

Clive D'Souza

M.A., L.L.M.

Advocate High Court

B/2, Sai Datta Prasad, Opp. Gen. A. K. Vaidya Ground, Near Lilavati Hospital/M.E.T., Bandra Reclamation, Bandra (W), Mumbai - 400 050.

May 24, 2017

TITLE CERTIFICATE

To,
K & M Sheltors Pvt. Ltd.
Casa Maria, 6th Floor,
Plot No. 148, St. Cyril Road,
Bandra (West),
Mumbai - 400 050.

Kind Attn: Mr. Khalid Omar Wakani

Dear Sir,

Property: Building known as "Mid-Summer Co-Op Hsg. Soc. Ltd" on all that piece and parcel of land situated at Linking Road, Santacruz (West), Mumbai 400 054, in the village of Danda, in the Taluka South Salsette in the Bombay Sub-urban District bearing Sub divided Plot No. 948 being part of land as old Plot No. 65 in the T.P.S. IV Santacruz and New Plot No. 94-B, C.T.S. No. G-437B and containing by admeasurement 783.68 sq. yds. Equivalent to 654.4 sq. mtrs. (hereinafter referred to as "**the said property**")

Owners: Mid Summer Co-operative Housing Society Ltd. (hereinafter referred to as "**the Society**")

Developer: K & M Sheltors Pvt Ltd (hereinafter referred to as "**the Developer**")

The title of the Developers for the development of the abovementioned property was investigated by the Lawyers for K & M Sheltors Pvt. Ltd. and the report is as under:

I. DOCUMENTS SUBMITTED

Xerox copies of the following documents were submitted:

- a. The Development Agreement dated 21st December 2010 under the serial no BDR-9/13060/2010 dated 22nd December 2010.
- b. Irrevocable Power of Attorney executed between Mid-Summer CHS & K & M Sheltors Pvt Ltd under the serial no BDR-9/13061 /2010 Dated 21st December 2010.
- c. Full I.O.D bearing no.CHE/WS/0432/H/337(NEW) dated 16th February 2017.
- d. Full Commencements Certificate bearing no.CHE/WS/0432/H/337(NEW) dated 8th March 2017.
- e. M/s. Aum Shiv Enterprise settlement dated 19th November 2012.
- f. Indenture dated 4th March, 1938 bearing No. 1261/1938 executed between Kaikhushro Manek shah Taleyar khan as the Vendor, Bai Aimai as the Executrix of the Second part, Purshotamdass Popatlal as



the Party of the Third Part and Purshotamdass Popatlal and Prabhavati as the Purchasers.

- g. Sanad issued by the Government of Bombay to Purshotamdass Popatlal and Prabhavati.
- h. Agreement dated 1st January, 1969 executed between Purshotamdass Popatlal and Prabhavati as the Vendors and D.B. Padma as the Purchaser.
- i. Typed copy of the Indenture dated 30th July, 1970 executed between Manubhai Purshottam Cholia & Prabhavati Purshottam Cholia (Vendors) and Prabhavati Purshottam Cholia as the First Confirming Party and D. B. Padma as the Second Confirming Party and Mid Summer Co-operative Housing Society Ltd. as the Purchasers.
- j. Indenture dated 20th November, 1970 bearing No. 4925/1970 executed between Mid Summer Co-operative Housing Society Ltd. and Maharashtra Co-operative Housing Finance Society.
- k. Declaration dated 20th November, 1970 executed by Shri. D. B. Padma.
- l. Indenture dated 12th September, 2003 executed between Maharashtra Co-operative Housing Finance Society and Mid Summer Co-operative Housing Society Ltd.
- m. Extracts of the Special General Body Meeting dated 22nd November, 2009.



- n. Certified Copy of the Property Card dated 30th November, 2009.

