July 13, 2018

BIR RULING NO. 1075-18

Republic Act (RA) No. 7279; BIR Ruling No. 005-2011

Barra, Inc.
Barangay Basak,
San Nicolas,
Cebu City 6000

Attention: *AAA*

Gentlemen :

This refers to your request for exemption from the payment of taxes relative to the transfer of title of land from BARRA, [1] Inc. (Homeowner's Association Pursuant to R.A. 9904) [2] in favor of AAA, one of its qualified member-beneficiaries [3] pursuant to Republic Act (RA) 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Documents submitted disclosed that BARRA, Inc. is the registered owner of a parcel of land, with an area of 139 square meters, more or less, covered by Transfer Certificate of Title (TCT) No. 173992 issued by the Registry of Deeds for Cebu City; that the aforesaid lot was acquired through a loan under the Community Mortgage Program (CMP), with Pagtambayayong Foundation, Inc. as Originator, per Certification dated June 13, 2012 issued by the Social Housing Finance Corporation (SHFC); that based on same Certification, said project was taken-out/paid on May 19, 1989 in the loan amount of Php265,363.99, involving 48 beneficiaries; and that on December 03, 2015, BARRA, Inc. executed a Deed of Absolute Sale in favor of AAA, conveying unto the latter the above mentioned property.

In reply, please be informed that the transfer of the subdivided lots in favor of the individual members-beneficiaries of BARRA, Inc. is not subject to either the capital gains tax (CGT) imposed under Section 27 (D) (5) of the National Internal Revenue Code of 1997, as amended, or the creditable withholding tax (CWT) imposed under Revenue Regulations (RR) No. 2-98, as amended, considering that said transfer is only a formality to finally effect the transfer of the subject property to its member-beneficiaries who actually bought the same

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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 same. Thus, the Deed of Absolute Sale dated December 03, 2015 executed by BARRA, Inc. in favor of AAA, over a parcel of land covered by TCT No. 173992 issued by the Registry of Deeds for Cebu City, is not subject to either the CGT imposed under Section 27 (D) (5) of the National Internal Revenue Code of 1997, as amended, or the CWT imposed under Revenue Regulations (RR) No. 2-98, as amended.

Please take note however, that the Certificate Authorizing Registration (CAR) shall only be issued to AAA after the submission of the requirements provided under Revenue Memorandum Order (RMO) No. 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 does not exceed P450,000.00 [4] for house and lot and P180,000.00 for lot only. ***(BIR Ruling No. 005-11 dated January 19, 2011)***

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,

(SGD.) CAESAR R. DULAY
Commissioner of Internal Revenue

Footnotes

1. Back Rubberworld Residents Association.
2. Formerly BARRA Homeowners Association, Inc.
3. Please see attached Masterlist of Beneficiaries consisting of three (3) pages and containing 48 beneficiaries.
4. HUDCC Resolution No. 1, Series of 2013, promulgated on October 16, 2013, approving the adjustment of price ceiling for horizontal socialized housing from P400,000.00 per house and lot to P450,000.00.

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