

## POSTSCRIPT

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### Firm reports P1-B 'zero-bribe' lot sale

**C**ORRUPTION, bribery, institutional extortion and lack of integrity have so permeated the bureaucracy that most people no longer take notice unless it is grand larceny and lands in the headlines.

So, when a company is able to sell a lot for P1 billion and completes its transfer and titling without paying a single peso in bribes to government officials to expedite the transaction, it seems abnormal. It is news!

Executives of the Philcomsat group of companies, long a victim of corrupt officials of the Presidential Commission on Good Government, are still talking of their recent experience of having completed a major transaction without submitting to extortion attempts of bureaucrats.

For that trouble-free transaction, Philcomsat executives thanked the Duterte administration in a letter to Finance Secretary Carlos G. Dominguez and Commissioner Caesar R. Dulay of the Bureau of Internal Revenue.

Philcomsat executives – president/CEO Lin I. Bildner and director/CFO and treasurer Katrina Ponce Enrile – said it was a departure from the exploitation they had to suffer as “repeat victims of PCGG plunder, graft and corruption.”

They expressed amazement that under the present administration, “justice was finally served and the company was not forced to pay one peso more than necessary, and more importantly, each peso spent was fully receipted.”

#### • BIR extortion attempt fails

THE STORY, as related by Bildner, could be instructive to others similarly situated:

Upon Philcomsat’s P1-billion sale in January last year of a 2.5-hectare plot acquired by extrajudicial foreclosure, the firm immediately paid to the BIR the six-percent capital gains tax, or P60 million, due from the sale of a capital asset.

The BIR Regional District Office accepted the payment, but refused to classify the land as a “capital asset,” insisting it was an “ordinary asset” of the firm subject to a higher tax. It withheld the Certificate Authorizing Registration (CAR) to allow transfer of the title to the buyer.

Despite evidence to the contrary, the BIR refused to recognize the property sold – being in its original form full of cogon and goats – as a capital asset.

Philcomsat executives said that since they were not in the business of raising goats or cogon, the property in question cannot possibly be an “ordinary asset” subject to a higher tax, but the BIR refused to listen.



The sale of an ordinary asset is slapped a six-percent Expanded Withholding Tax (EWT) plus a 12-percent Value-Added Tax (VAT) that translates into P180 million in taxes on a P1-billion sale. Moreover, proceeds from the sale of an ordinary asset will be reported as revenue in the company’s income tax return and subjected to a 30-percent corporate tax.

Bildner said revenue officials have admitted that when they fail to reach their target revenue collection, they deliberately subject corporations to incorrect classifications that result in large additional taxes. Of course, some of us are aware that the correct classification can be obtained by an “arrangement.”

However, such arrangements – sometimes known as “bribes” and not receipted at that – are still considered corruption. In the Philcomsat case, the firm refused to come across just to quickly settle the issue of asset classification.

#### • Duterte: Raise hell if victimized

VARIOUS BIR functionaries purposely and erroneously classify properties as an “ordinary asset,” subject to a much higher tax rather than the six-percent capital gains tax imposed on the sale of “capital assets.”

Bildner said that in many of their meetings, the RDO admitted that because it had failed to hit its revenue target, it subjected the firm’s property to an erroneous classification as an “ordinary asset” that would fetch at least P120 million additional taxes.

Even before the property was sold, she recalled, the BIR already hinted that an “arrangement” could be made to get the “correct” asset classification.

She recalled that in the previous administration, the BIR had coerced Philcomsat to pay large, but not receipted, sums of cash for the correct classification and the issuance of the CAR.

Refusing to classify the Philcomsat asset correctly, the RDO forwarded the case to the Revenue Region No. 8 for a “legal opinion” to make sure that the matter was out of the RDO’s hands before July 2016 when Revenue Memorandum Order #41-2016 was issued.

In that order, Commissioner Dulay requires the BIR to issue the Certificate Authorizing Registration (CAR) within five days, so long as the complete documentary requirements are presented.

President Duterte had ordered agencies to set and observe strict deadlines for issuing permits, licenses and such documents within a defined period.

Vowing a corruption-free bureaucracy, the President keeps telling people dealing with the government to “raise hell” if anybody tried to extort money from them.

The BIR in the previous administration made the Philcomsat transaction drag on for over a year, while the buyer of the property awaited transfer of title, despite his having already paid for the land.

But upon appeal to the new BIR leadership, the Revenue Region #8 was forced to release its finding consisting of pages of its prior rulings to support the fact that the property in question was in fact a capital asset for the obvious reason that said land was never used in Philcomsat business.

Seeing everything in order, Commissioner Dulay ordered the CAR issued forthwith.

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