II. ORIGINAL DOCUMENTS FURNISHED FOR INSPECTION:

- a. The Development Agreement dated 21st December 2010 under the serial no BDR-9/13060/2010 dated 22nd December 2010.
- b. Irrevocable Power of Attorney executed between Mid-Summer CHS & K & M Sheltors Pvt Ltd under the serial no BDR-9/13061 /2010 Dated 21st December 2010.
- c. Full I.O.D bearing no.CHE/WS/0432/H/337(NEW) dated 16th February 2017.
- d. Full Commencements Certificate bearing no.CHE/WS/0432/H/337(NEW) dated 8th March 2017.
- e. M/s. Aum Shiv Enterprise settlement dated 19th November 2012.

III. SEARCH OF TITLE :

Search was conducted in the offices of the Sub Registrar at :-

- a. Mumbai for the period 1970 to 2017 (47 years).
- b. Bandra for the period 1970 to 2017 (47 years).

IV. PUBLIC NOTICE :

Notice inviting claims from the general public was published in the following newspapers on 20th March, 2010.

1. Times of India (English).
2. Bombay Samachar (Gujarat).

Objections were received from M/s. Aum Shiv Enterprise.



V.OBJECTIONS SETTLED:

The objections of M/s. Aum Shiv Enterprise were settled by K & M Sheltors Pvt. Ltd. whereby M/s. Aum Shiv Enterprise executed an Affidavit-cum-Declaration on 19th November 2012 declaring and confirming that they have no right, title, interest or claim as regards the redevelopment of the above mentioned property.

VI. DEVOLUTION OF TITLE OF THE SOCIETY :

1. By a registered Indenture dated 4th March, 1938 bearing No. BOM/126/1938 execute between Kaikhushro Manek shah Taleyar khan the receiver of the estate of Cooverji Hormasji Gazdar as the Vendor, Bai Aimai the widow and the executor of the last will of Cooverji Hormasji Gazdar as the Executor, Purshotamdass Popatlal as the Party of the Third Part and Purshotamdass Popatlal and Prabhavati as the Purchasers therein an area admeasuring 1706 sq. yds. bearing Plot No. 65 of the Santa Cruz Town Planning Scheme No. IV was conveyed to and in favour of Purchasers therein.
2. It appears that by a Sanad issued by the Government of Bombay to Purshotamdass Popatlal and Prabhavati, their occupancy in respect of land admeasuring 176 sq. yds. in G Ward, register no. 437, was confirmed subject however to the payment of Rs.64.14 per annum towards land revenue.
3. By an agreement dated 1st January, 1969 executed between Purshotamdass Popatlal and Prabhavati as the Vendors and D. B.



Padma as the Purchaser therein, it was agreed by the parties therein that the Purchaser shall purchase from the Vendors, an area admeasuring 782 sq. yds. bearing old Plot No. 65 of the Santacruz Town Planning Scheme No. IV and New Plot No. 94.

4. Purshotamdass Popatlal expired on or about 17th February, 1969 having made and published prior to his death his last Will and Testament dated 20th December, 1968 appointing his wife Prabhavati and son Manubhai to be the executors of the Will. The said Will is probated on 14th May, 1970 passed in Testamentary Petition No. 595 of 1969 filed in Bombay High Court.
5. It appears that by an Indenture dated 30th July, 1970 executed between Manubhai Purshottam Cholia and Prabhavati Purshottam Cholia as the Vendors, Prabhavati Purshottam Cholia as the First Confirming Party, D. B. Padma as the Second Confirming Party and the Society as the Purchasers therein, an area admeasuring 782 sq. yds. bearing sub divided Plot No. 94 B being part of land as old Plot No. 65 of the Santa Cruz Town Planning Scheme No. IV and New Plot No. 94, was conveyed to and in favour of the Purchasers for valuable consideration as more particularly mentioned therein.
6. Pursuant thereto by an Indenture dated 20th November, 1970 bearing No. 4925/1970 executed between the Society as the Mortgagors and Maharashtra Co-operative Housing Finance Society Ltd. as the Mortgagees therein, the said property was mortgaged to and in favour of the Mortgagees, for a consideration of Rs.2,13,000/- which was to be advance by the Mortgagees to the Mortgagors therein.

