

**IN THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO
TRANSACTIONS IN SECURITIES) ACT, 1992 AT BOMBAY**

CUSTODIAN' REPORT NO.11 OF 2021

**WITH REGARD TO SALE OF FLAT NOS.202 AND 201 AT VANDANA CO-
OPERATIVE HOUSING SOCIETY LTD., JUHU CHURCH ROAD, SANTACRUZ
(W), MUMBAI ATTACHED PROPERTY BELONGING TO LATE SMT.SUSHILA J.
SHAH AND SHRI NIRANJAN J. SHAH, PARTNERS OF M/S. ROMIL EXPORTS,
WHO IS THE JUDGMENT DEBTOR OF ORION TRAVELS PVT. LTD. AND LATE
SHRI HARSHAD S. MEHTA NOTIFIED ENTITIES.**

Mr. Hormaz Daruwalla i/b. Ms. Shilpa Bhate for the applicant.

Mr. Ashwin Mehta for the notified parties.

Mr. Suji Padarat i/b. Ms. Archana Khan for Bindu Shah.

Bidders present

- 1) Shrikant V. Ravalkar,
- 2) Prem S. Motiramani
- 3) Parth H. Shah-Vishnu Palav,
- 4) Ms. Urmila Adhikary,
- 5) Mr. Chintan Kapadia representing Shobhana Kapadia.

CORAM : A.K. MENON

JUDGE, SPECIAL COURT

DATE : 18TH FEBRUARY, 2022.

P.C. :

1. By this report, the Custodian seeks orders for sale of two flats being flat nos.203 and 301 in Vandana Co-operative Housing Society Ltd., Juhu Church Road, Santacruz (W), Mumbai, and for directions against one Mrs. Bindu R. Shah for non-compliance of

condition no.4 of the Public Notice viz. to provide inspection of the property on two dates specified in the public notice.

2. Mr. Daruwalla appearing in support states that this is the 5th attempt at selling these properties. As far as the flat no.202 is concerned, the requirement of the Public Notice offering inspection could not be met because the occupant did not provide access instead contended that she was not available on the dates when the inspection was to be offered.
3. As far as flat no.301 is concerned, it is contended by Mr. Daruwalla that the flat is in the possession of the Custodian and is vacant. As per information received by the Custodian' office, there are dues of the Co-operative housing society which has communicated the outstanding amount vide letter dated 27th December, 2019. Annexures to the letters reveal that the property taxes, maintenance charge and interest totally amounting to Rs.18,43,718/- is overdue in respect of the flat 301 said to be standing in the name of Niranjana J. Shah as of March 2020 and as far as flat no.202 is concerned, the flat stands in the name of late Smt. Sushilaben J. Shah who is said to have been expired and one

of the legal heir Bindu R. Shah is said to be the occupant. The property tax in respect of flat no.202 is amounting to Rs.15,05,370/-. Several offers have been received in respect of flat no.202.

4. One of the bidders Shobhana Kapadia has made a combined bid in respect of flat nos.202 and 301. She has a bid of Rs.3 crores for both flats and Rs.1.50 crores for one of the flats viz. flat no.202. In effect therefore bid is of Rs.1.50 crore each. This bid is also rejected. The offers are completely unacceptable, hence, all bids in respect of flat no.202 are rejected. The earnest money shall be refunded within one week from today.
5. As far as flat no.301 is concerned, the highest bid is by one Shrikant V. Ravalkar in a sum of Rs.3 crores. All bidders are present today. Mr. Ravalkar being the highest bidder, was asked whether he desirous of increasing the amount that he has offered, to which he submits that he will not be in a position to proceed with the bid that he has made, since after the bid, he has made further enquiries which revealed that the flat no.301 is said to be mortgaged to State Bank of Mysore since merged with State Bank of India and that the Debt Recovery Tribunal has passed the order

in Original OA no.616 of 2001 filed by State Bank of India against one Radison Overseas Ltd. Ors. wherein defendant no.2 is Niranjn Shah who is said to be the owner of flat no.301.

6. On a query from court, Mr. Ravalkar who is present in court states that he has received copy of the Recovery Certificate issued by the DRT, Mumbai. During inspection of the record in the Custodian's Office, he has come across the correspondence wherein there is a reference to mortgage in favour of State Bank of Mysore. This led him to make further enquiries at the DRT, he has found that the flat was mortgaged to State Bank of India along with several other properties. It appears that the State Bank of India has not taken any steps in respect of flat no.301 after the DRT has issued the Recovery Certificate. It appears that the flat may have been mortgaged and the title deeds may be deposited with the bank since the Custodian has today informed this court that the Custodian's office does not have original documents but only a photocopy of the share certificate.
7. This in my view, is a telling factor and it is necessary to reject all offers and to cancel this attempt at sale. It is surprising and it is a matter of great concern that the Custodian's office is unaware of

the mortgage, if any, being created and has not disclosed the same in this report, despite having correspondence on record indicating that the property may have been mortgaged. A report seeking sale of flat no.301, is not justifiable. It is only because of the enquiries by one of the bidders that this has come to light. Accordingly, earnest money deposited by all bidders in respect of the flat no.301 shall also be refunded within one week from today.

8. Report is disposed in the above terms.
9. The Custodian is directed to make enquiries as to whether flat no.301 is now being treated as security by State Bank of Mysore/ State Bank of India and intimate this court of the same within two weeks from today.

(A.K.MENON, J.)