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TITLE REPORT

To,
Beera Homes LLP,
Office at L-75 II,
Lajpat Nagar, New Delhi.

- I. I have perused the photocopies of the following documents:
- a) Survey Records Form I & XIV bearing Survey No. 443/12 of Village Anjuna, Bardez - Goa
 - b) Inscription & Description Certificates
 - c) Deed of Sale with Discharge of Price dated 5th November 1937
 - d) Letter dated 23/06/1938 issued by the Administration Office of the Comunidade of Bardez
 - e) Deed of Sale dated 11/06/1986, registered before Sub-registrar of Bardez, Mapusa - Goa under Registration No. 261 of Book No. 1, volume No. 5 dated 11/08/1988



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- f) Judgement dated 26/04/2018 passed by the
Hon'ble High Court of Bombay at Goa in First
Appeal No. 136/2002
- g) Survey Plan

II. DESCRIPTION OF THE PROPERTY:

SCHEDULE-I

ALL THAT property known as "Aforamento Bar de
Chinvar" also known as "Canternunonge" also known as
"Katya Munang Chivar" admeasuring a total area of 2000
Sq. Mrs. and surveyed under Survey No. 443 and Sub-
division No. 12 of Village Anjuna, Taluka Bardez, District
North Goa, India, described under Land Registration
Number 34772 at folio 93v of B 89 and not enrolled under
the Land Revenue Code and is bounded as under:-

On the North : - By the property bearing Survey No.
443/13 & 14 of Village Anjuna;

On the South : - By the Public Road;



On the East : - By the property bearing Survey No.
443/13 & 14 of Village Anjuna; and

On the West : - By the property bearing Survey No.
443/11 of Village Anjuna;

The property shall hereinafter be referred to as the **SAID
PROPERTY.**

TRACING OF PARTIES TITLE:

1. The **SAID PROPERTY** originally belonged to
Comunidade of Anjuna, the letter dated
23/06/1938 issued by the Administration Office of
the Comunidade of Bardez reveals that the **SAID
PROPERTY** was originally belonged to the
Comunidade of Anjuna and was given on lease to
Victor Inacio Rodrigues which is mentioned in Book
Tombo Second B which needs to be furnished.
2. The Comunidade is a body of villagers governed by
the provisions of the Code of Comunidades. It bears
mentioning that the Code of Comunidades provides

for a two step procedure for grant, which includes a provisional handing over of possession and subject to compliance with the conditions of grant, definitive or final possession being handed over to the Grantee. In the instant case, there was definitive possession granted to the Grantee.

3. The Comunidade is a body of villagers governed by the provisions of the Code of Comunidades. Relevant provisions of the Code of Comunidades for the purpose of this report are as under:

Article *The comunidades shall be under the*
5 *administrative tutelage of the State,*
in terms established in this Code,
and its immovable properties may be
granted on emphyteusis and
alienated in the manner provided in
this Code.



Article *The canons (foros) payable on*
6 *emphyteusis, by the comunidades*
and any other installments or
periodical pensions that they may
receive from the emphyteutas,
owners, servants or individuals are
redeemable, in terms of the general
law that regulates the redemption of
pension (foro), in all the respects not
provided in this Code.

Article *The Comunidade do not enjoy, in*
7 *regards to the immovable properties,*
granted on emphyteusis, the right
conferred to the grantors, under
article 1662 of the Civil Code and its
paragraphs, and the said immovable
properties may be alienated and
divided, however the comunidades
shall have the right to increase the



*pension (foro) at the time of its
division, in terms prescribed in this
Code.*

Article The Commuidade shall :

30

- 1 Elect every three years the
ordinary attorneys and its
substitute, in the form provided
in this Code;**
- 2 Appoint a special attorneys,
when necessary, or have their
services dispensed with
according to circumstances and
the interests of the
commuidade;**
- 3 Opine on the statement of
income and expenditure, the
estimates for the ordinary and
extraordinary auctions and
their conditions, and on the**

**finalization of the accounts and
the extraordinary budgets;**

4 To deliberate on :

**a The works and the
extraordinary expenses to
be incurred;**

b The loans to be borrowed;

