

PROCLAMATION NO. 97/1998

***A PROCLAMATION TO PROVIDE FOR PROPERTY MORTGAGED OR PLEDGED WITH
BY BANKS***

WHEREAS, it takes rather too long a time to obtain judgment, from courts of law, for sale of property mortgaged or pledged with banks and to subsequently have it executed;

WHEREAS, consequently, banking business thriving on interest payments on loans it provides from public moneys received by way of saving deposits or acquired from other sources, has been adversely affected.

WHEREAS, in order to create a conducive environment to economic development by enabling banks to collect their debts from debtors efficiently and thereby promoting a good business culture, it is necessary to amend the Civil Code concerning the sale of property mortgaged or pledged with banks;

NOW, THEREFORE, in accordance with Article 55(1) of the Constitution of the Federal Democratic Republic of Ethiopia, it is hereby proclaimed as follows:

1. Short Title

This Proclamation may be cited as the “property Mortgaged or Pledged with Banks Proclamation No. 97/1998”.

2. Definition

In this Proclamation “Registrar” means in the case of mortgage, a Regional or City organ responsible for registering an immovable property or in the case of pledge, an organ with the power to witness the signing of a contract of pledge and deposit same.

3. Contract of Mortgage or Pledge

Notwithstanding the provisions of Articles 2851 and 3060 of the Civil Code, an agreement authorizing a creditor bank with which a property has been mortgaged or pledged and whose claim is not paid within the time stipulated in the contract, to sell the said property by auction upon giving a prior notice of at least 30 days to the debtor and to transfer the ownership of the property to the buyer, shall be valid.

4. Claim on Mortgaged or Pledged Property

A creditor bank which, prior the effective date of this Proclamation, has a claim on property mortgaged or pledged with it, may sell the property by auction upon giving a prior notice of at least 30 days and transfer the ownership of the property to the buyer.

5. Relationship between the Bank and the Debtor

The sale made in accordance with Article 3 and 4 of this Proclamation shall be deemed to have been executed on behalf of the debtor.

6. Application of the Civil Procedure code to Auction

The Provisions of Article 394-449 of the Civil Procedure Code shall, mutatis mutandis, be applicable while the Bank is exercising its power of selling the mortgaged or pledged property by auction.

7. Liability of the Bank

The Bank shall be liable for any damage it causes to the debtor in the process of selling by auction in violation of the relevant provisions of the Civil Procedure Code specified under Article 6 of this Proclamation.

8. Powers and Duties of the Registrar

1. The Registrar shall have the powers and duties to take the necessary measure for carrying out the sale by auction.
2. If the Registrar, while taking action in accordance with sub- Article (1) of this Article, finds it necessary to use police force, he may order the police.

9. Cases Pending before Court

Any suit or decree on execution pending before a court prior to the coming into force of this Proclamation may be terminated upon application by the creditor bank with which the property has been mortgaged or pledged and the bank may sell and transfer the property to the buyer in accordance with this Proclamation.

10. Repealed Law

The Civil Code (Amendment) Proclamation No. 65/1997 is hereby repealed.

11. Transitional Provision

Any action taken in accordance with the Civil Code (Amendment) Proclamation No. 65/1997 prior to the effective date of this Proclamation shall be governed by this Proclamation.

12. Inapplicable laws

Any law which is inconsistent with this Proclamation shall not be applicable.

13. Effective Date

This Proclamation shall enter into force as of the 19th day of February, 1998.

Done at Addis Ababa, this 19th day of February, 1998.

NEGASO GIDADA (DR.)

PRESIDENT OF THE FEDERAL DEMOCRATIC

REPUBLIC OF ETHIOPIA