PUBLISHING THE MEMORANDUM OF AGREEMENT MADE AND ENTERED INTO BY AND AMONG DAR, BIR, LBP, LRA AND GFI CONCERNING THE GENERATION AND REGISTRATION OF CLOA OF GFI AGRILANDS WITH UNC...

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For the information and guidance of all concerned, there is quoted hereunder the Memorandum of Agreement (MOA), made and entered into by and among the DAR, BIR, LBP, LRA and GFI.

"MEMORANDUM OF AGREEMENT

"KNOWN ALL MEN BY THESE PRESENTS:

"This MEMORANDUM OF AGREEMENT (MOA) made and entered into by and among:

"The DEPARTMENT OF AGRARIAN REFORM (DAR), a government agency with principal office at Elliptical Road, Diliman, Quezon City, represented herein by the Secretary of Agrarian Reform BENJAMIN T. LEONG;

"The BUREAU OF INTERNAL REVENUE (BIR), a government instrumentality with principal office at Agham Road, East Triangle, Diliman, Quezon City, represented herein by the Commissioner of Internal Revenue JOSE U. ONG;

"The LAND BANK OF THE PHILIPPINES (LBP), a government financial institution with principal office at 319 Gil J. Puyat Avenue Extension, Makati, Metro Manila, represented herein by President DEOGRACIAS N. VISTAN;

"The LAND REGISTRATION AUTHORITY (LRA), a government instrumentality with principal office at Banawe Street, corner Quezon Avenue, Quezon City, represented herein by Administrator TEODORO G. BONIFACIO; and

"The GOVERNMENT FINANCIAL INSTITUTIONS (GFI) as listed hereunder:

"The PHILIPPINE NATIONAL BANK, with principal office at PNB Building, Escolta, Manila, represented herein by President EDGARDO V. ESPIRITU;

"The DEVELOPMENT BANK OF THE PHILIPPINES, with principal office at Gil J. Puyat Avenue Extension, Makati, Metro Manila, represented herein by its Chairman ROBERTO F. DE OCAMPO;

"The AL AMANAH ISLAMIC BANK, with principal office at 8751 Paseo de Roxas, Makati, Metro Manila, represented herein by its Acting President, FAROUK A. CARPIZO;

"The REPUBLIC PLANTERS BANK, with principal office Legaspi Towers 300, Roxas Boulevard corner Vito Cruz, Manila, represented herein by President FLORIDO P. CASUELA;

"The GOVERNMENT SERVICE INSURANCE SYSTEM, with principal office at Arroceros, Manila, represented herein by its President and General Manager, DANTE G. SANTOS; and

"The SOCIAL SECURITY SYSTEM, with principal office at East Avenue, Diliman, Quezon City, represented

herein by Administrator RENATO C. VALENCIA.

W I T N E S S E T H

"WHEREAS, under R.A. 6657 and other agrarian reform laws, agricultural lands shall be acquired by the government through the DAR for distribution to Agrarian Reform Beneficiaries (ARBs) under the Comprehensive Agrarian Reform Program (CARP);

"WHEREAS, to accelerate the implementation of the CARP, the President issued Executive Order No. 407, as amended by E.O. 448, directing all government instrumentalities and agencies, including GFIs, to immediately transfer their agricultural lands to DAR;

"WHEREAS, the Deeds of Transfer (D/T) executed pursuant to the CARP law and E.O. 407 is exempt from the payment of taxes and other fees incidental to registration. It does not, however, exempt taxes and other fees due on previous transactions, or instruments of foreclosure on properties whose titles are not yet consolidated in the name of the GFI concerned at the time said properties are transferred to DAR;

"WHEREAS, the registration of the D/T involving unconsolidated titles is unnecessarily delayed due to the inability of the GFIs to settle and pay capital gains taxes and other incidental fees for lack of available funds;

"WHEREAS, the GFIs have made presentations that the taxes and fees arising on previous transactions be charged as liens against the proceeds of the compensation of the transferred lands;

"NOW, THEREFORE, for and in consideration of the foregoing premises, the parties herein hereby stipulate, covenant and agree on the following terms and conditions, to wit:

"I - That the following taxes and fees imposed in connection with the consolidation of titles of lands covered under this Memorandum of Agreement shall be charged as liens on the proceeds of the land;

1. Capital Gains Taxes, except where the foreclosure sale on the property covered was conducted on or prior to September 3, 1986, in which case, the capital gains tax shall be for the account of the debtor-mortgagor;

2. Documentary Stamp Taxes

3. Realty Taxes

4. Registration Fees

5. Transfer Fees

"Provided, that Deed of Reconveyance executed by DAR in favor of the GFI concerned in cases where the property or portion thereof is later found not suitable to agriculture, the registration of said Deed of Reconveyance shall be free from all charges, and, therefore, not subject to clearances of the taxes and fees heretofore mentioned in this Paragraph I.

