

P. G. Narulkar

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**Advocate & Notary Public
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☎ 2256478

Ref. No.

Date: 23.6.08

LEGAL SCRUTINY REPORT

SHRI AMIT TALWAR, r/o 35 PP, Sector -40, Gurgaon, Haryana, has approached me for legal scrutiny report in respect of the below mentioned property.

DESCRIPTION OF THE PROPERTY

ALL THAT PROPERTY known as 'Dongorpur', situated at Calangute, with the limits of Village Panchayat of Calangute, Taluka and Registration Sub-District of Bardez, North-Goa District, State of Goa, which property is described in the Land Registration Office of Bardez under No. 3222 at page 96 of Book B-9 (new), inscribed under Inscription No. 17140 at page 151 of Book G-23 not enrolled in the Taluka Revenue Office and surveyed under S. No. 442/4, admeasuring 1650 sq. mts., and presently bounded as under:-

East:- By property of same name belonging to Joao Cordo and Manuel Pinto, Salvador Pinto and their brothers and presently by S. No. 442/5 and 14.

West :- Property of the same name belonging to the heirs of Barto Valentinho D'souza known belonging to Ambrosio Caetano D'souza presently by the property bearing S. No. 442/3 and 8.

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North :- By paddy field Borla of Comunidade of Calangute presently surveyed under S. No. 466/9, 10, 11, 12 & 13

South :- By the property of the same name belonging to the heirs of Manuel Pinto/Salvador Pinto and brothers presently surveyed under S. No. 446/6 and 443/2.

This property is hereinafter referred to as the **SAID PROPERTY.**

LIST OF DOCUMENTS PRODUCED

1. ^{Real} ^{Description} Certificate from Land Registration Office of Bardez.
2. Deed of Succession dated 10/3/1992 drawn at page 60 -V of Book No. 758 of the Office of Sub-Registrar and Ex-Officio Notary of Bardez.
3. Agreement of Sale dated 21/5/1995 attested by Notary Gajanan G. S. Dhumatkar.
4. Power of Attorney dated 18/4/1995 attested by Notary of Bombay, A.A. Jariwala.
5. Power of Attorney dated 21/4/1995 attested by Notary G. S. Dhumatkar on 24/2/1995.

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6. Power of Attorney dated 21/4/1995 attested by Notary G. S. Dhumatkar on 24/2/1995.

7. Deed of Mortgage, registered under No. 697 of Book No. I, Vol. No. 100 in the Office of Sub-Registrar of Bardez.

8. Form No. I & XIV in respect of S. No. 442/4.

9. Survey Plan in respect of S. No. 442/4.

10. Letter dated 12/5/2008 by Mapusa Urban co-operative Bank of Goa Ltd, to Mr. Amit Talwar.

11. Notice of Public Auction published by the Mapusa Urban co-operative Bank of Goa Ltd, in the daily Navhind Times dated 25/4/2008 and Daily Goa Doot dated 25/4/2008.

12. Letter by Shri Amit Talwar to the General Manager, MUCB of Goa Ltd requesting to ascertain the area through surveyor

SCRUTINY OF DOCUMENTS

From the Description Certificate issued by the Land Registration Office of Bardez, it is seen that the said

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property is described in the said office under Description No. 3222 at page 96 of Book B-9 new and that it is Inscribed under No. 17140 at page 151 of Book G-23 in the name of Jeronimo Sebastiao Fernandes on the basis of the Deed of Sale dated 22/8/1921 recorded at page 97 reverse of Book No. 205 of the Notary of Judicial Division of Bardez, Caridade Frias.

From the deed of succession referred to above it is seen that the said Jeronimo S. Fernandes alias George Fernandes died on 5/9/1945 so also his wife Serafine Fernandes died on 11/9/1936 leaving behind as their sole and universal heirs their only two daughters namely Maria Magdalena Fernandes alias Magdalene Victor married to Estevao Augustinho Victor and Anunciacao Fernades married to Salvador Hygino Victor also known as Hygino Salvador Victoria. It is also seen from the said deed of succession that the said Salvador Hygino Victor died on 11/3/1975 leaving behind his widow the said Anunciacao Fernandes and his two sons namely George Victoria alias George Victor married to Rosaline Menezes and Diago Antonio Victor alias Diago Antonio Victoria married to Sandra Lobo. The said succession certificate also shows that the said Estevao Augustinho Victor died on 23/7/1977 and his wife Maria Magdalene Fernandes died on 28/8/1986

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without acendents or decendants leaving behind their sister in law and sister the said Anunciacao Fernandes and her two sons George Victoria and Daigo Antonio Victor alias Daigo Anthony Victor.