**c Creation or abolition of
medical posts, extension
of the period of its
duration and maintenance
of the same, as well as the
creation or abolition of
any services or charges of
permanent nature;**

**d Introduction of the non-
saline water in the
khasanas - 'casanas'**

- e Acquisition of lands;**
- f Emphyteusis, sale or exchange of land;**
- g Institution, admissions, withdrawal and compromise of civil suit;**
- h Extension of time granted for utilization of land granted on emphyteusis;**
- i About the grant of rebate (quita) to the leaseholders;**
- j And in general, about all the extraordinary acts not provided for in the statement of income and expenditure or in the provisions of this code, as well as relating to any**

*matters about which the
opinion is called for.*

- 5 *To appoint and dismiss peons or
criers, determining their rights
and obligations.*

Article 238 *The redemption of the foro of the
emphyteusis of the comunidades or
of any periodical payments that the
comunidades receive from the
properties, servants or other
individuals under the article 6, shall
be applied to the clerk of the
comunidade, requesting that the
amount may be calculated and
received, mentioning in the petition
the nature and the burden thereof of
which redemption is asked for.*

1. *The clerk, within the period of
eight days and under his*

responsibility, shall calculate the amount of redemption. This shall be recorded on the reverse of the application, adding to the sum, the outstanding annuities due to the comunidade.

2. *The amount payable for the redemption is the sum of twenty annuities of the foro or burden whose redemption is intended, plus the annuity relating to the year of redemption, when it is not done, with effective payment, by 31st March.*
3. *The application shall then be returned to the party, who has to effect the payment into the safe of the amount calculated.*



4. At the time of payment, the clerk of the 'comunidade' shall mention below the calculation set out in the application the following note:
"The above amount ~~was~~ paid on this date, by item no....., mentioned at pg..... of the Cash Book No. ... and noted the transference in the corresponding entry in the Register 2, No....."

5. The application containing the calculation and note referred to above, shall remain in possession of the interested party, who shall return it to the clerk no sooner he obtains the certified copy of the



redemptions effected, with the designations contained in the respective lists, wherein reference is made to the payment effected.

Article 241 *After the redemption, when this is of the entire foro or of the other charges regarding the property, the clerk of the comunidade shall cancel the mutation of the same property made in the Register - 2 (Tombo 2), and when only of a part of the foro or charge, have been redeemed, necessary note of the same is made in the registration of the property, reducing its foro or charge to the part that has not been redeemed.*

4. In the light of the above facts, the relevant provisions of the Code of Comunidades and the Portuguese

Civil Code need to be considered. Articles 324 to 340 contemplates fixing of foro (rent), which needs to be paid by the Grantee. Article 238 provides for redemption of foro of the Emphytusion and further postulates that upon payment of 20 annuities of foro plus the annuity relating to the year of redemption, the redemption of foro shall be complete. Moreover Article 239 stipulates that the redemption of foro may be applied for by the Grantee without thereby acquiring any title by this fact. Article 241 further contemplates that after the redemption, the Comunidade shall effect cancellation of mutation in its records (tombo two) thereby cancelling the registration of the said property in the name of Comunidade.

5. The above provisions of the Code of Comunidades contemplate redemption of foro by payment of 20 years annuity.



6. Article 338 of the Code of Comunidades stipulates that the provisional delivery of the land granted as Emphytusus cannot be considered in legal relations. However, the handing over of definitive possession confers on the Grantee the rights recognized under the Civil Law (Portuguese Civil Code). In view of the above, after definitive possession is granted in favour of the Grantee, the rights under the Civil Law crystallized in favour of the Grantee.
7. It bears mentioning that the Code of Comunidades provides for a two step procedure for grant, which includes a provisional handing over of possession and subject to compliance with the conditions of grant, definitive or final possession being handed over to the Grantee. In the instant case, there was definitive possession granted to the Grantee.
8. Letter dated 07/09/2021 issued by Administrator of Comunidade clear indicates that the said plot was

given on emphytusion basis to Victor Rodrigues as per records of the Comunidade and that Administrator has no objection for transfer of the said property subject to payment of 10% of the appreciated value. Under the Comunidade Rules, 10% of the appreciated value has to be paid to the Comunidade prior to the transfer of the said property. The said letter establishes that there are no dues payable to the Comunidade which is indicated with the fact that 20 years annuities is paid. The said letter establishes that 10% of the appreciated value stands paid.