7. By a Deed of Re-Conveyance of Mortgage dated 12th September 2003 bearing No. 6086/2003 executing between Maharashtra Co-operative Housing Finance Society Ltd. as the Mortgagees and the Society as the Mortgagors therein, the said property was re-conveyed back to the Mortgagors on the due repayment of all the amount due along with interest accrued thereon. For ease in understanding the devolution of title, appended herewith is the graphical representation of the devolution of title in respect of the said property as Annexure-A.

VII. OBSERVATIONS :

M/s. Aum Shiv Enterprise had entered into negotiations with the Society for the purpose of redevelopment of the property of the Society. Resolutions dated 23rd January, 2005 was also passed by the Society accepting the offer of M/s. Aum Shiv Enterprise for redevelopment.

VIII. SEARCH REPORT ON THE TITLE OF THE SOCIETY :

Based on the Search Report, inspection of the documents and the observations as recorded hereinabove, the title of the Owners and the Developers in respect of the said property is clear and marketable.

IX. TITLE FOR REDEVELOPMENT OF THE PROPERTY

The above mentioned property is redeveloped by K & M. Sheltors Pvt. Ltd pursuant to the Development Agreement dated 21st December 2010 signed between the Mid Summer Ccooperative Hsg Society and all its members on one hand and M/s K & M Sheltors Pvt Ltd on the other hand, the Developers therein. The said Development Agreement was registered with



the Register of Assurances under the serial no BDR-9/13060/2010 dated 22nd December 2010. Under the said Development Agreement the claims and objections raised by M/s. Aum Shiv Enterprise had to be settled by K & M. Sheltors Pvt. Ltd. Consequently the claims and objections of M/s. Aum Shiv Enterprise as indicated above were settled by the Developers K & M. Sheltors Pvt. Ltd by making a payment of RS. 15,00,000/- (Rupees Fifteen lakhs Only) vide banker's cheque no 270612 dated 19th November 2012 drawn on Vijaya Bank Bandra West Branch. M/s. Aum Shiv Enterprise have signed an affidavit cum indemnity in which they have stated that M/s. Aum Shiv Enterprise's have irrevocably declared and confirmed and undertake that M/s. Aum Shiv Enterprise have no right title interest or claim of whatsoever nature in respect of the said plot.

Pursuant to the Said Development Agreement an Irrevocable Power of Attorney was executed between the Society and the Developer K & M Sheltors Pvt Ltd.

Under the said Registered Development Agreement dated 21st December 2010 the Developers K & M. Sheltors Pvt. Ltd had to construct an area of 8190 sq. ft carpet for the Society and its existing members including 11 carparks and all other areas, carparks, terraces etc., hereinafter called the free sale area, exclusively belong to the Developers herein M/s K & M. Sheltors Pvt. Ltd. The Society's entitlement area of 8190 sq ft carpet area consist of seven 2 bedroom flats and four 3 bedroom flats and 11 carparks herein after referred to as the Society's Area. Under the said Registered Agreement dated 21st December 2010 all areas other than those areas pertaining to the Society's Areas belong exclusively and solely to the Developers K & M. Sheltors Pvt. Ltd and the Developer has the right in his own name as a principal to sell, give on Leave and License, Lease, Rent



etc and appropriate unto itself all monies benefits etc in respect of these Premises. The free sale areas in the building which exclusively belong the Developers K & M. Sheltors Pvt. are as follows:

- a) Exclusive showroom on the entire Ground Floor and entire Mezzanine floor.
- b) All parkings, apart from the 11 carparks to be given to the Society, in the basement, podium and any other location in the building.
- c) 1 two bedroom flat on the 5th floor.
- d) 2 three bedroom flats on the 9th and 10th floor.
- e) Exclusive penthouse on the 11th and 12th floor.

Under the circumstances all the above-mentioned free sale areas are the absolute property of the Developers K & M. Sheltors Pvt. Ltd.

Based on the search report, inspection of the Documents, the title of the Developers M/s K & M. Sheltors Pvt. Ltd in respect of free sale areas is absolutely Clear and Marketable.


CLIVE D'SOUZA