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Ref. No.

Date:

**OPINION IN THE MATTER OF TITLE AND  
MARKETABILITY OF THE IMMOVABLE PROPERTY  
SURVEYED UNDER SURVEY NO.49/2 OF THE VILLAGE  
OF SIOLIM, BARDEZ GOA**

At the instance of **CURATED CONSTRUCTION LLP**, we proceeded to peruse and scrutinize the documents that were placed in our hands by one Francis Fernandes, representative of Mr. B. Sethi, in furtherance of opining on the title and marketability of all that immovable property bearing survey no. 49/2 of the village of Siolim, Bardez, Goa and we have to opine as under:-

**SCHEDULE OF THE PROPERTY:-**

All that immovable property known as 'ANTONIO PINTACHEM BATA' situated at Bamonvaddo, of the village of Siolim, Bardez, Goa and found described in the Land Registration Office of Bardez under No. 30811 at folio 79 overleaf of Book B-79(new) and surveyed under survey no. 49/2 admeasuring 5100 sq.mts., together with the residential house assessed for the purpose of tax under H.No.824/6 by the village Panchayat of Siolim, Bardez Goa

**DOCUMENTS SCRUTINIZED**

1. Pre-promulgated record in Form No.9
2. Pre-promulgated record of Index of Lands in Form III

3. Manually maintained Form I & XIV
4. Survey plan (Sketch)
5. Computer generated Form I & XIV
6. Zoning Information dated 7/7/2021
7. Deed of Sale dated 12/7/2021
8. House tax receipts
9. Copy of Newspaper of the English edition 'Herald' dated 19/6/2021
10. Records & Proceedings in Inventory Proceedings No. 61/2017/D
11. Certificate of Description no. 30811 at folio 79 v of Book B-79 (new)
12. Certificate of Inscription bearing No. 25849 at folio 45 of Book G-32

**SEARCH IN THE FOLLOWING OFFICES:-**

1. Land Survey Department
2. Department of Archives
3. Office of the Sub-Registrar of Bardez at Mapusa
4. Office of the Mamlatdar of Bardez at Mapusa
5. Office of the Collector of North Goa District Panaji
6. Office of the Deputy Collector and SDO Mapusa
7. Office of the Talathi of the Village of Siolim, Goa
8. Office of the Village Panchayat of Siolim, Goa
9. Office of the Range Forest officer and Conservator of Forests, Junta House Panaji
10. Town & Country Planning Department

11. Revenue Department to rule out acquisition of property
12. Office of the Superintendent of Civil Judge Senior Division and Junior Division Mapusa to rule out any pending litigation
15. Office of the Superintendent of the District Court and Addl. District Courts, Panaji/Mapusa to rule out any pending litigation and/or appeal.
16. Registrar of the Bombay High Court, Panaji Bench, Goa to rule out any pending litigation

The scrutiny of the documents referred to hereinabove reveals that the name of J.B.Sylvester Fernandes, Allen Patrick Fernandes, Karmelina Martins and Fermina De Araujo is found recorded in the occupants Column of the new computer generated Form I & XIV under mutation entry No. 78043 which is the latest Form I & XIV maintained by the Taluka Revenue Office

The First promulgated Record of Rights/form I & XIV obtained from the office of the Talathi Village Panchayat of Siolim, confirms that the name of Anton Fernandes came to be mutated in the occupants column under mutation entry No. 9 and there are no entries in the Tenants Column, Other Rights Column or Cultivators Column.

The pre-promulgated record of Index of Lands in Form III also confirms the name of Anton Fernandes found recorded therein and prior to that the pre-promulgated record in Form



9 also confirms that the property subject matter of scrutiny is shown to be in occupation of Antonio Fernandes.

Thereafter the name of the said Anton Fernandes that was found recorded in the pre-promulgated records right from 18/8/1972, came to be substituted by mutation entry No. 69159 and the names of Orlando Vicente Fernandes and Olencio Stanislaus Fernandes, on the basis of the Judgment and Decree dated 19/7/2018 and 4/4/2018 passed by the Court of the Civil Judge B Court at Mapusa in Inventory Proceedings no. 61/2017/B.

The property as per the zoning information furnished by the office of the Senior town Planner vide information dated 7/7/2021 confirms that the property falls in settlement zone with a permissible FAR of 60 as per regional Plan for Goa 2021

By virtue of a Deed of Sale dated 12/7/2021 Orlando Vicente Fernandes, his wife Lourdes Vesta Fernandes, Olencio Stanislaus Fernandes and Augusta Rubertina Fernandes, sold the said property to the said Allen Patrick Fernandes, Karmelina Martins and J.B.Sylvester Fernandes and his wife Fermina de Araujo.

As per the recitals contained in the said Deed of Sale dated 12/7/2021 the property is stated to be described under No. 30811 at folio 79 overleaf of Book B-79 (new) and it is further claimed that the suit property originally belonged to Anton Fernandes alias Antonio Caetano Casmiro Fernandes,

upon whose death Inventory Proceedings no.61/2017 came to be initiated and by virtue of a Judgment and order dated 4/4/2018, the said property came to be allotted to the vendors in the said deed of sale dated 12/7/2021.

