REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE

Quezon City

RA No. 7279
BIR Ruling No. 034-15
#224-2017
5-15-2017

ROQUE COMPOUND PHASE-II KAPIT-BISIG HOMEOWNERS ASSOCIATION, INC.
Roque Compound Phase II, Brgy. Tandang Sora,
Quezon City

Attention : Mr. Rey D. Belicena
President

Gentlemen:

This refers to your undated endorsement letter requesting exemption from capital gains tax (CGT), relative to the transfer of title of land from Roque Compound Phase II Kapit-Bisig Homeowners Association, Inc. in favor of its qualified members-beneficiaries pursuant to Republic Act 7279 otherwise known as the "Urban Development and Housing Act of 1992".

It is represented that Roque Compound Phase II Kapit-Bisig Homeowners Association, Inc., with Taxpayer's Identification No. , is the registered owner of the parcel of land located at Brgy. Tandang Sora, Quezon City and covered by Transfer Certificate of Title (TCT) No. issued by the Registry of Deeds of Quezon City; that it is a non-stock, non-profit organization duly registered with the Home Insurance and Guaranty Corporation (HIGC) with Registration No. ; that the aforesaid lot was acquired through a loan under the Community Mortgage Program (CMP) of the Social Housing Finance Corporation (SHFC); that said project was taken-out/paid on June 18, 1998 in the amount of Two Million Pesos (Php2,000,000.00), involving sixty five (65) beneficiaries for both Melody[1] and Harmony[2] Chapters, respectively; that on May 6, 2014, the SHFC issued Partial Release of Real Estate Mortgage only to the extent of the property described below in favor of Paul Ian N. Francisco, a member beneficiary of Melody Homes.

TCT No.	Description	Lot Area	Annotation of Real Estate Mortgage	Date of Release of Real Estate Mortgage
		43.25 sq.m.	April 15, 1998	May 6, 2014

[1] Melody Homes – 34 member-beneficiaries
[2] Harmony Chapter – 31 member-beneficiaries

and that Paul Ian N. Francisco is now in the process of transferring the purchased property to his name.

In support of your request, the following documents have been submitted:

1) Written Application for Exemption filed with the Law Division;
2) Certified True Copy of the Transfer Certificate of Title (TCT);
3) Certification from the Social Housing Finance Corporation (SHFC) that the property was acquired through CMP;
4) Certified true copy of the Articles of Incorporation of the community association;
5) Certificates of Payment;
6) Original Certificate of Partial Releases of Real Estate Mortgage;
7) BIR Certificate of Registration of the Homeowner Association; and
8) Other pertinent documents.

In reply, please be informed that the transfer by Roque Compound Phase II Kapit-Bisig Homeowners Association, Inc. in favor of the above-named member-beneficiary who have made full payment of his 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 without any consideration and effected only as a formality to finally effect the transfer of the said property to its member-beneficiary, Paul Ian N. Francisco, 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-beneficiary who actually owns the aforedescribed lot.

Furthermore, the said transfer is not subject to the donor's tax imposed under Section 99 of the Tax Code of 1997, since there is no donative intent on the part of the Association to donate the said property to said members-beneficiaries, considering that it could not donate property the ownership of which already belongs to the members-beneficiaries themselves. *(BIR Ruling No. 034-2015 dated February 5, 2015)*

It is noted that under Section 196 of the Tax Code of 1997, 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 purchasers are actually the owners 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 beneficiary is not subject to DST under Section 196 of the Tax Code of 1997. However, the notarial acknowledgment to the deed of conveyance is subject to the documentary stamp tax of P15.00 pursuant to Section 188 of the Tax Code of 1997. *(BIR Ruling No. 034-2015 dated February 5, 2015)*

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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.

Very truly yours,

CAESAR R. DULAY
Commissioner of Internal Revenue

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