina Company Limited" constituted by a deed dated 25th November, 1969, in the records of notary Victor Miller;

"the emphyteusis" means the temporary emphyteusis granted by a deed dated 5th September, 1970, in the records of notary Anthony Attard of lands and buildings and other immovables at Manoel Island, Gzira, including part of the sea-bed adjoining the said island, described in the deed aforesaid and shown on a plan attached thereto, and therein collectively described as the emphyteutical land.

Dissolution of emphyteusis and reversion of emphyteutical land.

3. The emphyteusis shall, by virtue of this Act and without further assurance, be dissolved with effect from 1st September, 1973, in consequence of defaults of the Company and any other event occurring before the date aforesaid entitling the Government, as the direct owner, to dissolve the emphyteusis, and all lands and buildings and other immovables comprised in the emphyteusis shall, likewise and with effect from the said date, revert to the Government, as the direct owner, free from any privilege, hypothec, lease, encumbrance and any other burden whatsoever.

Compensation. *Amended by: XIII. 1983.4, 5; L.N. 423 of 2007.*

4. (1) If any person considers that he ought to receive compensation on the ground that he had possession of, or an interest in or a right over, any property of any description, and that that property, interest or right has been compulsorily taken possession of or acquired under this Act, he may institute proceedings before the First Hall of the Civil Court for the purpose of determining his interest in or right over the property and the amount of any compensation to which he may be entitled, and for the purpose of obtaining payment of that compensation; and any determination on any such proceedings shall be subject to appeal to the Court of Appeal in accordance with the provisions of the Code of Organization and Civil Procedure.

Cap. 12.

(2) For the purposes of the determination of the compensation

See Government Notice No. 124 of 5th March, 1976.

(if any) payable in respect of property, interest or right (if any) compulsorily taken possession of or acquired under this Act, this case shall be treated as a special case in which Parliament deems it appropriate, in the national interest, to establish the criteria to be followed, including the factors and other circumstances to be taken into account, for that purpose.

(3) The criteria to be followed, and the factors and other circumstances to be taken into account, in the determination of any compensation that may be payable in consequence of any provision of this Act shall be the following:

(*a*) the Company had, on the date specified in article 3, failed to observe and fulfil the terms and conditions of the emphyteusis and such defaults entitled the Government, as the direct owner, to dissolve the emphyteusis;

(*b*) it is in the national interest that the emphyteusis shall be dissolved and that the emphyteutical land shall revert to the Government not only without the delays inherent in judicial proceedings but also with effect from a date nearer to that of the default of the Company;

(*c*) there is no justification for the payment of compensation by reason only that the emphyteusis is dissolved *ope legis* and with effect retrospective to a date subsequent to the default by the Company entitling the direct owner to dissolve the emphyteusis;

(*d*) there were circumstances which (independently of any institutional, procedural or other circumstances of a similar nature, including vacancies among the directors of the Company) made it impossible for the Company to honour its commitments under the emphyteusis and which led to the default of the Company; in particular, but without prejudice to the generality of the foregoing, these included:

(i) the condition in the emphyteusis requiring either that the Company should construct a breakwater and deliver it to the Government or that the duration of the emphyteusis be reduced from ninety-nine to fifty years, and the following consequent dilemma: the construction of the breakwater could not be financed by the Company except from proceeds to be derived from the rest of the project; this inability of constructing the breakwater at an early stage of the project reduced the security the Company could offer to a fifty year emphyteusis, and the Company found it impossible to raise any finance whatsoever;

(ii) the nature and extent of the development the Company had committed itself to complete and the expenditure (amounting to not less than six

million, nine hundred and eighty-eight thousand and one hundred and twenty euro and twenty cents (6,988,120.20) excluding the cost of the breakwater) it had undertaken to incur: these were commitments which the Company, long before its defaults, did not have any real prospects of honouring and which were made even more impossible by the very considerable drop in demand for the construction and purchase of villas in Malta on which depended the success of the Company's project.