

Adv. Mahesh Amonkar

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Date: 13.05.2019

Legal Scrutiny Report and Certificate of Title**Name of applicant who sought opinion:**

M/S Rajiv Builders",
A proprietary concern of
Mr. Rajiv Raghavan Pillai,
H.F-2, Rich Builders Paradise,
Alto, St. Cruz, Bambolim Goa

A-DOCUMENTS SCRUTINISED:

<u>Sr. No.</u>	<u>Date</u>	<u>Description of documents</u>
1.	14.02.1952	Deed of Succession, Sale and Discharge along With English translation
2.		Inscription and description certificate along With English translation
3.		NOC executed by Mrs. Maria Veronica Fatima Norohna for conversion of property to settlement Zone.
4.		Affidavit executed by Mr. Fortunato Vicent Norhna
5.	7.02.2012	Deed of Succession drawn in the office of Notary Ex-officio Bicholim in Book No.313 at pages 46 to 48 dated 7.2.2012
6.	14.11.2012	Deed of Succession drawn in the office of Notary ex-officio Quepem
7.	17.12.2012	Deed of sale by Mrs. Maria Veronica Fatima Norohna in favour of Mr. Carmino Agnelo D'Souza duly registered in the office of Sub-Registrar of



- Bardez under No.BRZ-BK1-05495-2012, CD No.bRZD415 on 24.12.2012
8. Form No.I&XIV of survey No.83/1-B
 9. 15.7.2014 Nil encumbrance certificate issued by Sub-Registrar of Bardez
 10. 18.1.2019 Agreement for Development cum sale executed Between owners of said property namely Mr. Carmino D'Souza and his wife Mrs. Theresa D'Souza and the applicant M/s Rajiv Builders
 11. 23.01.2019 Conversion Sanad No.RB/CNV/BAR/AC-I/35/2013 issued by the office of Collector, North Goa District at Panaji in respect of property berating survey No.83/1-B.
 12. 6.02.2019 Technical clearance for proposed construction vide No.TPB/32/COL/TCP-19/983 issued by office of the Senior Town Planner, Mapusa Goa.
 13. 27.2.2019 Consent to Establish vide No.12/2019-PCB/125462/ G0001096 issued by Goa State Pollution Control Board.
 14. 27.2.2019 No objection certificate for proposed constriction Vide No.PHC Colvale/NOC/2018-19/1180 issued by Directorate of Health services, Primary Health Centre Colvale.
 15. 08.03.2019 Construction licence No.VP/COL/F./2018-2019/1771 Issued by village Panchayat of Colvale, Bardez Goa.

B. -DESCRIPTION OF THE PROPERTY:

(SCHEDULE-I)

(Description of the property)

All that plot of land of the property known "MUSIR" also known as "MUSSICHEM BATTA", also known as "TOLLIACHEM BATTA", admeasuring an area of 1350 sq. mts. situated in the village of Colvale, North Goa District, Bardez. Goa, situate within the limits of village



Panchayat of Colvale, being part of the entire property surveyed under Survey No. 83/1 of Village Colvale, Bardez Goa and previously described in the Land Registration Office of Bardez under the number 26902 at page 97 overleaf of B 69 in the Land Registration office of Bardez, and enrolled in Taluka Revenue office as one third part of the number one thousand and seventy eight of the first circumscription and at present said plot is surveyed under No.83/1-B of village Colvale and is bounded as follows:

On the East: By the road.

On the West: By the road.

On the North: By survey No.83/1A.

On the South: By survey No.83/1(Part).

C-TRACING OF TITLE:

1. From the perusal and examination of the documents produced before me by the applicant and the owner of said property and upon searches carried out by me in the respective offices concerned, it is confirmed that, said plot described in schedule-I hereinabove under column-B is the part of the entire property known as "MUSIR" also known as "MUSSICHEM BATTA", also known as "TOLLIACHEM BATTA" situated in the village of Colvale, Bardez. Goa, surveyed under Survey No.83/1 of Village Colvale, Bardez Goa and previously described in the Land Registration Office of Bardez under the number 26902 at page 97 overleaf of B 69, and inscribed in the land Matriz as one third part of the number one thousand and seventy eight of the first circumscription, which entire property is hereinafter referred to as "Said Entire Property".

2. The "Said Entire Property" originally belonged to one Mr. Jose Baptista Pascoal Fernandes also known as Mr. Domingos Baptista Pascoal Fernandes and he by deed of sale and discharge dated 14.2.1952 duly registered at pages 37 onwards of the Book No.521 of then Notary of the Judicial Division of Bardez, Dr. Dicoe Jose Conceicao das Dores



Lobo, sold the said entire property to Mrs. Luciana Lobo, wife of Jose Simao Noronha and thus she became the owner of said entire property.

