April 11, 2018

BIR RULING NO. 630-18

Republic Act (RA) No. 7279; BIR Ruling No. 005-2011

Cararayan Settlement Homeowners Association, Inc.
Bliss Site, Zone 1-A Cararayan, Naga City

Attention: *AAA*

Gentlemen :

This refers to your letter dated July 14, 2017, requesting exemption from the payment of taxes relative to the transfer of title of land from Cararayan Settlement Homeowners Association, Inc. [1] in favor of its qualified member-beneficiaries pursuant to Republic Act (RA) 7279, otherwise known as the "Urban Development and Housing Act of 1992."

It is represented that Cararayan Settlement Homeowners Association, Inc. with Taxpayers Identification Number (TIN) 000-000-000-000 is registered with the Housing and Land Use Regulatory Board under Registration Number 11130 and is one of the beneficiaries of the Bagong Lipunan Improvement of Sites and Services (BLISS), a government project for socialized housing; that it is a recipient of a donation of a parcel of land with an area of Twenty Seven Thousand Eight Hundred Ninety-Six (27,896) square meters from the City Government of Naga and is now covered by Transfer Certificate of Title (TCT) No. 086-2011000108 registered with the Registry of Deeds for Naga City; that it has already a subdivision plan duly approved by the Bureau of Lands as well as by the City Government of Naga through Sangguniang Panlungsod (SP) Resolution No. 2006-322; and it is now ready to transfer fifty-two (52) individual lots to qualified socialized housing beneficiaries.

In reply, please be informed that the transfer of the subdivided lots in favor of the qualified socialized housing beneficiaries of Cararayan Settlement Homeowners Association, Inc. is not subject to either the capital gains tax (CGT) imposed under Section 27 (D) (5) of the National Internal Revenue Code of 1997, as amended, or the creditable withholding tax (CWT) imposed under Revenue Regulations (RR) No. 2-98, as amended, considering that said transfer is only a formality to finally effect the transfer of the subject property to its member-beneficiaries who actually own the same. In other

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words, the association is merely transferring the ownership of the property to its member-beneficiaries who actually own the same.

Moreover, the said transfer is not subject to the donor's tax imposed under Section 99 of the National Internal Revenue Code of 1997, as amended, since there is no donative intent on the part of qualified socialized housing beneficiaries to donate the property to its members-beneficiaries, considering that it could not donate property the ownership of which already belongs to the members-beneficiaries themselves.

Furthermore, under Section 196 of the National Internal Revenue Code of 1997, as amended, the deeds or documents subject to the documentary stamp tax (DST) imposed therein are those where the realty sold are 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. Besides, no consideration is involved in said transaction upon which the tax imposed could be based. Accordingly, the transfer of the subdivided lots in favor of the beneficiaries is not subject to DST under Section 196 of the National Internal Revenue Code of 1997, as amended. However, the notarial acknowledgment to the deed of conveyance is subject to the DST of P15.00 pursuant to Section 188 of the National Internal Revenue Code of 1997, as amended.

It is, however, understood that this Ruling is never intended, and shall not be construed, as giving authority to the concerned Register of Deeds (RD) to effect transfer of the land titles in the names of the qualified socialized housing beneficiaries without the necessary Certificate Authorizing Registration (CAR) 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 CAR after the submission of the complete requirements provided under Revenue Memorandum Order (RMO) No. 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. Formerly Cararayan Settlement Association, Inc.

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