9. The above document clearly establishes the definitive possession of the Said Property No. 1 being granted in favour of Joao Domingos de Souza and the other aspect of the quit rent is more particularly dealt with in the foregoing paras of this report.



10. In the Judgement dated 26/04/2018 passed by the Hon'ble High Court of Bombay at Goa in First Appeal No. 136/2002 it was held at para 29 that *"the net result is that there is no provision for reversion of the land granted on Aforamento basis, once the final/definitive possession is delivered and on remission of foro the land vests absolutely in the allottee."* Upon payment of quit rent and delivery of definitive possession, ownership vests with the allottee.
11. The **SAID PROPERTY** is described under No. 34772 of Book B-89 at folios 93v and inscribed on 19th November 1937 under No. 28532 of Book G-33 at folio 165 in favour of Felicidade Zeferina Monteiro, wife of Antonio Xavier Lobo. The Inscription Certificate reveals that the **SAID PROPERTY** was purchased by the said Felicidade Zeferina Monteiro, wife of Antonio Xavier Lobo vide Deed of Sale with Discharge of Price dated 5th November 1937 from

Victor Inacio Rodrigues and his wife, Rita Cristalina Santana Isabel Lade Rodrigues or Rita Cristalina Isabel Santana Lado e Rodrigues. The Deed of Sale with Discharge of Price dated 5th November 1937, which is also available for inspection reveals that the husband of Felicidade Zeferina Monteiro namely Antonio Xavier Lobo was absent at the time of execution of Sale deed

12. **Inscription and Description Certificates are records maintained during the Portuguese Regime wherein the record of title was maintained. Portuguese Regime in Goa continued upto 1961 and post 1961, the Land Registration records are not updated. However the said records are still recognized by the Courts and departments for the purpose of title to the property. In terms of the system then prevailant, every property had a description number which describes the property and a corresponding inscription number which**

records the name of the owner of the same which document is referred to as Description & Inscription Certificate. In terms of the Portuguese Law which is still applicable in Goa and in terms of the principles of law laid down by the courts in Goa, the Inscription & Description Certificate (Land Registration Certificate) is a title document for all legal and practical purposes and therefore the same is a vital document for assessment of title to the property.

13. Vide Deed of Sale dated 11/06/1986, registered before Sub-registrar of Bardez, Mapusa - Goa under Registration No. 261 of Book No. I, volume No. 5 dated 11/08/1988, the Said Mrs. Felicidade Geferina Monteiro alias Felicidade Monteiro e Lobo, widow of Antonio Xavier Jacob Lobo sold the **SAID PROPERTY** in favour of Agnelo Martinho Cardoso. The sale deed is executed by the said Felicidade Zeferina Monteiro as a widow of Antonio Xavier Lobo. However there is no

document to establish that the said property was part of the Communion of assets in light of specific statement made in the sale deed of 1937 that the said Antonio Xavier Lobo was an absentee.

14. Public Notice dated 24/07/2021 was published in Gomantak (Marathi) and Navhind Times wherein objections within a period of 15 days from the date of publication were invited from the general public for sale of the **SAID PROPERTY**, by the said Mr. Agnelo Martinho Cardoso and his wife, Mrs. Maria Augusta Amaldina Fernandes and after elapse of 15 days no objection are received.

