

REF No. AKS/AR/47 /2020-21

Date: Thursday, September 03, 2020.

REPORT ON TITLE

At the instructions of **UDAYACHAL GOREGAON CO-OPERATIVE HOUSING SOCIETY LIMITED**, a society registered under the provisions of Maharashtra Co-operative Societies Act, 1960, bearing registration No. BOM/HSG/2336 of 1970 dated 11/03/1970, having its registered office at Udayachal Building, Aarey Road, Pahadi, Goregaon (East), Mumbai- 400 063 (hereinafter referred to as the "Society"), I have investigated the Society's rights in respect of the said Property and more particularly described in the Schedule hereunder written.

For the purpose of inquiry, I have perused the documents, which were placed before me by the Society and sought information from them. On perusal of the aforesaid documents and information given on enquiries, I hereunder set out my understanding with respect to the Society's right with respect to the said Property.

1. By a four deeds of conveyances viz. (i) Deed of Conveyance dated 2nd May 1970, duly registered under serial no. BOM/R/2107/1970, (ii) Deed of Conveyance dated 2nd May 1970, duly registered under serial no. BOM/R/2108/1970, (iii) Deed of Conveyance dated 2nd May 1970, duly registered under serial no. BOM/R/2109/1970 and (iv) Deed of Conveyance dated 2nd May 1970, duly registered under serial no. BOM/R/2110/1970, ("Deed of Conveyances"), the Society herein had acquired and purchased from the respective Vendors mentioned therein, the Property being all that piece and parcel of land admeasuring 1115 sq. yards or thereabout equivalent



to 932 sq. mtrs. bearing Survey No. 92 (part), His3a No.2 (Part) and now bearing C.T.S. No. 281, of Village Pahadi, Aarey Road, Goregaon (East), Mumbai- 400 063, Taluka Borivali in the Registration District and Sub-District of Mumbai Suburban and as per the Property Register Card is reflected as 948.7 square meters ("Property") more particularly descried in the Schedule hereunder written.

2. There was one building known as Udayachal ("Old Building") (now demolished) consisting of ground plus 3 (three) upper floors standing on the Property and initially consisting of 15 (fifteen) registered members and shareholders of the Society having 15 old flats ("Old Flats") (now demolished). The Old Building (now demolished) belonged to the Society. The Society has expelled one of the joint member i.e. (1) MrRavindra M Savant,(2) MrVikas M Sawant,(3) SmtManju N Sawant,(4) MrSaurabh N Sawant,(5) SmtSunita S Sawant and (6) MrsPrabha D Kadam ("Expelled Member") and presently the Society comprises of an aggregate of 14 (fourteen) members.
3. Pursuant to the Deed of Conveyances, the name of the Society has been updated in the Property Register Card and all other Revenue Records in respect of the Property as the owner thereof.
4. By a Development Agreement dated 15th April, 2013, ("Development Agreement"), duly registered with the Sub-Registrar of Assurances at Borivali No.3 under Serial No. BRL-3/2332/2013 dated 15th April 2013, executed by and between the Society and M/s. Jaycee Homes Limited ("Erstwhile Developer"), the Society, has granted the development rights to carry out re-



development by use of all the FSI, TDR available in respect of the Property as may be required to be acquired and purchased from MCGM all the FSI, TDR pursuant to its policy and upon the terms and conditions recorded therein;

5. The Society has also executed Power of Attorney dated 15th April 2013, ("**Power of Attorney**") registered with the Sub-Registrar of Assurances at Borivali No.3 under Serial No. BRL-3/2333/2013 dated 15th April 2013, executed by the Society in favour of the Erstwhile Developer, to do and perform various acts, deed, things and matters for re-development of the Property.
6. MCGM has granted Intimation of Disapproval ("IOD") on 18th December 2013 under reference No. CHE/WSII/0038/P/337/ new of 2013-2014 and as per sanctioned plans, MCGM permits to construct new building consisting of stilt plus 12 (twelve) upper floors and further 3 additional floors are permitted to construct as per concession plans ("**New Building**") on the Property.
7. The Erstwhile Developer thereafter entered into permanent alternate agreements with all the Members except the Expelled Member of the Society and they have vacated their respective flats and handed over possession thereof to the Erstwhile Developer. As per the permanent alternate agreements, the Erstwhile Developer had agreed to provide 15 new flats and 15 parking spaces to the Society.
8. The Erstwhile Developer had demolished the Old Building and MCGM granted Commencement Certificate ("CC") dated 26th February 2014, which was revalidated from time to time for construction of the New Building up to stilt + 1st to 11th Upper



floors and (part) 12th floor as per approved plans dated 5th November 2015 endorsed on 30th December 2015.