From the From No. I and XIV it is seen that the said property is surveyed in the name of Shri Diago Anthony Victor as his name appears in the occupants column of the said form.

Thus upon careful examination of the above documents it seen that the original ownership of Mr. Jeronimo Sebestian Fernandes in respect of the said property stood vested in the above said Anunciacao Fernandes and her two sons namely George Victoria alias George Victor married to Rosaline Menezes and Diago Antonio Victor alias Diago Anthony Victor married to Sandra Lobo.

From the agreement of sale dated 21/1/1995 it is seen that the said said Anunciacao Fernandes and her two sons namely George Victoria alias George Victor, Rosaline Menezes and Diago Antonio Victor alias Diago Anthony Victor and Sandra Lobo agreed to sell the said property to Mr. Sashi G. Panjiker. The said agreement also authorized Mr. Sashi G. Panjiker in turn to tranfer the said property to any third party/person as the full sale

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consideration was paid by Sashi Panjiker to the above said parties. The power of attorneys dated 18/4/1995 and 21/4/1995 also authorized the said Sashi Panjiker to sell, convey and transfer the said property to any person.

From the deed of mortgage dated 24/4/1995 it is seen that Shri Sashi G. Panjiker on the basis of Power of attorneys referred to above mortgaged the said properties to Mapusa Urban Co-operative Bank of Goa Ltd. in consideration of loan of Rs. 14,00000/- (Rupees Fourteen Lakhs only). It appears that Shri Sashi Panjiker defaulted in repayment of the said loan to the Mapusa Urban Co-operative Bank of Goa pursuant to which the said Bank took possession of the said property and vide notice published in the daily Navhind Times and Daily Goa Doot dated 25/4/2008, put the said property for sale by way of public auction which was fixed on 10/5/2008. It may be mentioned that the said Bank under section 13 of The Secutarisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Ordinance 2002 acquired absolute right to take possession of the said property and to transfer the said property by way of lease, assignment or sale in order to realize the outstanding loan amount granted to the said Sashi G. Panjiker.

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From the letter dated 12/5/2008 issued by Mapusa Urban Co-operative Bank of Goa it is seen that Shri Amit Talwar offered the Highest bid in the public auction held on 10/5/2008 and the Bank has accepted his offer to purchase the said property. From the letter addressed by Shri Amit Talwar to the said Bank it is seen that he has requested the bank to ascertain the exact area of the said plot by appointing a surveyor. I have personally called the General Manager of the said Bank Mr. Joaquim D'souza who has confirmed the fact that the Bank is desirous of transferring the said property in favour of Shri Amit Talwar subject to Amit Talwar paying the sale consideration to the said Bank. I was also informed by the General Manager that the surveying of the plot for the purpose of ascertaining its exact area is delayed on account of rains and on account of unconducive site conditions as lot of wild bushes have grown on the site and unless the site is cleared the actual measurements by the surveyor and ascertainment of the area is not possible. He has also assured me that the said job would be done within a short time.

My personal discussion with the General Manager of the Bank and the perusal of the relevant file revealed that there was no any litigation initiated or proceedings

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instituted either by Mr. Sashi G. K. Panjekar or any of the co-owners/mortgagers/guaranters against the Bank challenging the authority of the Bank to put the said property on public auction.

I have personally taken search in the Office of Sub-Registrar of Bardez and found that no any encumbrance existed in relation to the said property at the time when the mortgage was created in favour of the Bank. There is no question of creating any encumbrance subsequent to the creation of Mortgage in favour of the Bank as any such encumbrance even if created would be ineffective and void in view of the prior mortgage in favour of the Bank.

From the above discussion I am of the considered opinion that the said Anunciacao Fernandes, George Victoria alias George Victor, Rosaline Menezes, Diago Antonio Victor alias Diago Anthony Victor and Sandra Lobo had clear and marketable title to the said property at the time when it was mortgaged in favour of Mapusa Urban Co-operative Bank of Goa Ltd. by Deed of Mortgage dated 24/4/1995 and that by virtue of the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (Second) Ordinance 2002 and particularly section 13 of the said Ordinance the MUBC of Goa Ltd, has absolute right to validly transfer

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the said property in favour of Shri Amit Talwar free from
encumbrances.

Mapusa

Dated:-23/6/2008

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Adv. P.G. Narulkar

P. G. NARULKAR

Advocate and Notary

Reg. No. 40/90

Mapusa - Goa