

. Hence, when there is a challenge by the land loser, each case will have to be considered on its own merits to determine whether the prerequisite condition to tender and pay as contemplated under subsection (3A) is made before possession is taken – If in the case concerned the mandatory prerequisite is not complied, such acquisition will lose its character as being under Section 17 and if the award is not passed within two years from the date of the declaration, it will lapse and not otherwise. The benefit of said provision is available only to be invoked by the land loser and cannot be invoked by the acquiring authority to claim lapse by pointing to noncompliance since the ‘vice’ of noncompliance cannot be permitted to be converted into a ‘virtue’.

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