9. The Erstwhile Developer has registered the redevelopment project ("Project") of the Society's Property with the Real Estate Regulatory Authority ("Authority"), under the provisions of Section 5 of the RERA read with the provisions of the Maharashtra Real Estate (Regulation and Development) (Registration of real estate projects, Registration of real estate agents, rates of interest and disclosures on website) Rules, 2017 ("RERA Rules").
10. As per the sanctioned plans, the Erstwhile Developer had only carried out work of casting up to 10 slabs of New Building.
11. The Erstwhile Developer has purportedly allotted total area admeasuring 10247.28 square feet carpet in the form of flats ("Allotted Area") to the 23 allottees out of free sale premises;
12. The Erstwhile Developer had executed and registered Agreements with 13 allottees/purchasers having aggregating area admeasuring 5931.28 out of the Allotted Area and issued letter of allotment in favour of remaining 10 allottees.
13. The Erstwhile Developer after casting around 10 slabs was unable to carry on construction work as a result of which the development work was stalled for almost 18 months and since the Erstwhile Developer was not in a position to recommence and stalled development of the project due to financial problem, introduced one Tejas Vyas, Proprietor of Tarun Bharti Construction ("Tarun Bharti") vide its Letter dated 28th September, 2017 and represented



to the Society that Tarun Bharti would complete the project and take over the liability of the Erstwhile.

14. Thereafter by unstamped and unregistered Deed of Assignment of Development Rights dated 8th November 2017 ("Deed of Assignment") was executed by the Society in favour of Tarun Bharti on the terms and conditions mentioned therein.

15. Tarun Bharti did not discharge his obligations as contemplated in the Deed of Assignment and in the meantime the promoters of the Erstwhile Developer had defrauded various flat purchasers in different projects and had fled from India and one of the promoters of the Erstwhile Developer was arrested by the Economic Offences Wing of the Mumbai Police and in view thereof the Society vide their notice dated 15th January 2018 terminated the Deed of Assignment dated 8th November 2017 read with Development Agreement dated 15th April 2013 executed by and between the Society, Erstwhile Developer and Tarun Bharti and revoked the Power of Attorney dated 15th April 2013 executed by them in favour of the Erstwhile Developer.

16. The Society is in possession of the Property with notice upon the site about termination of development agreement and society's possession over the Property.

17. The Society has also published public notice in new papers viz. Times of India, Navbharat Times and Maharashtra Times inter-alia informing public at large about the termination of Deed of Assignment dated 8th November 2017 read with Development Agreement dated 15th April 2013.



18. Tarun Bharti vide his letter dated 18th January 2018 inter alia accepted the termination of the Deed of Assignment.

19. The Society has informed that the Erstwhile Developer, till date, has not challenged the termination of Development Agreement, Deed of Assignment and Power of Attorney.

20. Around 23 allottees/ purchasers to whom the Erstwhile Developer purportedly allotted areas, have filed complaint before the RERA Tribunal against the Erstwhile Developer and the Society and out of the total 23 Complaints before RERA authority, 16 Complainants have filed consent terms with Society and one M/s. Asmi Construction, being the proposed developer, agreed to be appointed by the Society.

21. In these circumstances, I am of the view that subject to whatever is stated in the Consent Terms and the outcome of the four (4) Complaints pending before RERA authority, the Society's title to the said Property is clear and marketable.

22. For the purpose of this Report on Title, I have assumed:

- i) The legal capacity of all natural persons, genuineness of all signatures, authenticity of all documents submitted to us as certified or photocopies.
- ii) That there have been no amendments or changes to the documents examined by me.
- iii) The accuracy and completeness of all the factual representations made in the documents.
- iv) That all prior documents have been adequately stamped and duly registered.



- v) Any statements in the documents, authorization or any certificates or confirmations relied upon by me for issuance of this Report on Title is correct and otherwise genuine.
- vi) Each document binds the parties intended to be bound thereby.
- vii) Photocopies provided to me are accurate photocopies or originals.
- viii) That there are no other documents, other than those that were submitted to me, examined by me.

SCHEDULE ABOVE REFERRED TO

All that piece and parcel of land admeasuring 1115 sq. yards or thereabout equivalent to 932 sq. mtrs. (948.70 sq. mtrs as per Property Card) bearing Survey No. 92 (part), Hissa No.2 (Part) and now bearing C.T.S. No. 281, of Village Pahadi, Aarey Road, Goregaon (East), Mumbai- 400 063, Taluka Borivali in the Registration District and Sub-District of Mumbai Suburban

Yours Truly,

For **AKS LEGAL CONSULTANTS**

For AKS LEGAL CONSULTANTS

Proprietor
Proprietor