

28th April 2022

REPORT

I have been requested by Mr. Yatin Ulhas Phaldessai, resident at Margao, Salcete, Goa, the Proprietor of M/s Yash Construction, to give my opinion as to the title in respect of 'Plot No.1', admeasuring 1148 sq.mts. of the larger property surveyed under Chalta No.5 of P.T. Sheet No.36 of Margao City, which is a separate and distinct Plot surveyed under Chalta No.41 of P.T. Sheet No.36 of Margao City of the larger developed adjoining properties known as "VIRANCHEMBATA" alias "FATORDICHEM", which are described in the Land Registration Office of Salcete under Nos. 39870 and 39875, both of Book B-103, New Series and which properties are enrolled in the Land Revenue Office under Matriz No.2158, and which came to be jointly surveyed under Chalta No.5 of P.T. Sheet No.36 of Margao city.

- I) For the said purpose, the following documents were handed over to me:

...2/-

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- a) Land Registration Certificate Nos.39870 and 39875 both of Book B-103 New Series along with inscription and translation,
- b) Development Permission bearing Reference No.SGPD/P/3992/934/86-87, dated 29/7/1986,
- c) Conversion Sanad bearing Reference No.SDO/SAL/Conv-54/98/725 dated 7/04/1998,
- d) Deed of Gift dated 2nd August 1999, registered in the Office of the Sub-Registrar of Salcete, at Margao, under No.1823 at pages 58 to 89, Book No.I, Volume No.989, dated 3/8/1999,
- e) Judgment and Order dated 23/11/1999 of the Inspector of Survey and Land Records, City Survey, Margao, in Case No.920/1999 and 921/1999,
- f) Form D of Chalta No.41 of P.T. Sheet No.36 of Margao City,

...3/-

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- g) Survey Plan of Chalta No.41 of P.T. Sheet No.36 of Margao City,
- h) Agreement for Sale and Development dated 22/10/2021, registered in the Office of the Sub-Registrar of Salcete, at Margao, under Registration No.MGO-1-3383-2021, Book:1 Document, dated 28-Oct-2021,
- i) Development permission bearing Ref. No.SGPDA/P/6486/980/21-22, dated 22/12/2021, issued by the South Goa Planning and Development Authority, Margao, Goa,
- j) Construction Licence No. A/52/2021-2022, dated 4/1/2022 issued by the Margao Municipal Council for construction of a commercial cum residential building and compound wall along with approved Plans;
- k) Nil Encumbrance Certificate dated 22/04/2022 issued by the Civil Registrar cum Sub-Registrar, Salcete.

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II) Perusal of the documents:-

(a) The document at Serial No. (a)- Land Registration Certificate Nos.39870 and 39875, both of Book B-193 at Fls 71 reverse to 74 reverse, issued by the Land Registrar of Salcete, at Margao, establishes that at Margao City are situated two properties namely:

(i) Rustic property known as "VIRANCHEMBATA" alias "FATORDICHEM", which is bounded on the East by the property of the same name (7th and 8th Lotes) of Roque Santana Antonio J.J.J. Andrade, Hortencia Andrade and Alexandrina Andrade, on the West by the paddy field of the Comunidade, on the North by the property of Pedro Santana Fernandes, and on the South by that of Joao Fernandes;

(ii) Rustic property known as "VIRANCHEMBATA" alias "FATORDICHEM", which is bounded on the East by the property of the same name (4th Lote) of Isabel Andrade and Damaso Pereira,

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on the West by the property of the same name (8th Lote) of Aleandrina Andrade, on the North by the property of Pedro Santana Fernandes, and on the South by the property of the same name (5th Lote) of Joaquim Felipe Felix Andrade;

The annotation with respect to No.39870 mentions that the said property corresponds to 1/7th of Matriz No. 2158 and the annotation with respect to No.39875 mentions that the said property corresponds to 1/7th of Matriz No. 2158;

The document further establishes that the said properties bearing Land Registration Nos.39870 and 39875 are both inscribed under No. 47845 of Book G-56 in favour of Joaquim Felipe Felix Andrade, as the same were purchased by him vide Deed of Sale dated 5th June 1961, drawn up in the Notarial Office of the then Interim Notary, Santa Rita Vaz, by his assistant, Narcornim, recorded at folio 33 onwards of Deeds Book No.1131;

