REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
National Office Building
Quezon City

RMO No. 15-2003
BIR Ruling No. OT-165-2021
OT- 053 2023
MAY 19 2023

VICENTE ACEVEDO TAC-AN

Sir:

This refers to your request for a ruling for the cancellation of the electronic Certificate Authorizing Registration (eCAR) with serial number (("subject eCAR") issued by Revenue District Office (RDO) No. 106, Tandag City ("RDO Tandag City") in favor of Ms. Guiseppe Tac-an Mercado ("Ms. Mercado").

It appears from the records that the controversy began with the Special Power of Attorney (SPA) executed by Mrs. Camia Acevedo Custodio ("Mrs. Custodio") authorizing Mrs. Aleli A. Tac-an ("Mrs. Tac-an") to, among other things, cause the preparation and signing on the Deed of Absolute Sale/Deed of Donation, or to dispose by way of Sale/Donation Mrs. Custodio's paraphernal/exclusive properties located at Tandag City, Surigao del Sur; and sign, execute, deliver and process whatever documents/instruments necessary to carry into effect the transfer of ownership of Mrs. Custodio's properties from her name to that of the Buyer's/Donee's thereof.

By virtue of the said SPA, four Deeds of Absolute Sale were executed bearing the following dates: May 26, 2020; May 29, 2020 and September 7, 2020. It was only on January 7, 2021 that Mrs. Tac-an presented the four Deeds of Absolute Sale to RDO Tandag City for the processing of the eCARs.

Unknown to Mrs. Tac-an, Mrs. Custodio executed a revocation of Special Power of Attorney with Irrevocable Instructions to Convey Documents to Vicente Acevedo Tac-an dated May 27, 2020 which was presented to OIC Revenue District Officer Lisa Tomaneng to stop the processing of the eCAR.

OIC Revenue District Officer Tomaneng requested for a legal opinion from Revenue Region (RR) No. 17, Butuan City ("RR Butuan City") on the validity of sale of parcels of land which was made by Mrs. Tac-an. The Legal Division of RR Butuan City then issued a Memorandum dated January 11, 2021 which contained the following pronouncement:

> *"This Office believes that there is a valid revocation of the Special Power of Attorney given to Ms. Aleli A. Tac-an. The revocation was authenticated by an Apostile in Florida, USA and as such, it can be used here in the Philippines since our country is a member of Apostille Convention.*

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xxx xxx xxx

It is the legal opinion of this Office that the 3 sets of Absolute Deed of Sale xxx, are considered null and void for lack of authority of Ms. Aleli A. Tac-an to represent Ms. Camia Acevedo Custodio. Along this line, this Office, would recommend not to honor any transaction relative to these 3 sets of Deed of Sale. On the other hand, the Deed of Sale dated May 26, 2020 may be accepted and honored by the BIR since the authority of Ms. Tac-an was not yet revoked." (Underscoring supplied)

Following the said Memorandum, RDO Tandag City issued the subject eCAR dated January 15, 2021. In the meantime, Ms. Aleli A. Tac-an filed before this Office a letter for reconsideration on the Memorandum issued by RR Butuan City. This Office ruled that the revocation of agency constitutes an absence of one of the material requirements enumerated in Revenue Memorandum Order (RMO) No. 15-2003 which enjoins this Office from issuing an eCAR. The other issues, which were considered as beyond this Office' jurisdiction, was not dealt with; the dispositive portion of the said ruling[1] is quoted as follows:

"[T]he actual notice of revocation of agency executed by no less than the principal, Mrs. Custodio renders Mrs. Tac-an's power of attorney inoperative insofar as this Bureau is concerned. The unenforceability of Mrs. Tac-an's power of attorney constitutes a want on the mandatory requirements provided under RMO No. 15-2003 which warrants this Bureau to refrain from issuing the said CARs on the subject deeds of sale.

In the same vein, the apparent issue clouding the resolution of the controversy lies upon a determination which this Bureau is not accorded by law to take cognizance of. The concerned parties should submit their grievances to the appropriate Courts for proper adjudication."

In view thereof, you now question the propriety of the subject eCAR which was issued by RDO Tandag City for the Deed of Absolute Sale dated May 26, 2020. Hence this request.

In reply, please be informed that the foregoing resolution squarely applies only to the eCARs issued for the Deeds of Absolute Sale dated May 29, 2020 and September 7, 2020 as the revocation of agency was done only on May 27, 2020. In your letter dated November 15, 2021, you stated that the transfer of ownership from Mrs. Custodio to Ms. Mercado of the subject lot can no longer prosper because of the stringent requirement imposed by the Registry of Deeds ("RD"), *i.e.*, the confirmation of sale from Mrs. Custodio in favor of Mr. Johann Gabriel Bayona Tac-an ("Mr. Bayona Tac-an") covered by eCAR No. . Thus, this Office is of the opinion that ruling on whether the subject eCAR should be invalidated would be of no practical value since the subject eCAR is not the deciding factor for the RD on whether or not to allow the transfer of the subject property in favor of Ms. Mercado.

[1] BIR Ruling No. OT-165-2021, May 18, 2021

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We must emphasize that an eCAR is merely a certification that the appropriate taxes on a transaction have been duly paid as required under Section 56 (A) (3) of the National Internal Revenue Code (Tax Code) of 1997, as amended. It cannot be the sole basis for the transfer of title as there may be other issues that need to be resolved by the RD. As an agency that enforces one of the inherent powers of the State, it cannot be burdened with academic questions to satisfy scholarly interest.

Based on the foregoing, we thus regret our inability to grant your request as it painstakingly lacks merit. This Office believes that this particular issue needs to be ventilated before the proper courts of law.

Please be guided accordingly.

Very truly yours,

ROMEO D. LUMAGUI, JR.
Commissioner of Internal Revenue
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CC: **REVENUE REGION NO. 17 – BUTUAN CITY**
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