15. In light of above, considering the fact that the Inscription & Description Certificates, Deed of Sale with Discharge of Price dated 5th November 1937, Letter dated 23/06/1938 issued by the Administration Office of the Comunidade of Bardez, Deed of Sale dated 11/06/1986 and Judgement dated 26/04/2018

passed by the Hon'ble High Court of Bombay at Goa in First Appeal No. 136/2002 and Survey Records in respect of the **SAID PROPERTY** have remained unchallenged and the survey records corresponds to the devolution of title and is consistent with the ownership of the present owners and **considering** the fact that No Objection has been received in pursuance to the public notice, I am of the opinion that, the said **MR. AGNELO MARTINHO CARDOSO** and his wife, **MRS. MARIA AUGUSTA AMALDINA FERNANDES** have clear and marketable title in respect of the **SAID PROPERTY SUBJECT** to the following:

- i. Production of following documents:
 - (a) Updated Land Use Zoning Certificate
 - (b) Nil Encumbrance Certificate

IV. In addition to above, I have to make the following observations:

1. No tenants/Mundkars are reflected in the survey records of the SAID PROPERTY



2. The Urban Ceiling Act is not applicable to the State of Goa.
3. No Conversion Sanad has been furnished to establish that the SAID PROPERTY is converted from agricultural to non-agricultural purposes.
4. No NOC is furnished from the Forest Department to establish that the SAID PROPERTY is not identified as a Forest Land

V. EVIDENCE OF POSSESSION:-

The SAID PROPERTY bearing Survey No. 443/12 of Village Anjuna, Bardez - Goa reflects the name of Agnelo Martinho Cardoso in Form I & XIV issued by the Department of Survey, Government of Goa which establishes the ownership of the present owner in respect of the Said Property.



VI. ENCUMBRANCE ON PROPERTY:-

I have taken search in the Office of the Sub-Registrar of Mapusa, Bardez - Goa and have not found any registered mortgages in respect of the SAID PROPERTY. No Nil Encumbrance Certificate in respect of the SAID PROPERTY is furnished to establish that there is no encumbrance in the SAID PROPERTY.

CERTIFICATE

From the documents produced from my scrutiny, I hereby certify that **MR. AGNELO MARTINHO CARDOSO** and his wife, **MRS. MARIA AUGUSTA AMALDINA FERNANDES** have a clear and marketable title in respect of the SAID PROPERTY SUBJECT to the following:.

- i. Production of following documents:
 - (a) Updated Land Use Zoning Certificate
 - (b) Nil Encumbrance Certificate



➤ **General Qualifications and Assumptions**

- This report on title is prepared solely on the basis of documents furnished to me as more particularly set out at 'I' above.

- For the purpose of issuing this report on title:
 - (a) I have not carried out a **negative** search in respect of litigations (i) in relation to the said **PROPERTY** and/or (ii) against the larger property;

 - (b) I have taken the title documents under which Felicidade Zeferina Monteiro, **wife** of Antonio Xavier Lobo acquired the Land as **the root of title**.

- For the purpose of issuing this report on title, I have assumed:
 - (a) the legal capacity of all natural persons, the genuineness of all signatures, the conformity to original documents of all documents of title submitted to me, as set out at 'I' above, as

photocopies or scanned copies and the authenticity of the originals of such documents;

- (b) that the documents of title set out in the report above have not been modified in any manner and are valid, subsisting and remain in force;
- (c) that all the documents relating to the **SAID PROPERTY** and furnished to me have been validly executed and delivered by the parties to them;
- (d) that all documents are within the capacity and powers of each party and have been validly authorized by each party;
- (e) that there are no pending litigations in respect of the **SAID PROPERTY**; and
- (f) that names of persons spelt differently in different documents in respect of the **SAID PROPERTY** are the same person;
- The accuracy of this report on title necessarily depends on the documents furnished to me and the

information provided to me during the course of my discussions, being true, complete and accurate and which I have assumed to be the case. I therefore disclaim any responsibility for any misinformation or incorrect or incomplete information arising out of the documents, responses and other information furnished to me.

- This report on title is confined to the SAID PROPERTY only.
- The search conducted at the Office of the Sub-Registrar of Mapusa, Bardez - Goa is subject to non-availability of certain records and certain land registration records being torn at the concerned Sub-Registrar's Office.
- The availability/existence of the access to the SAID PROPERTY is not within the scope of this report



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- A certificate determination, notification, opinion or the like will not be binding on an Indian court or any arbitrator or judicial or regulatory body which would have to be independently satisfied despite any provision in the title documents to the contrary. The report on title has been prepared in accordance with and is subject the laws of India.

Place:-Panaji-Goa.

Date:- 09/11/2021



(Adv. Shivan S. Desai)