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

Section 24 (D) (1) of the NIRC of 1997, as amended
BIR Ruling No. 351-2013
OT - 0371 - 2020
JUL 0 3 2020

CORDERO BAEL ACUÑA & SEPULVEDA
(CBASE) LAW OFFICES
3/F C.A.O Mercado Bldg.,
Osmeña Blvd., Cebu City

Attention: <u>ATTY. JOSE RAY T. BAEL</u>

Gentlemen:

This refers to your letters dated January 15, 2016, August 2, 2016, and January 11, 2017, requesting in behalf of your client, Sally May Mamites Lillejord, for a BIR ruling exempting the reconveyance of a property by the Heirs of the late Prescilla O. Abines and Crisologo A. Abines in favor of Sally May Mamites Lillejord pursuant to the Order of the Regional Trial Court (RTC), Branch 62, Oslob, Cebu, in Civil Case No. OS-14-192, from the payment of tax.

<u>Background:</u>

By way of purchase from Spouses Arlinda A. Busmion and Cesar Busmion, Sally May Mamites Lillejord became the owner of a parcel of land located at [redacted], known as Lot No. [redacted], Cad [redacted] Module 4, containing an area of Three Thousand Nine Hundred Fifty-Nine ([redacted]) square meters, more or less.

Since year 2003 and up to present, Sally May Mamites Lillejord has been in actual occupation and possession of Lot [redacted] and religiously paid its real property taxes. On the said lot is a residential house owned by Sally May Mamites Lillejord.

Way back in the year 1997, however, unknown to Sally May Mamites Lillejord, the late Prescilla O. Abines erroneously and inadvertently filed an Application for Free Patent for Lot No. [redacted], Cad [redacted], Module [redacted], with the Community Environment and Natural Resources Office (CENRO) of the Department of Environment and Natural Resources (DENR) based in Argao, Cebu. The said application was approved per Order: Approval of Application and Issuance of Patent, issued by Community Environment and Natural Resources Officer Illuminado C. Lucas dated July 7, 1997.

However, records of the application for free patent for Lot [redacted] filed by the late Prescilla O. Abines will show that the supporting Deed of Absolute Sale and Declaration of Real Property of the parcel of land they sought to be titled pertain to a totally different lot in Canlamucad, Santander, Cebu.

To avoid controversy in the future and admitting that she is not the owner of Lot. No. [redacted], Cad [redacted], Module 4, the late Priscilla O. Abines sent a letter to the CENRO dated December 2, 1997 requesting for the withdrawal or cancellation of her Free Patent Application No. [redacted]. Nonetheless, the request came in late as the "Katibayan ng Orihinal na Titulo Blg. [redacted]" was already issued in the name of the late spouses Priscilla O. Abines and Crisologo A. Abines on June 17, 1998 covering Lot No. [redacted], Cad [redacted], Module 4 located at Canlumacad, Santander, Cebu.

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A case for Reconveyance was then filed against the Heirs of Priscilla and Crisologo Abines, docketed as Civil Case No. [redacted]. In the pre-trial stage of the case, Sally May Mamites Lillejord and Heirs of Priscilla and Crisologo Abines entered into a compromise agreement wherein the latter admitted the true ownership of Sally May Mamites Lillejord over the subject property.

Upon signing of the Compromise Agreement, Judge James Stewart Ramon E. Himalaloan issued a Judgment (on Compromise Agreement), wherein he ordered the Register of Deeds of the Province of Cebu to cancel the Katibayan ng Orihinal na Titulo Blg. [redacted] in the name of Spouses Priscilla O. Abines and Crisologo A. Abines and issue a Transfer Certificate of Title in the name of Sally May Mamites Lillejord.

Thus, the heirs of Priscilla and Crisologo Abines executed a Deed of Reconveyance involving the subject parcel of land in favor of Sally May Mamites Lillejord. Hence, this request.

In reply, please be informed that since the reconveyance of the subject property in pursuance to the Decision of the RTC is without consideration and the reconveyance was in order to return the property to the legal owner, the transfer of Katibayan ng Orihinal na Titulo Blg. [redacted] in favor of Sally May Mamites Lillejord is not subject to the capital gains tax (CGT) imposed under Section 24 (D) (1) of the National Internal Revenue Code of 1997, as amended. Likewise, the Deed of Reconveyance is not subject to the documentary stamp (DST) imposed under Section 196 of the National Internal Revenue Code of 1997, as amended, but is subject to the P15.00[1] DST on the notarial acknowledgement as imposed under Section 188 of the same Code.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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[1] Old DST rate is used since the Deed of Reconveyance was executed prior to the effectivity of Republic Act (RA) No. 10963 (TRAIN Law).