As it is recited in the sale deed that the said property is found described under no. 30811 at folio 79 overleaf of Book B-79 we meticulously perused the said Certificate of Description which confirms that the property with its residential house and a compound wall existing therein, was known as 'ANTONIO PITACHEM BATA' and corresponds to Inscription no. 42183 at Folio 101V at Book G-45.

A perusal of the corresponding Certificate of Inscription confirms that the property is found inscribed in favour of Antonio Caetano Casmiro Fernandes who was also known as Antonio Fernandes who was married to Bevinda de Almeida e Fernandes and the said Inscription was effected on the basis of a Deed dated 4/5/1965 at folio 66 overleaf onwards of Book B-579 by the notary public of the judicial Division of Ilhas.

As the Certificate of Inscription forms the basis of title and the same is found inscribed in favour of Antonio Caetano Casmiro Fernandes who was also known as Antonio Fernandes who was married to Bevinda de Almeida e Fernandes, it was imperative to confirm the devolution of title by sequence of events originating from the said Antonio and Bevinda, which exercise has apparently been undertaken by initiating inventory proceedings on the death

of the said two persons by Orlando Vicente Fernandes and in the said inventory the said property came to be allotted to Orlando Vicente Fernandes married to Lourdes Vesta Fernandes and Olencio Stanislaus Fernandes married to Augusta Rubertina Fernandes, both having purchased the said property in the auction held among interested parties in the said inventory proceedings

1. The search in the office of the Land Survey department reveals that the said property corresponds to old survey 1438 however the other documents such as Registo de Agrimensor or the Auto de Demarcacao or the Nominal Index, were not apparently prepared as they were not found and notwithstanding the said fact, the old records of village Siolim, were not finalized as per the law existing at the relevant time, a fact endorsed on the corresponding old survey plan that was secured from the office of the Land Survey & Records Panaji,

Although the mandate to us was to scrutinize the title and marketability of the property in question and we proceeded to scrutinize the documents, for the purpose of opining on the title and marketability of the said property on the basis of the documents furnished to us and the revelations made in the search conducted by us, it is imperative to also comment on the physical status of the property at loco which came to light after we inspected the property and which revealed as follows:-



- a) That the property is bifurcated by a road constructed by the Village Panchyat of Siolim,
- b) The said road is not found reflected in the survey plan and the Record of Rights/Form I & XIV prepared at the time of promulgation of survey records and therefore confirms that the same was constructed after the promulgation of survey records
- c) The search in the Land Survey department and the revenue department reveals that the property consumed by the road, passing in the north-south direction has not been acquired by the Govt. Of Goa under the Land Acquisition Act.
- d) From the site inspection of the property and the sketch furnished by the intending sellers, it was confirmed that on the western side of the said property there was a tar road passing in the north-south direction resulting in the property being bifurcated into two parts.
- e) The search in the office of the PWD, Govt. of Goa confirms that the said road was not constructed by the PWD and the local enquiry revealed that the same was constructed by the Village Panchayat of Siolim
- f) The present position after the bifurcation of the property is as under:-
- a) The area of the property from the road existing on the western side to the eastern boundary of the said property is 3989 sq.mts

b) On account of the bifurcation of the property the area beyond the existing tar road upto the western boundary of the property is 686.28 sq.mts.

c) As the property on the northern side is bounded on the road, it is expected that an area of 350 sq.mts., would be consumed by the mandatory setback that would have to be maintained on account of the existing road.

d) As the area consumed by a road has not been acquired by the Govt. and the road has not been constructed by the PWD and is only an access provided by the Village Panchayat at the local level in our opinion the area maintained as an access would be considered as a setback area and shall not be deducted while computing the effective area of the property in terms Regulation 4.2(i) of the Goa (Regulation of Land Development and Building Construction ) Act, 2008. Alternately the bifurcated portion of the property on the western side beyond the existing road which has a width of about 12mts, could be brought under construction distinctly and separately from the portion on the eastern side of the property beyond the road.

It is however advised that the opinion of an expert such as an engineer or an architect may be secured to advise on the above subject.

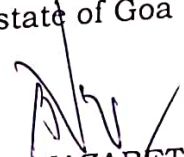
Taking into consideration the facts stated hereinabove which are based exclusively on the documents furnished to us we confirm that the title of Allen Patrick Fernandes, Karmelina Martins and J.B.Sylvester Fernandes and his wife Fermina



de Araujo to the said property appears to be clear and marketable and there would be no impediment to enter into any concluded contract in respect of the said property with the tile holders of the same, subject however to the production of the Latest Nil Encumbrance Certificate

It is also recommended that the property being a very large property and there being only a single sale deed since the inscription of the property in favour of Antonio Caetano Casmiro Fernandes as early as 1965, a public notice to be inserted in two local newspapers, one English and one Vernacular, having widest circulation in the state of Goa

Dated: 13/10/2021

  
(B.D.NAZARETH)