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- (b) The document at Serial No.(b)- Development Permission bearing Reference No.SGPD/P/3992/934/86-87, dated 29/7/1986 establishes that Joaquim Felipe Felix Andrade has sub divided his property bearing Chalta No.5 of P.T. Sheet No.36 of Margao City;
- (c) The document at Serial No.(c)- Conversion Sanad bearing Reference No.SDO/SAL/Conv-54/98/725 dated 7/04/1998, establishes that the said Joaquim Felipe Felix Andrade has converted the property bearing Chalta No.5 of P.T. Sheet No.36 of Margao City to residential use;
- (d) The document at Serial No.(d)- Deed of Gift dated 2nd August 1999, registered in the Office of the Sub-Registrar of Salcete, at Margao, under No.1823 at pages 58 to 89, Book No.I, Volume No.989, dated 3/8/1999, witnesses as follows:
- (i) That Joaquim Felipe Felix Andrade and his wife, Mrs. Mafalda Braganza Sapiencia Cotta
- ...7/-

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Andrade have stated that they are the lawful owners in possession of the properties bearing Land Registration No.39870 and 39875, both of New Series which have come to be surveyed under Chalta No.5 of P.T. Sheet No.36 of Margao City,

- (ii) That they have further stated that they have developed the said property into 8 Plots with open space and road with due approval of the South Goa Planning and Development Authority, Margao,
- (iii) That by the said Deed the said Joaquim Felipe Felix Andrade and his wife, Mrs. Mafalda Braganza Sapiencia Cotta Andrade have gifted "Plot No.1" admeasuring 1148 sq.mts. to Mr. Julio Pedro Andrade and his wife, Mrs. Sebastiana Fernandes e Andrade;
- (e) The documents at Serial Nos.(e), (f) and (g) - Judgment and Order dated 23/11/1999 of
...8/-

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the Inspector of Survey and Land Records, City Survey, Margao, in Case No.920/1999 and 921/1999, Form D of Chalta No.41 of P.T. Sheet No.36 of Margao City and Survey Plan of Chalta No.41 of P.T. Sheet No.36 of Margao City, establish that the said Mr. Julio Pedro Andrade and his wife, Mrs. Sebastiana Fernandes e Andrade have confirmed the said "Plot No.1" admeasuring 1148 sq.mts. under separate Chalta No.41 of P.T. Sheet No.36 of Margao City, in their exclusive name;

- (f) The document at Serial No.(h)- Agreement for Sale and Development dated 22/10/2021, registered in the Office of the Sub-Registrar of Salcete, at Margao, under Registration No.MGO-1-3383-2021, Book:1 Document, dated 28-Oct-2021 establishes that the said Mr. Julio Pedro Andrade and his wife, Mrs. Sebastiana Fernandes e Andrade have represented themselves to be the absolute owners in possession of 'Plot No.1'

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admeasuring 1148 sq.mts. of the larger property bearing Chalta No.5 of P.T. Sheet No.36 of Margao City, which constitutes properties known as "VIRANCHEMBATA" alias "FATORDICHEM", which are described in the Land Registration Office of Salcete under Nos. 39870 and 39875, both of Book B-103, New Series and which properties are enrolled in the Land Revenue Office under Matriz No.2158, and which Plot is separately surveyed under Chalta No.41 of P.T. Sheet No.36 of Margao City.

The said document also establishes that the said Mr. Julio Pedro Andrade and his wife, Mrs. Sebastiana Fernandes e Andrade have agreed to sell the said 'Plot No.1', admeasuring 1148 sq.mts. to Mr. Yatin Ulhas Phaldessai and pending the sale have permitted him to obtain permissions and to develop and construct a multi storied building in the said Plot. The Agreement further permits the said Mr. Yatin Ulhas Phaldessai to agree to sell and to sell premises, other than those constructed for the owners;

...10/-

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It is seen that in the said Agreement for Sale and Development, it is clearly stated that the said 'Plot No.1' was originally surveyed under Chalta No.5 of P.T. Sheet No.36 of Margao City and came to be separately surveyed under Chalta No.41 of P.T. Sheet No.36 of Margao City; however in the Schedule I of the Agreement, it has erroneously been mentioned that the Plot is independently surveyed under Chalta No.5 of P.T. Sheet No.36 of Margao City; however it is clear from the Agreement that 'Plot No. 1' of Chalta No.5 of P.T. Sheet No.36 of Margao City and the property presently surveyed under Chalta No.41 of P.T. Sheet No.36 of Margao City is one and the same property.

