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

Articles 1624 and 1475 of the New Civil Code; Revenue Regulations No. 9-2012
BIR Ruling No. 290-2013
CT-357-2021
OCT 04 2021

JP LUBATON LAW OFFICE
Unit 22-01 URCI Commercial Complex,
Alabang-Zapote Road, Las Piñas City

Attention: ATTY. JOHN PATRICK P. LUBATON

Gentlemen:

This refers to your letter dated November 07, 2018, requesting on behalf of your client **Ludy S. Chiquito**, for a ruling on the proper treatment of a Deed of Assignment of rights over a Certificate of Sale covering a foreclosed real estate, whether the same is subject to capital gains tax (CGT) or expanded withholding tax (EWT).

Documents submitted disclosed that Balikatan Property Holdings, Inc. ("BPHI" for brevity), a corporation duly organized and existing under Philippine laws and with principal office at 23rd Floor, RCBC Savings Bank Corporation, 26th and 25th Streets, Bonifacio Global City, Taguig City, was the highest bidder at the foreclosure sales of the properties covered by Transfer Certificates of Title (TCT) Nos. and As the highest bidder, the Clerk of Court/Ex-Officio Sheriff of Las Piñas City issued the corresponding Certificates of Sale dated March 16, 2010 and November 20, 2012 respectively in favor of BPHI.

On October 18, 2016, BPHI executed in favor of Ludy S. Chiquito two (2) Deeds of Assignment wherein all the rights and interest of BPHI in the said Certificates of Sale were assigned to Ludy S. Chiquito for a total consideration of Eight Hundred Eighty Thousand Pesos (P880,000.00[1]).

On April 25, 2017, Ludy S. Chiquito caused the registration of the Certificates of Sale with the Registry of Deeds of Las Piñas City, and the same were annotated as Entry No. in TCT No. T- and Entry No. in TCT No.

Upon the expiration of the right of redemption without any of the interested parties exercising such right, Ludy S. Chiquito sought for the consolidation of the subject titles to her name. However, the examiner in Revenue District Office (RDO) No. 053A in Las Piñas assessed Ludy S. Chiquito for the payment of CGT and documentary stamp tax (DST) for the Certificates of Sale dated March 16, 2010 and November 20, 2012 as well as CGT and DST on the Deeds of Assignment dated October 18, 2016. Hence, this request.

In reply, please be informed that Articles 1624 and 1475 of the New Civil Code of the Philippines states that:

> *"Article 1624. An assignment of credits and other incorporeal rights shall be perfected in accordance with the provisions of article 1475."*

[1] P430,000.00 on TCT No. T- and P450,000.00 on TCT No.

"Article 1475. The contract of sale is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the price.

From that moment, the parties may reciprocally demand performance, subject to the provisions of the law governing the form of contracts."

In view thereof, there are two transactions in this case — the foreclosure sale and the assignment of rights. There can be no uncertainty that assignment of rights is perfected from the moment the parties have agreed upon a determinate thing, i.e., the object of the contract and a price certain. Thus, delivery of the thing sold is not necessary for the perfection of the contract. In the case at bar, the Deed of Assignment was executed by BPHI in favor of Ludy S. Chiquito whereby the former had assigned, transferred, and conveyed to the latter all its rights and interests over the two Certificates of Sale for a total consideration of total consideration of Eight Hundred Eighty Thousand Pesos (P880,000.00) although at that time, delivery cannot be effected yet because the redemption period has not yet lapsed. However, from that time on, Ludy S. Chiquito is subrogated to the rights of BPHI to have the title to the property consolidated under her name were it not for the redemption period.

Accordingly, the Deeds of Assignment executed by BPHI in favor of Ludy S. Chiquito shall be treated as a separate contract of sale notwithstanding that the former had only inchoate rights over the subject property and the latter merely steps into the shoes of the assignor without acquiring a better right than what the assignor had in the property to which the assigned right pertains. Upon the expiration of the redemption period, BPHI's inchoate rights and interests over the foreclosed property had ripened to a right of ownership and possession over the same. Thus, the consolidation of ownership by Ludy S. Chiquito over the foreclosed property shall effectively convey ownership of the property to her from BPHI.

Wherefore, the Deeds of Assignment dated October 18, 2016 executed by BPHI in favor of Ludy S. Chiquito, over the said property is subject to the following:

1. EWT imposed under Section 57 and Revenue Regulations (RR) No. 2-98, as amended, which must be remitted to the Bureau on or before November 10, 2016;

2. Value added tax (VAT) imposed under Section 106 of the National Internal Revenue Code of 1997, as amended, and RR No. 16-05, as amended, which must be paid to the Bureau on or before November 21, 2016;

3. DST imposed under Section 196 of the National Internal Revenue Code of 1997, as amended, which must be paid to the Bureau on or before November 7, 2016; and

4. DST on the notarial acknowledgment pursuant to Section 188 of the National Internal Revenue Code of 1997, as amended.

Moreover, it is noteworthy to mention the time of payment of CGT and DST on the foreclosure sale. Section 2 of Revenue Regulations (RR) No. 9-2012 dated May 31, 2012, provides that:

"Section 2. Taxability of Owner's/Mortgagor's Failure to Redeem his Foreclosed/Auctioned Off Property within the Applicable Statutory Redemption Period. —

In case of non-redemption of properties sold during involuntary sales, regardless of the type of proceedings and personality of mortgagees/selling persons or entities, the capital gains tax (CGT) imposed under Section 24(D)(1) and 27(D)(5) of the Tax Code in relation to Section 57 of the Tax Code and RR 2-98, as amended, if the property is a capital asset; or the Creditable

Withholding Tax (CWT) imposed under Section 57 and RR 2-98, as amended, if the property is an ordinary asset; the value added tax (VAT) imposed under Section 106 of the Tax Code and RR 16-05, as amended; and the documentary stamp tax (DST) imposed under Section 196 of the Tax Code shall become due.

The buyer of the subject property, who is deemed to have withheld the CGT or CWT due from the sale, shall then file the CGT return and remit the said tax to the Bureau within thirty (30) days from expiration of the applicable statutory redemption period; or file the CWT return and remit the said tax to the Bureau within ten (10) days following the end of the month after expiration of the applicable statutory redemption period.

If the property sold through involuntary sale is under the circumstances which warrant the imposition of VAT, the said tax must be paid to the Bureau by the VAT-registered owner/mortgagor on or before the 20th or 25th day, whichever is applicable, of the month following the month when the right of redemption prescribes.

The DST return shall be filed and the said tax paid to the Bureau within five (5) days after the close of the month after the lapse of the applicable statutory redemption period.

The CGT/CWT/VAT & DST shall be based on whichever is higher of the consideration (bid price of the highest bidder) or the fair market value or the zonal value as determined in accordance with Section 6(E) of the Tax Code."

Based on the foregoing, CGT and DST returns, with respect to the sale of the foreclosed properties, shall be filed after the registered owner failed to redeem his auctioned property within the applicable statutory redemption period. Thus the CGT return shall be filed and the said tax shall be remitted to the Bureau on or before May 24, 2018, while the DST return shall be filed and the said tax be paid to the Bureau on or before May 5, 2018.

Upon presentation of the EWT, VAT, CGT, and DST returns duly validated by an authorized agent bank (AAB) and other documents evidencing full payment of the taxes due, the RDO concerned shall issue the corresponding Certificates Authorizing Registration in favor of the assignee, Ludy S. Chiquito, as the successor-in-interest of the highest bidder, BPHI.

Please be guided accordingly.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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