"II - The following shall be the respective responsibilities of the parties herein:

"A. The GFIs shall:

"1. Secure from the BIR District Revenue Officer concerned, a statement of accounts relative to documentary stamps and capital gains taxes arising from acquisition by the GFIs of lands through foreclosure proceedings or other modes of acquisition. If the previous owner of the real property is an individual, estate or trust, the BIR shall reckon its computation of the debtor-mortgagor's capital gains tax liability as of 30 days from the date of issuance of the certificate of sale or instrument of foreclosure. If the previous owner is a juridical person, the computation

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of the debtor-mortgagor's capital gains tax liability shall be reckoned from the 15th day of the fourth month next following the taxable year when the certificate of sale/instrument of foreclosure was executed. The documentary stamp tax shall be reckoned as of the execution of the certificate of sale/instrument of foreclosure.

"2. Secure from the City or Municipal Treasurer concerned, a statement of realty tax payment or tax delinquencies for all agricultural lands acquired by the GFIs and transferred to DAR;

"3. Execute and attach to the D/T affidavits of consolidation of ownership covering the foreclosed lands whose periods of redemption had already prescribed; and

"4. Submit to DAR the statements of account issued by the BIR and the local governments together with their claims for compensation.

"B. BIR shall:

"1. Issue statements of account relative to the amount of documentary stamps and capital gains taxes arising from, and by reason of, the acquisition through foreclosure, of agricultural lands by the GFI concerned.

"C. DAR shall:

"1. Present to ROD for registration the D/T, attaching therewith Owner's Duplicate of Certificate, the affidavit of consolidation and Certificate of Land Ownership Award (CLOA);

"2. Incorporate in the GFIs claim folder the following documents:

"a. Statements of account from the BIR, the City or Municipal Treasurer, and the LRD;

"b. Copy of the duly registered D/T;

"c. Certified xerox of the CLOAs; and

"d. Certified xerox of ROD's copy of the title bearing all annotations including the affidavit of consolidation, the D/T and CLOA.

"D. LRA shall:

"1. Accept and register the following documents, to wit:

a. Affidavit of Consolidation;

b. Deed of Transfer;

c. Owner's Duplicate Certificate; and

d. Certificate of Land Ownership Award.

"2. Transfer title of foreclosed lands directly to the beneficiaries without necessarily issuing new title in the name of the GFI concerned and the Republic. The affidavit of consolidation, Deed of Transfer and Certificates of Land Ownership Award shall be annotated at the back of the title of mortgagor.

Titles already consolidated in the name of GFI may not be issued new title in the name of the Republic but may be issued CLOA directly in the name of farmer beneficiaries.

"3. Issue to DAR through the Register of Deeds statements of account with respect to the amount of registration fees due;

"4. Release to the DAR-PARO the registered TCT-CLOA for distribution to ARB concerned; and

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"5. Furnish DAR-PARO with certified xerox of ROD's copy of the title showing all annotations including the affidavit of consolidation, the D/T and the CLOA.

"E. LBP shall:

"1. Deduct from the proceeds of the land compensation claims of the GFIs all the collectible accounts due to BIR, the local government and the ROD as duly certified by the agencies concerned. In the event that the collectible accounts are more than the cash portion of the proceeds of the land compensation claims, the difference shall be taken from and paid out of the bond portion of the proceeds in the form of LBP Bonds payable at full face value;

"2. Remit to the agencies concerned all the payments mentioned in the preceding paragraph; and

"3. After all the tax obligations and fees are fully satisfied, pay the GFIs concerned the balance of the proceeds.

"4. Remit to the proper agencies concerned all the payments under C-2 above within 30 days from the date of actual deduction. In the case of internal revenue taxes, LBP shall accomplish a monthly remittance form similar to the one used by the withholding agent in remitting the creditable withholding tax, or BIR Form Nos. 1743-A1 and 1743-B.

"IN WITNESS WHEREOF, the parties herein have, by their duly authorized representatives, affixed their signatures this 28th day of August 1992 at Quezon City, Philippines.

"DEPARTMENT OF AGRARIAN REFORM

By:

(SGD.) BENJAMIN T. LEONG
Secretary

"LAND BANK OF THE PHILIPPINES

By:

(SGD.) DEOGRACIAS N. VISTAN
President

"PHILIPPINE NATIONAL BANK

By:

(SGD.) EDGARDO B. ESPIRITU
President

"PHILIPPINE AMANAH BANK

By:

(SGD.) FAROUK A. CARPIZO
President

"GOVERNMENT SERVICE INSURANCE SYSTEM

By:

(SGD.) DANTE S. SANTOS
President

BUREAU OF INTERNAL REVENUE

By:

(SGD.) JOSE U. ONG
Commissioner

LAND REGISTRATION AUTHORITY

By:

(SGD.) TEODORO S. BONIFACIO
Administrator

DEVELOPMENT BANK OF THE PHILIPPINES

By:

(SGD.) ROBERTO F. DE OCAMPO
Chairman

REPUBLIC PLANTERS BANK

By:

(SGD.) FLORIDO P. CASUELA
President

SOCIAL SECURITY SYSTEM

By:

(SGD.) RENATO C. VALENCIA
President

"Signed in the presence of:

"(Sgd.) Illegible (Sgd.) Illegible"

All internal revenue officers and others concerned are enjoined to be guided accordingly and to give this circular as wide a publicity as possible.

Adopted: 13 Oct. 1992

(SGD.) VICTOR A. DEOFERIO, JR.
Commissioner of Internal Revenue
(Officer-in-Charge)

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