- (g) The documents at Serial Nos.(i) and (j)-Development permission bearing Ref. No.SGPDA/P/6486/980/21-22, dated 22/12/2021, issued by the South Goa Planning and Development Authority, Margao, Goa, Construction Licence No. A/52/2021-2022, dated 4/1/2022 issued by the Margao Municipal

...11/-

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Council along with approved Plans establish that Mr. Yatin U. Phaldessai acting on behalf of Julio Pedro Andrade and others has obtained valid and legal permissions to construct a Commercial cum Residential Building comprising of lower ground floor, upper ground floor plus four floors and compound wall in the 'Plot No.1' of Chalta No. 5 of P.T. Sheet No.36 of Margao City as per the approved plans.

- (h) The document at Serial No.(k)- Nil Encumbrance Certificate dated 22/04/2022, issued by the Sub-Registrar of Salcete, at Margao, establishes that on a search made in the records of the Civil Registrar from 1st August 1999 to 22nd April 2022, with respect to the said 'Plot No.1' of Chalta No.5 of P.T. Sheet No.36, presently surveyed under Chalta No.41 of P.T. Sheet No.36 of Margao city, it is not found to be encumbered.

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(III) Conclusion:

From the above documents, the following can be seen:-

- (a) That the properties "VIRANCHEMBATA" alias "FATORDICHEM", which are described in the Land Registration Office of Salcete under Nos. 39870 and 39875, both of Book B-103, New Series and which properties are enrolled in the Land Revenue Office under Matriz No.2158, and which came to be jointly surveyed under Chalta No.5 of P.T. sheet No.36 of Margao city, were originally owned and possessed by Joaquim Andrade, and are inscribed in his name in the Land Registration Records;
- (b) That the said Joaquim Andrade and his wife, Mafalda Braganza Sapiencia Cotta Andrade have sub-divided the said properties into 8 Plots, with due approvals from statutory authorities, including Conversion Sanad;

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- (c) That the said Joaquim Andrade and his wife, Mafalda Braganza Sapiencia Cotta Andrade have gifted sub-divided 'Plot No.1' of the said properties, admeasuring 1148 sq.mts. to Mr. Julio Pedro Andrade and his wife, Mrs. Sebastiana Fernandes e Andrade;
- (d) That the said Mr. Julio Pedro Andrade and his wife, Mrs. Sebastiana Fernandes e Andrade have confirmed the said 'Plot No.1' in their names, under separate Chalta No.41 of P.T. Sheet No. 36 of Mrgao city;
- (e) That the said Mr. Julio Pedro Andrade and his wife, Mrs. Sebastiana Fernandes e Andrade are therefore the absolute and exclusive owners in possession of the said 'Plot No.1' of original Chalta No.5 of P.T. Sheet No.36 of Margao city, admeasuring 1148 sq.mts., presently surveyed under Chalta No.41 of P.T. Sheet No.36 of Margao city.

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- (f) That the said Mr. Julio Pedro Andrade and his wife, Mrs. Sebastiana Fernandes e Andrade have a valid registered and subsisting Agreement to sell the said 'Plot No.1' of original Chalta No.5 of P.T. Sheet No.36 of Margao city, admeasuring 1148 sq.mts., presently surveyed under Chalta No.41 of P.T. Sheet No.36 of Margao city to Mr. Yatin Ulhas Phaldessai;
- (g) That Mr. Yatin Ulhas Phaldessai has obtained the necessary permissions to construct a Commercial cum Residential Building comprising of lower ground floor, upper ground floor plus four floors and compound wall in the said 'Plot No.1' as per the approved plans.

Thus in my opinion Mr. Julio Pedro Andrade and his wife, Mrs. Sebastiana Fernandes e Andrade are holding absolute and exclusive title to 'Plot No.1', admeasuring 1148 sq.mts. surveyed

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under Chalta No.41 of P.T. Sheet No.36 of Margao City, which is a separate and distinct Plot of the larger developed adjoining properties known as "VIRANCHEMBATA" alias "FATORDICHEM", which are described in the Land Registration Office of Salcete under Nos. 39870 and 39875, both of Book B-103, New Series and which properties are enrolled in the Land Revenue Office under Matriz No.2158, and which came to be jointly surveyed under Chalta No.5 of P.T. Sheet No.36 of Margao city, and that the said 'Plot No.1' is free from all encumbrances.

It is also my opinion that Mr. Yatin Ulhas Phaldessai has a valid registered Agreement with Mr. Julio Pedro Andrade and his wife, Mrs. Sebastiana Fernandes e Andrade to purchase and develop the said property, pursuant to which he has obtained the necessary permissions to construct a Commercial cum Residential building therein.


(Adv. C. Vas)