REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

RA7279
BIR Ruling No. 383-13
#263-2017

5-29-2017

ROQUE COMPOUND PHASE II KAPIT-BISIG HOMEOWNERS ASSOCIATION, INCORPORATED
Himlayan Road Pasong Tamo
Tandang Sora, Quezon City

Attention : **MARILOU PEREZ**
Secretary

Gentlemen:

This refers to your undated letter requesting exemption from the payment of Capital Gains Tax and other taxes, relative to the transfer of title of land from Roque Compound Phase II Kapit-Bisig Homeowners Association, Incorporated in favor of Mr. Zaldy Perdona pursuant to Republic Act 7279 otherwise known as the "Urban Development and Housing Act of 1992".

It is represented that Roque Compound Phase II Kapit-Bisig Homeowners Association, Incorporated is the registered owner of the parcel of land covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds for the Quezon City, located at Brgy. Pasong Tamo, Tandang Sora, Quezon City; that it is a non-stock, non-profit organization duly registered with the Housing and Land Use Regulatory Board (HLURB); that the aforesaid lot was acquired through a loan under the Community Mortgage Program (CMP) of the Social Housing Finance Corporation (SHFC): that said project was taken-out/paid on June 18, 1998 in the amount of Php ; that Mr. Zaldy Perdona is one of the beneficiaries therein; that the SHFC issued a Partial Release of Real Estate Mortgage constituted described in TCT dated December 22, 2011; and that Mr. Zaldy Perdona is now in the process of transferring the purchased property to his name by virtue of a Deed of Sale dated February 12, 2016.

In support of your request, you have completely submitted on June 24, 2016 the following documents:

1) Written Application for Exemption filed with the Law Division;
2) Deeds of Sale;
3) Certified True Copies of the Transfer Certificate of Title (TCT);
4) Certification from the Social Housing Finance Corporation (SHFC) that the property was acquired through CMP;
5) Certified true copy of the Articles of Incorporation of the community association;
6) Certified True Copy of the Masterlist of Qualified Beneficiaries duly certified by the SHFC;
7) Certificates of Payment;
8) Partial Release of Real Estate Mortgage;
9) BIR Certificate of Registration;

10) Other pertinent documents

In reply, please be informed that the transfer of a parcel of land to Mr. Zaldy Perdona covered by TCT No. is not subject to either the capital gains tax imposed under Section 27 (D) (5) of the Tax Code of 1997, as amended, or the creditable withholding tax imposed under Revenue Regulations No. 2-98, as amended, implementing Section 57 (B) of the same Code, considering that the said transfer is merely a formality to finally effect the transfer of the said properties to the member-beneficiaries of your Association who actually bought the same from the former owner through your Association. In other words, the association is in fact transferring the ownership of the property to its member-beneficiaries who actually own the same.

Furthermore, the said transfer is not subject to the donor's tax imposed under Section 99 of the Tax Code of 1997, since there is no donative intent or intention on the part of the Association to donate the said property to said member-beneficiary, considering that it could not donate property the ownership of which belongs to the donee (member-beneficiary) himself. *(BIR Ruling No. 383-13 dated October 22, 2013)*

It is noted that under Section 196 of the Tax Code of 1997, the deeds or documents subject to the documentary stamp tax imposed therein are those where the realty sold shall be granted, assigned, transferred, or otherwise conveyed to a purchaser or purchasers or to any other person or persons designated by such purchaser or purchasers, thereby excluding from its purview the instant case considering that the supposed purchaser is actually the owner thereof.

Accordingly, the transfer of title of the said property to Mr. Zaldy Perdona is not subject to the documentary stamp tax imposed under Section 196 of the Tax Code of 1997. However, the notarial acknowledgment to said deed of conveyance is subject to the documentary stamp tax of P15.00 pursuant to Section 188 of the Tax Code of 1997. *(BIR Ruling No. 383-13 dated October 22, 2013)*

It is, however, understood that the Certificate Authorizing Registration (CAR) shall only be issued after the submission of the requirements provided under RMO15-2003 and after it is established upon proper verification by the Revenue District Officer (RDO) concerned that, considering the rules on valuation on real property, the actual selling price per sale transaction of the house and lot packages in this case does not really exceed P450,000.00 and P180,000.00 for lot only. Thus, sale of a house and lot or lot only above the maximum amount shall be subject to the corresponding internal revenue taxes.

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

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