August 30, 2019

BIR RULING NO. 473-19

Secs. 24 (D) (1), 188 & 196, TC; BIR Ruling No. 530-17

AAA
c/o BBB

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Dear AAA,

This refers to your letter dated June 5, 2018 requesting for exemption from the payment of capital gains tax (CGT) on the reconveyance of a parcel of land with improvements by virtue of a Decision rendered by the Regional Trial Court (RTC) of Quezon City, Branch 96, dated November 19, 2013, in Civil Case No. Q-01-44647, entitled "*AAA, herein represented by her Attorney-in-Fact, CCC, Plaintiff, vs. BANK OF THE PHILIPPINE ISLANDS, ET AL., Defendants*."

Documents disclosed that the plaintiff filed an action for Annulment of Real Estate Mortgage, Certificate of Sale, Nullification of Foreclosure Proceedings and Cancellation of Title with Damages against the defendants. Plaintiff alleged, among others, that on 07 July 1997, without the knowledge, consent and authority of the plaintiff and while the latter was then residing in the United States of America, her late husband, EEE, executed a Deed of Real Estate Mortgage in favor of defendant Bank wherein it appears that her late husband mortgaged their conjugal property, more particularly described as a parcel of land with improvements consisting of ninety six (96) square meters, more or less, located at No. 20 Cordillera Street, Quezon City, covered by Transfer Certificate of Title (TCT) No. 75729 of the Registry of Deeds of Quezon City.

Plaintiff further alleged that it was physically impossible for her to sign such mortgage document considering that she was not informed by her late husband about such mortgage, and neither she authorized her late husband to mortgage their conjugal property even if her late husband informed her of his intention to mortgage the same to defendant bank.

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The subject property was foreclosed and sold at a public auction on 25 September 2000 by defendant Clerk of Court and *Ex Officio* Sheriff of the RTC of Quezon City.

The RTC rendered its Decision on the 19th day of November, 2013 at Quezon City in favor of the plaintiffs of which the pertinent dispositive portion of the said Decision reads:

> *"WHEREFORE, in light of the foregoing, judgment is hereby rendered:*
>
> *(1) declaring null and void the Deed of Real Estate Mortgage and the Promissory Note executed by plaintiff's late husband, [EEE], in favor of defendant BPI involving the conjugal property of the plaintiff and covered by Transfer Certificate of Title (TCT) No. 75729 of the Registry of Deeds of Quezon City;*
>
> *(2) declaring null and void the Certificate of Sale and the extrajudicial foreclosure proceedings conducted by defendant, through the defendant Clerk of Court and Ex Officio Sheriff of the RTC of Quezon City, involving the conjugal property of the plaintiff and covered by Transfer Certificate of Title (TCT) No. 75729 of the Registry of Deeds of Quezon City and to release to the plaintiff the original duplicate owner's copy free from any encumbrances;*
>
> *(3) ordering the Registry of Deeds of Quezon City to cancel TCT No. N-233916 of the Registry of Deeds of Quezon City in the name of defendant BPI and to issue new title in the name of the plaintiff;*
>
> *(4) ordering defendant BPI to pay plaintiff the amount of Php100,000.00 as exemplary damages;*
>
> *(5) ordering defendant BPI to pay plaintiff the amount of Php100,000.00 as attorney's fees, and to pay the costs of suit."*

The Decision became final and executory on October 24, 2016 as evidenced by the Certificate of Finality issued by the RTC of Quezon City, Branch 96 on November 21, 2018.

In reply, please be informed that since the reconveyance of the subject property was pursuant to the Order of the RTC and without any monetary consideration and that said reconveyance was in order to return the subject property covered by Transfer Certificate of Title No. T-233916 of the Registry of Deeds of Quezon City to the legal owner, the transfer of the subject property in favor of plaintiff, **AAA** is not subject to the 6% CGT imposed under Section 27 (D) (1) (5) of the Tax Code of 1997, as amended. Likewise, the Deed of Reconveyance is not subject to the documentary stamp tax (DST) imposed under Section 196 of the Tax Code of 1997, as amended, but only to the DST of Thirty Pesos (PhP30.00) imposed under Section 188 of the same Code.

This ruling is being issued on the basis of the foregoing facts as represented.

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However, if upon investigation, it will be ascertained 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

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