3. Said Mr. Jose Simao Noronha died on 26.2.1974 and his wife Mrs. Luciana Lobo alias Lucy Noronha died on 15.1.1999, and upon their death Said Entire Property devolved upon their sole and universal heirs' two sons namely (1) Mr. Gregorio Noronha and (2) Mr. Fortunate Vicente Noronha alias Fortunate Vicent Noronha.

4. Said Mr. Gregorio Noronha died on 21.3.2010 as bachelor and Mr. Fortunate Vicente Noronha died on 4.10.2012 leaving behind his wife Mrs. Maria Veronica Fatima Noronha as their moiety holder and sole and universal heir respectively, which fact is declared vide Deed of Succession dated 14.11.2012, drawn and registered in the Office of the Notary Ex-Officio of Quepem, recorded at pages 11 onwards of the Notarial Book (Deed) No. 597.

5. By order dated 5.11.2012 of the Deputy Collector & S.D.O. of Bardez passed in Case No.15/113/2012/PART/LAND, the said plot admeasuring an area of 1350 sq.mts described in schedule-I under column-B hereinabove was partitioned from "Said Entire Property" and is allotted separate and independent survey No.83/1-B of village Colvale, Bardez Goa.

6. Said earlier owner of said plot admeasuring an area of 1350 sq. mts. namely Mrs. Maria Veronica Fatima Noronha alias Maria Veronica Fatima Fernandes, widow of late Gregorio Norohna, by deed of sale dated 17.12.2012, duly registered in the office of Sub-Registrar of Bardez at Mapusa under No.BRZ-BK1-05495-2012, CD No. BRZD415 on 24.12.2012 sold the said plot described in schedule-I hereinabove under column-B to Mr. Carmino Agnelo D'Souza and thus he became the owner in possession of said plot.



7. Upon purchase of said plot the owner namely Mr. Carmino Agnelo D'Souza got his name mutated in survey records in respect of the said plot and his name now figures in survey record form No.I &XIV in respect of said plot bearing survey No.83/1-B of village Colvale, Bardez Goa.

8. Mr. Carmino Agnelo D'Souza is married to Mrs. Theresa C. D'Souza under the law of communion of both of them being desirous of entrusting their right in the said plot to the developer to construct multi-storied buildings comprising of three Blocks i.e. "A", "B" and "C" thereon in consideration to be paid/performed by the developer has entered into an agreement dated 18.1.2019 for development cum sale.

9. Mr. Carmino Agnelo D'Souza with intention to develop said property obtained (1) Conversion Sand vide No.RB/CNV/BAR/AC-I/35/2013 dated 23.1.2019 from the office of Collector, North Goa District at Panaji in respect of property bearing survey No.83/1-B (2) Technical clearance for proposed construction vide No.TPB/32/COL/TCP-19/983 dated 6.2.2019 from the office of the Senior Town Planner, Mapusa Goa (3) Consent to Establish vide No.12/2019-PCB/125462/G0001096 dated 27.2.2019 from the Goa State Pollution Control Board (4) No objection certificate for proposed construction Vide No.PHC Colvale/NOC/2018-19/1180 dated 27.2.2019 from the Directorate of Health services, Primary Health Centre Colvale and lastly (5) Construction licence No.VP/COL/F./2018-2019/1771 dated 8.3.2019 from the village Panchayat of Colvale, Bardez Goa in his name.

10. On perusal of nil encumbrance certificate it is clear that the said plot is free from any encumbrance for the period of past 10 years.

11. In pursuance of agreement for development cum sale dated 18.1.2019 the owners of said property entrusted the development of said property to developer and have also agreed to sell the said property to the developer and in pursuance of said agreement the developer is



entitled to develop said property and also offer for sale the Built up areas in said complex to prospective purchasers.

In view of above discussion it is clear that, Mr. Carmino Agnelo D'Souza is married to Mrs. Theresa C. D'Souza are the exclusive owners in possession of said plot and has clear and marketable title to the said plot described in schedule-I column-B hereinabove and has right to sell/allow development in said plot to M/s Rajiv Builders and they have therefore entered into agreement for development cum sale dated 18.1.2019 in favour of M/s Rajiv Builders.

However it may be noted that, M/s Rajiv Builders alone cannot transfer the proportionate right in said plot in favour of prospective purchasers of flats/built up areas and the owners of said plot namely Mr. Carmino Agnelo D'Souza is married to Mrs. Theresa C. D'Souza are necessary parties to the agreement/sale of flats along with proportionate right in the land.

D-CERTIFICATE OF TITLE:

Upon inspection and verification of the documents placed before me, I am of the considered opinion that the title of Mr. Carmino Agnelo D'Souza is married to Mrs. Theresa C. D'Souza in respect of said property described in schedule-I under column-B hereinabove is good, clear and marketable title.

In pursuance of agreement dated 18.1.2019, the developer has right to develop said property and construct a multi storied Building complex in said property as per approved plans and also has right to sell the flats/Built up areas to prospective purchasers.

(Mahesh P. Amonkar)

Advocate

