

NEWS STATEMENT

LEGAL AID OF CAMBODIA

20 APRIL 1999

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Legal Aid of Cambodia (LAC) protests that a poor family we represent has to move from their home because a long-used path to their house was illegally closed and the courts have so far refused to re-open it.

In 1979, Mrs. Dong Can, now 80, and her family moved into a small unoccupied house in Phnom Penh, in Phum Toul Roka, Sangkat Chak Ang Ra Krom, Khan Meanchay. They later built a larger house on the lot and have lived in it since.

In 1990, Mrs. Dong applied in writing to the government for ownership of the property and received a receipt. Under the Land Law, these facts gave her full and exclusive right of possession of the property. A possession right is similar to an ownership right except that a possession right can be lost by three years abandonment of the property whereas an ownership right cannot be lost in this way.

From 1979, Mrs. Dong and her family crossed another lot to reach a government road. They used a path that became well-established.

In order to make sure there would never be objection to their using this path, in 1997 Mrs. Dong made a verbal agreement with Mr. Eang Mang Heang, who lives on the other lot. The agreement was that Mrs. Dong would give him a small house and piece of land in exchange for a permanent right to use the path. After making the agreement, Mr. Eang took possession of the small house and lot.

In 1998, Mr. Eang closed the path. After he did, Mrs. Dong complained to Phnom Penh municipal court. She and her family also began using a new path across two other parcels belonging to two other families. This new path is narrow, difficult to use, and inconvenient to the other people.

Based on three legal points, we believe it is illegal for Mr. Eang to have closed the path:

1. As mentioned, he and Mrs. Dong have an agreement that requires him to keep the path open.
2. Under the Land Law, articles 122 and 123, a person in Mrs. Dong's situation is guaranteed a right to cross land such as Mr. Eang's.
3. Based on other court cases, we believe that a path that has been used this long cannot be closed. We recently concluded such a case in Chhbab Ampao in Phnom Penh, where the path remained open based on a settlement agreement worked out by the judge.

Considering all this, LAC believed that at the conclusion of the case, a judge would award Mrs. Dong the right to cross Mrs. Eang's land. For this reason and because closing the path has caused her

and her family great inconvenience. we asked the municipal court judge for a temporary order re-opening the path while the case continues. He refused. The Court of Appeals also refused.

Now, the owners of the two other properties that our clients have been temporarily using are closing that path also.

In a few days, our clients will have to move out of their house because they will have no access to it.

Furthermore, as of now there is no trial scheduled. nor, given the courts' refusal to issue temporary orders, do we have any idea whether our clients will be allowed to reach their house once the case is over.

LAC strongly protests this illegal and uncaring treatment of a family that was simply trying to make a life and was causing no problems to their neighbors.

LAC believes that there are many other situations like this in Phnom Penh. We call on the courts and other government officials to resolve such problems so that people in Mrs. Dong's situation may continue to go in and out of their properties as they long have.

(file name: SivRels.1)