November 10, 2016

BIR RULING NO. 380-16

Sec. 32, RA No. 7279; BIR Ruling No. 109-13

Asuncion-Mangaya-ay Homeowners Association, Inc.
Mampang, Zamboanga City

Attention: *AAA*

Gentlemen :

This refers to the letter of Ma. Ana R. Oliveros, President of the Social Housing Finance Corporation (SHFC) dated April 15, 2016, endorsing the sale transaction between BBB, et al., CCC, et al., and DDD and Asuncion-Mangaya-ay Homeowners Association, Inc. for exemption from the payment of Capital Gains Tax and other taxes in accordance with the Republic Act (RA) No. 7279, otherwise known as the "Urban Development and Housing Act of 1992."

Documents submitted disclose that BBB, et al., CCC, et al., and DDD (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.)
BBB [1] 1/10 share, EEE [2] 1/10 share, FFF [3] 1/10 share, GGG, 1/10 share, HHH 6/10 share	129-2015003787	1101004901500	5,102
CCC, III, JJJ, [4] KKK	129-2015003411	1101004901501	5,101
DDD [5]	T-98,428	1101004901502	5,101
		Total Area	**15,304**

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all issued by the Registry of Deeds of Zamboanga City. The aforesaid properties are situated at Brgy. Mampang, Zamboanga City. Asuncion-Mangaya-ay Homeowners Association, Inc. (TIN 000-000-000-000), on the other hand, is a homeowner's organization duly registered with the Housing and Land Use Regulatory Board (HLURB). On December 29, 2014, the parties executed a Deed of Absolute Sale whereby the Landowners transferred and conveyed the subject properties to Asuncion-Mangaya-ay Homeowners Association, Inc. at an agreed price of _____ Pesos (P_____). Pursuant to a certification issued by SHFC, the properties covered by TCT Nos. 129-2015003787, 129-2015003411 and T-98,428 are actually a Community Mortgage Program (CMP) Project and shall be proportionately distributed to the association's qualified member-beneficiaries. [6] For this purpose, Asuncion-Mangaya-ay Homeowners Association, Inc. secured a housing loan under the CMP, a financing assistance program of the SHFC a subsidiary of the National Home Mortgage Finance Corporation (NHMFC).

In support of its request, Asuncion-Mangaya-ay Homeowners Association, Inc. has completely submitted on June 17, 2016 the following documents:

1) SHFC letter application for tax exemption;

2) Certification of the President of the SHFC that the subject properties qualify and are actually a CMP project;

3) SHFC Letter-Guaranty No. CMP-1048;

4) Certified true copy of the Deed of Absolute Sale to the Community Association;

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) Certified true copies of the TCTs and latest Tax Declarations of the Property sold to the Community Association;

8) Certified true copy of the Location Plan of the Lot Sold to the Community Association;

9) TIN ID/BIR Certificate of Registration of the seller and the Homeowner Association; and

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10) *Other pertinent documents.*

In reply, please be informed that pursuant to Section 32 of RA No. 7279, pertinent portions of which state that:

> "Sec. 32. *Incentives.* — To encourage its wider implementation, participants in the CMP shall be granted with the following privileges or incentives:
>
> xxx xxx xxx
>
> (b) Properties sold under the CMP shall be exempted from the capital gains tax;"

the landowners who sold their properties under CMP for use in a socialized housing project are exempt from the payment of capital gains tax.

Such being the case, the sale by the landowners to Asuncion-Mangaya-ay Homeowners Association, Inc. of the subject properties covered by TCT Nos. 129-2015003787, 129-2015003411 and T-98,428 are exempt from the capital gains tax.

Upon issuance of this letter of exemption, and upon registration of the document of sale, a lien on the Certificate of Title of the land to be issued in the name of the Homeowners Association shall be annotated by the Register of Deeds having jurisdiction over the property, to the effect that the said property shall be used for socialized housing pursuant to RA No. 7279. (BIR Ruling No. 109-13 dated March 21, 2013)

However, the documentary stamp tax is not one of the taxes covered by the tax exemption clause in Sec. 32 of RA 7279. Accordingly, the landowners are liable to pay the documentary stamp tax on the document conveying the afore-stated property imposed under Section 196 of the Tax Code of 1997, based on the consideration contracted to be paid for such realties or their fair market values determined in accordance with Section 6 (E) of the said Code, whichever is higher. *(BIR Ruling No. 109-13 dated March 21, 2013)*

It is, however, understood 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 titles 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). The CAR shall only be issued after the submission of the requirements provided under RMO No. 15-2003. *(BIR Ruling No. 109-13 dated March 21, 2013)*

Notwithstanding the foregoing, the Bureau of Internal Revenue shall conduct verification and post-audit to ascertain that the actual occupants of the property transferred under the CMP are qualified beneficiaries and therefore, the sellers are entitled to exemption

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from capital gains tax or income tax imposed under Sec. 24 (D) (1) the Tax Code of 1997, as amended.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be ascertained that the facts are different, then this ruling shall be considered as null and void.

Very truly yours,

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

Footnotes

1. Married to LLL.
2. Married to MMM.
3. Married to NNN, but separated-in-fact.
4. Married to OOO.
5. Married to PPP.
6. See Annex for the masterlist of qualified beneficiaries.

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