October 19, 2016

BIR RULING NO. 360-16

RA 7279; BIR Ruling No. 005-11; BIR Ruling No. 367-11

Pinagpala Neighborhood Association, Inc.
351 F. Francisco St. Parada, Valenzuela

Attention: *AAA*

Gentlemen :

This refers to your letter dated August 23, 2013 requesting exemption from the payment of Capital Gains Tax and other taxes, relative to the transfer of titles of land from Pinagpala Neighborhood Association, Inc. in favor of fully paid members-beneficiaries pursuant to Republic Act (RA) No. 7279 otherwise known as the "Urban Development and Housing Act of 1992."

Documents submitted disclose that Pinagpala Neighborhood Association, Inc. [1] (TIN: 000-000-000-000) is a domestic corporation duly registered with the Securities and Exchange Commission (SEC) under Registration No. 154842 dated August 31, 1988; that Pinagpala Neighborhood Association, Inc. is the registered owner of Sixteen (16) parcels of land covered by the following Transfer Certificates of Title (TCT), to wit;

TCT No.	Tax Declaration	Lot Area sq.m.
V-99024 [2]	C-024-06848	70
V-99029 [3]	C-024-06855	44
V-99054 [4]	C-024-06920	65
V-99064 [5]	C-024-06930	35
V-99070 [6]	C-024-06936	44

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V-99073 [7]	C-024-06939	35
V-99075 [8]	C-024-06941	35
V-99085 [9]	C-024-06951	35
V-99086 [10]	C-024-06952	40
V-99087 [11]	C-024-06953	35
V-99088 [12]	C-024-06954	40
V-99089 [13]	C-024-06955	35
V-99090 [14]	C-024-06956	61
V-99091 [15]	C-024-06957	45
V-99110 [16]	C-024-06976	36
V-99180 [17]	C-024-06980	75

all issued by the Registry of Deeds for the Valenzuela Metro Manila, located at Brgy. Parada, Valenzuela City; that the foregoing lots were previously acquired through a community loan under the Community Mortgage Program (CMP) of the Social Housing Finance Corporation (SHFC); [18] that said project was taken-out/paid on March 26, 1993 in the amount of Php_____; that on May 28, 2013, the SHFC issued a Partial Release of Real Estate Mortgage constituted above-described TCTs; and that the following members/beneficiaries are now in the process of transferring their allocated lots to their names by virtue of their respective Deeds of Absolute Sale, to wit;

Name of Member-Beneficiaries/Substitute	Blk. No.	Lot. No.	Date of Deed of Absolute Sale
BBB	1	15	9/10/2013
CCC	2	4	8/1/2013
DDD	1	4	8/1/2013
EEE [19]	2	7	8/1/2013
FFF	2	13	undated
GGG [20]	3	3	8/29/2013

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HHH [21]	3	5	8/29/2013
III	3	15	8/1/2013
JJJ	3	16	8/1/2013
KKK [22]	3	17	8/1/2013
LLL	3	18	8/1/2013
MMM	3	19	8/1/2013
AAA	3	20	8/1/2013
NNN	3	21	8/1/2013
OOO [23]	5	9	8/1/2013
PPP	6	4	8/29/2013

that in the respective Certifications of Substitution issued by the SHFC, the SHFC certifies that they have conducted the review and evaluation of the substitution effected by the community association and have found that the said substitution is in order and complies with the requirements of substitution under existing CMP guidelines and that they are now in the process of transferring the purchased properties to their names by virtue of Certification of Substitution duly issued by SHFC.

Documents also disclose that the association was registered with HLURB on November 10, 2011 under the name of "Pinagpala Homeowners Association, Inc." pursuant to RA No. 9904; that in a letter dated September 5, 2014 executed by Pinagpala Neighborhood Association, Inc.'s _____, AAA, it was affirmed that Pinagpala Neighborhood Association, Inc. which was previously registered with the SEC and Pinagpala Homeowners Association, Inc. registered in HLURB is one and the same association.

In support of your request, you have completely submitted on November 11, 2013 the following documents:

1) Written application for exemption filed with the Law Division;

2) Deeds of Absolute Sale;

3) Certified true copies of the TCT;

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4) Certification from the Social Housing Finance Corporation (SHFC) that the property was acquired through CMP;

5) Certified true copy of the Articles of Incorporation of the Community Association;

6) Certified true copy of the Masterlist of Qualified Beneficiaries duly certified by the SHFC;

7) Certificates of Payment;

8) Partial Release of Real Estate Mortgage;

9) BIR Certificate of Registration;

10) Other pertinent documents.

In reply, please be informed that the transfer in favor of your individual member-beneficiaries of the said subdivided properties and in favor of those substitutes by virtue of certification of substitution, as duly approved by the SHFC, (which are deemed subrogated to the rights and obligations of the members-beneficiaries substituted and are bound by exactly the same conditions, as those which bound the latter), is not subject to either the capital gains tax 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, implementing Section 57 (B) of the same Code, considering that the said transfer is merely a formality to finally effect the transfer of the said properties to your member-beneficiaries who actually bought the same from the former owner through your Association. In other words, the association is in fact transferring the ownership of the property to its member-beneficiaries who actually own the same.

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 or intention on your part to donate the said properties to each member-beneficiary, considering that you could not donate such properties the ownership of which belong to the donees (member-beneficiaries) themselves. *(BIR Ruling No. 005-11 dated January 19, 2011 and BIR Ruling No. 367-11 dated October 5, 2011)*

It is noted that under Section 196 of the Tax Code of 1997, the deeds or documents subject to the documentary stamp tax 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

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owner thereof.

Accordingly, the transfer of titles of the said properties in favor of your member-beneficiaries is not subject to the documentary stamp tax imposed under Section 196 of the Tax Code of 1997. However, the notarial acknowledgment to said 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. 005-11 dated January 19, 2011 and BIR Ruling No. 367-11 dated October 5, 2011)*

It is, however, understood that the respective Certificates 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 of real property, the actual selling price per sale transaction of the house and lot packages in this case does not really exceed P450,000.00 and P180,000.00 for lot only. Thus, sale of a house and lot or lot only above the maximum amount shall be subject to the corresponding internal revenue taxes. *(BIR Ruling No. 005-11 dated January 19, 2011 and BIR Ruling No. 367-11 dated October 5, 2011)*

Finally, in view of the fact that the same association is registered with the SEC (Pinagpala Neighborhood Association, Inc.) and HLURB (Pinagpala Homeowners Association, Inc.) under two different names, notwithstanding that its TIN remains under the name of Pinagpala Neighborhood Association, Inc., for purposes of taxation, the association shall be identified under the name registered with the BIR, unless the association updates its registration on details.

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. Registered with the Housing and Land Use Regulatory Board (HLURB) under Registration No. 01572 as Pinagpala Homeowners Association, Inc.
2. Formerly V-15335/T-77.
3. *Ibid.*
4. Formerly V-15338-39/T-77.

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5. Formerly V-15338-39/T-77.
6. *Ibid.*
7. *Ibid.*
8. *Ibid.*
9. *Ibid.*
10. *Ibid.*
11. *Ibid.*
12. *Ibid.*
13. *Ibid.*
14. *Ibid.*
15. *Ibid.*
16. *Ibid.*
17. *Ibid.*
18. Payment of CGT (P_____) and DST (P_____) as evidenced by Certificate Authorizing Registration No. 162052 dated May 7, 1990.
19. Substitute of QQQ.
20. Substitute of RRR.
21. Substitute of SSS.
22. Substitute of TTT.
23. Substitute of UUU.

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