REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

Section 24(D)(1), 188 and 196 of the Tax Code, as amended
BIR Ruling No. 633-12
A530-2017
11-17-2017

ATTY. GIRLIE A. YOUNG
38 Lincoln Street
Cebu City

Dear Atty. Young,

This refers to your letter dated October 25, 2013, requesting on behalf of your clients, **Sps. Ernesto and Thelma Camingao** for exemption from the payment of capital gains tax (CGT) and documentary stamp tax (DST) on the reconveyance of three (3) parcels of land in favor of your clients by virtue of a Decision rendered by the Regional Trial Court of Cebu, 7th Judicial Region, Branch 8, Cebu City, in Civil Case No. entitled ***"Sps. Ernesto Camingao and Thelma Camingao, Plaintiffs, versus Sps. Panfilo Heludo and Teresita Heludo, Defendants"***.

The facts as culled from the records are as follows:

Documents disclosed that the plaintiffs-spouses Ernesto and Thelma Camingao filed a complaint for Annulment of the Deed of Sale over three (3) parcels of land owned by them allegedly executed in favor of defendants-spouses Panfilo and Teresita Heludo since their signatures appearing in the said Deed of Sale are forgeries and the Deed of Sale prepared and executed is without their participation and involvement; that the plaintiffs-spouses owned three (3) parcels of land which are Lot Nos. and , and covered by Transfer Certificates of Title Nos. and respectively, issued by the Registry of Deeds of the Province of Cebu and all are situated in Poblacion, Municipality of Carcar, Province of Cebu; that they have been in the possession of the said lots since the time they purchased the same until they were informed by their caretaker on August 16, 1996, that they were to be ejected by the defendants-spouses Panfilo and Teresita Heludo; that upon verification by the plaintiffs-spouses, they came to know for the first time that their properties had been sold to the defendants-spouses and their signatures had been forged; that new Transfer Certificates of Title, to wit: TCT Nos. and were issued to the defendants-spouses Panfilo and Teresita Heludo; and that soon thereafter, an Ejectment case was filed against them to vacate the premises.

Plaintiffs-spouses further averred that the defendants-spouses have acquired the subject parcels of land through a forged Deed of Sale; that their Title thereto must be annulled; and that the three (3) parcels of land be reconveyed back to them as the true and legitimate landowners thereof.

The Regional Trial Court rendered its Decision dated 5th day of August, 2003, at Cebu City in favor of the plaintiffs-spouses as the real owners of the properties in dispute of which the pertinent dispositive portion of the said Decision reads:

"In view of the foregoing, the Court finds that a preponderance of evidence exists in favor of the plaintiff and against the defendants, Judgment is hereby rendered:

1. Ordering that the forged Deed of Sale over the three (3) parcels of land (Exhibit D) dated 19 February 1996, allegedly executed by plaintiffs in favor of the defendants be annulled;
2. Ordering the defendant-spouses Heludo to reconvey the three (3) parcels of land subject of the Deed of Sale (Exhibit D) to plaintiff-spouses;

Ordering the defendants solidarily to pay plaintiffs:

a.) Moral damages in the amount of One Hundred Thousand Pesos

b.) Exemplary damages in the amount of Fifty Thousand Pesos
c.) Attorney's fees in the amount of Forty Thousand Pesos
d.) Litigation expenses in the amount of Twenty Thousand Pesos

The above-stated Decision of the Regional Trial Court of Cebu, 7th Judicial Region, Branch VIII, Cebu City, became final and executory on the 30th day of September 2003 and a Certificate of Finality was issued on the 5th day of August, 2013.

In reply, please be informed that since the reconveyance of the subject properties was pursuant to the Order of the Regional Trial Court and without any monetary consideration and that said reconveyance was in order to return the properties covered by Lot Nos. 398-B-5, 398-B-6 and 398-B-7 to the legal owner, the transfer of the subject properties in favor of the plaintiffs-spouses is not subject to the capital gains tax imposed under Section 24(D)(1) of the Tax Code of 1997, as amended. Likewise, the Deed of Reconveyance is not subject to the documentary stamp tax (DST) imposed under Section 196 of the Tax Code of 1997 but only to the DST imposed under Sec. 188 of the same Code. ***(BIR Ruling No. 633-12 dated November 26, 2012)***

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue
011193