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

RA No. 7279
BIR Ruling No. 034-15
CMP-0547-2020
SEP 23 2020

KATIPUNAN NEIGHBORHOOD
HOMEOWNERS ASSOCIATION, INC.
Sitio Lutaw-lutaw, Tisa, Cebu City

Attention : <u>JOSE L. GALEOS</u>
President

Gentlemen:

This refers to your letter dated January 13, 2017, as indorsed by the Regional Director, Revenue Region No. 13, Cebu City, through 2nd Indorsement dated November 22, 2018, requesting exemption from capital gains tax (CGT), relative to the transfer of title of land from **KATIPUNAN NEIGHBORHOOD HOMEOWNERS ASSOCIATION, INC.**, in favor of its qualified member-beneficiaries pursuant to Republic Act No. 7279 otherwise known as the "Urban Development and Housing Act of 1992".

It is represented that **KATIPUNAN NEIGHBORHOOD HOMEOWNERS ASSOCIATION, INC.**, with Taxpayer's Identification No. , is the registered owner of the parcel of land located at Int. C. Salvador St., Labangon, Cebu City and covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds of Cebu City; that the aforesaid lot was acquired through Self-help Socialized Housing Program of City Government of Cebu, involving Thirty Two (32) beneficiaries, under City Resolution No. ; that on November 06, 2018, a Deed of Partition with Conveyance was executed by **KATIPUNAN NEIGHBORHOOD HOMEOWNERS ASSOCIATION, INC.** in favor of its member-beneficiaries; and that the member-beneficiaries are now in the process of transferring the purchased subdivided lots to their names.

In reply, please be informed that the transfer by **KATIPUNAN NEIGHBORHOOD HOMEOWNERS ASSOCIATION, INC.** in favor of its member-beneficiaries who have made full payment of their purchased subdivided lot is not subject to either the CGT 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, considering that the said transfer of property is made only as a formality to finally effect the transfer of the said property to its member-beneficiaries, who actually bought the same from the former owner through the Association. In other words, the association is merely transferring the ownership of the property to its member-beneficiaries who actually own the aforedescribed lots.

Furthermore, the said transfer is not subject to the donor's tax imposed under Section 98 of the Tax Code of 1997, as amended, since there is no donative intent on the part of the Association to donate the said property to member-beneficiaries, considering that it could not donate property the ownership of which already belongs to the member-beneficiaries. *(BIR Ruling No. 034-2015 dated February 5, 2015)*

It is noted that under Section 196 of the Tax Code of 1997, as amended, the deeds or documents subject to the documentary stamp tax (DST) imposed therein are those where the realty

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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 subject lot in favor of the member-beneficiaries is not subject to DST under Section 196 of the Tax Code of 1997, as amended. However, the notarial acknowledgment to the deed of conveyance is subject to the documentary stamp tax of ₱30.00 pursuant to Section 188 of the Tax Code of 1997, as amended by RA 10963 (TRAIN Law).

It is, however, understood that the Certificate Authorizing Registration (CAR) shall only be issued after the submission of the requirements provided under RMO 15-2003 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 in this case does not exceed for house and lot and for lot only for each qualified beneficiaries. *(BIR Ruling No. 034-2015 dated February 5, 2015)*

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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