November 9, 2016

BIR RULING NO. 379-16

RA 7279; BIR Ruling No. 250-2015

National Housing Authority
Quezon Memorial Elliptical Road
Diliman, Quezon City

Attention: *Ma. Theresa L. Siat*
District Manager
Pasig/Marikina/Manggahan

Gentlemen :

This refers to your letter dated October 17, 2014, requesting issuance of Certificate of Tax Exemption for the Deed of Sale executed between AAA, et al. and National Housing Authority (NHA) pursuant to Republic Act (R.A.) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Documents submitted disclose that AAA, et al. and BBB (hereinafter referred to as Landowners) are the registered owners of parcels of land covered by Transfer Certificates of Title (TCT):

Landowner	**TCT No.**	**Tax Declaration No.**	**Area (sq. m.)**
AAA (married to CCC) and DDD (married to EEE)	PT-77158	E-028-00473	728
Carolina SantosBBB (married to Enrique ManaloFFF)	201248	E-028-00472	246

On March 18, 2014, a Memorandum of Agreement (MOA) was executed by the NHA, a government corporation created and existing by virtue of Presidential Decree No. 757, as amended, the Office of the Congressional District of Pasig City, the Landowners and

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the Sanchez Dwellers Neighborhood Association, Inc.

Under the MOA, the Congressional District of Pasig City agreed to the utilization of _____ pesos (P_____) from the allocation of the Local Housing Program Fund under R.A. No. 7835 to finance the acquisition of the property occupied by Association.

The project shall be known as the Sanchez Dwellers Neighborhood Association, Inc. Housing Project intended to benefit Thirty Nine (39) [1] members of the Association.

On November 24, 2014, a Deed of Absolute Sale was executed by and between DDD, for himself and as Attorney-in-Fact of BBB and CCC [2] and the NHA, whereby the former transferred to the latter the subject realty in consideration for P_____.

In reply, please be informed that pursuant to Sections 19 and 20 of Republic Act (RA) No. 7279, pertinent portions of which state that:

> *"Sec. 19. Incentives for the National Housing Authority. — The National Housing Authority, being the primary government agency in charge of providing housing for the underprivileged and homeless, shall be exempted from the payment of all fees and charges of any kind, whether local or national, such as income and realty taxes. All documents or contracts executed by and in favor of the National Housing Authority shall also be exempt from the payment of documentary stamp tax and registration fees, including fees required for the issuance of transfer certificates of title.*
>
> *"Sec. 20. Incentives for Private Sector Participating in Socialized Housing. — To encourage greater private sector participation in socialized housing and further reduce the cost of housing units for the benefit of the underprivileged and homeless, the following incentives shall be extended to the private sector:*
>
> xxx xxx xxx
>
> *(d) Exemption from the payment of the following:*
>
> xxx xxx xxx
>
> *2) Capital gains tax on raw lands used for the project;*
>
> xxx xxx xxx"

the owner of the raw land is exempt from the payment of capital gains tax or the withholding tax under Revenue Regulations No. 2-98, as amended, on the conveyance of the parcel of land for use in the aforesaid socialized housing project. Such being the case, the sale by the Landowners of the subject properties covered by TCT Nos. PT-77158 and 201248 to NHA is

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exempt from the capital gains tax. (BIR Ruling No. 446-2012 dated July 10, 2012)

Moreover, pertinent portions of RMC No. 42-01 dated October 5, 2001, provide, *viz.*:

xxx xxx xxx

A. National Housing Authority (NHA) — The NHA, being the primary government agency in charge of providing housing for the underprivileged and homeless citizens shall be exempted from the payment of the following national internal revenue taxes:

(1) . . .

(2) Documentary stamp tax on sales transactions executed by and in favor of the NHA in connection with socialized housing projects. Since Section 19 of R.A. 7279 exempts "all documents or contracts executed by and in favor of the NHA," the exemption from documentary stamp tax extends to the other party (either seller or buyer) that is dealing or transacting with the NHA.

xxx xxx xxx

The exemption from documentary stamp tax of NHA in connection with any of its socialized housing project extends to the other party (either seller or buyer) that deals or transacts with the NHA. Consequently, since NHA is a party to the sale, no documentary stamp tax shall be due on such sale, either on NHA or the party with which NHA is transacting. Accordingly, the sale of the subject properties covered by TCT Nos. PT-77158 and 201248 to NHA is, likewise, exempt from the payment of documentary stamp tax under Section 196 of the Tax Code of 1997, as amended.

Moreover, under Section 109 (1) (P) of the Tax Code of 1997, as amended by R.A. 9337, the sale of real properties utilized for low-cost and socialized housing as defined by R.A. No. 7279 shall be exempt from value-added tax (VAT), thus, the sale of the subject properties covered by TCT Nos. PT-77158 and 201248 by the Landowners to NHA is exempt from the imposition of VAT. (BIR Ruling No. 304-2013 dated August 6, 2013)

Upon application for exemption, a lien on the title of the land shall be annotated by the Register of Deeds having jurisdiction over the property, to the effect that the same is to be applied or is being applied to socialized housing project pursuant to RA 7279.

Please take note that this ruling is never intended and shall not be construed as giving authority to the concerned Register of Deeds to effect transfer of the land in the name of the buyer without the necessary certificate of authority to register issued by this Bureau. In this regard, this ruling shall be presented to the Revenue District Office (RDO) concerned in order for the latter to issue the Certificate Authorizing Registration (CAR) after the

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submission of the requirement provided under RMO 15-2003.

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. See Annex (per certification of NHA dated October 10, 2016).
2. By virtue of Extra Judicial Settlement of Estate of the Deceased AAA with Waiver of Hereditary Rights executed by and among CCC (Widow); GGG, HHH and III (Heirs) on June 18, 2013 notarized by/acknowledged before Notary Public, JJJ per Doc. No. 100, Page No. 21, Book No. 754, Series of 2013, and paying estate tax of P_____ as evidenced by BIR CAR Certificate of Registration Serial No. eCR201500028100 issued on February 22, 2016 by RDO No. 43B-West Pasig.

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