January 31, 2019

BIR RULING NO. 142-19

RA No. 7279; BIR Ruling No. 034-15

Samahang Maralita ng Doña Rosario (SAMADORA), Inc.
No. 33 P. Tupaz St., Doña Rosario Subd.,
Brgy. Nova, Proper, Quezon City

Attention: *AAA*

Gentlemen :

This refers to your letter dated June 5, 2018, requesting exemption from capital gains tax (CGT), relative to the transfer of title of land from **SAMAHANG MARALITA NG DOÑA ROSARIO (SAMADORA), 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 **SAMAHANG MARALITA NG DOÑA ROSARIO (SAMADORA), INC.**, with Taxpayer's Identification No. 000-000-000-000, is the registered owner of the two (2) parcels of land located at Brgy. Novaliches, Proper, Quezon City, and covered by Transfer Certificate of Title (TCT) Nos. N-255717 and N-255710 issued by the Registry of Deeds of Quezon City; that it is a non-stock, non-profit organization duly registered with the Housing and Land Use Regulatory Board (HLURB) with Registration No. 04-3462; that the aforesaid lots were acquired through a loan under the Community Mortgage Program (CMP); that the Social Housing Finance Corporation issued a Certificate of Payment, to wit:

Member-Beneficiaries	Date of Certificate of Payment	TCT No.	Lot Area	Address
AAA	Feb. 27, 2014	N-255717	43 sq. m.	Brgy. Novaliches, Proper, Quezon City
BBB	Feb. 12, 2018	N-255710	44 sq. m.	Brgy. Novaliches, Proper, Quezon City

and that AAA and BBB, as member-beneficiaries, are now in the process of transferring the purchased property to their name.

Copyright 2020 CD Technologies Asia, Inc.

In reply, please be informed that the transfer by **SAMAHANG MARALITA NG DOÑA ROSARIO (SAMADORA), INC.** in favor of the above-named member-beneficiaries who had made full payment of their purchased subdivided lots are 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 without any consideration and effected only as a formality to finally effect the transfer of the said property to its member-beneficiaries, AAA and BBB, 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 99 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 said member-beneficiary, considering that it could not donate property the ownership of which already belongs to the member-beneficiary himself. *(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 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. Besides, no consideration is involved in said transaction upon which the tax imposed could be based.

Accordingly, the transfer of title of the subject lots in favor of the above-named beneficiaries are 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 P15.00 [1] pursuant to Section 188 of the Tax Code of 1997, as amended. *(BIR Ruling No. 034-2015 dated February 5, 2015)*

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 P450,000.00 for house and lot and P180,000.00 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.

Copyright 2020 CD Technologies Asia, Inc.

Very truly yours,

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

Footnotes

1. The old DST rate of P15.00 is used since the transfer took place prior to the effectivity of R.A. No. 10963.

Copyright 2020 CD Technologies Asia, Inc.