NATHANIEL SISON-UNSPLASH

10 LGUs sign on to program to build 1 million new homes a year

LOCAL government units (LGU) from Cebu, Bohol and Oriental and Occidental Mindoro signed up to the Pambansang Pabahay para sa Pilipino program, which targets the construction of 1 million homes a year, the Department of Human Settlements and Urban Development (DHSUD) said.

The 10 new participants are Mandaue City, Bohol province, Tagbilaran City, the Municipality of Panglao and six towns in Oriental and Occidental Mindoro.

The number of LGUs that have signed the Memorandum of Understanding with the DHSUD is currently at 28.

The Philippine housing backlog has been estimated at 6.5 million units.

Housing Secretary Jose Rizalino L. Acuzar, said the LGU role in the program includes "conceptualization... identification of beneficiaries and...sustaining the program," he said in a statement Sunday.

LGUs will also help the DHSUD identify idle government land that can be tapped for the housing program.

Mr. Acuzar said that DHSUD is working to expand access to mortgages and structure the housing loans to make the dwellings more affordable.

DHSUD has asked Congress to support its P36 billion-a-year plan for interest subsidies in order to make mortgages more affordable. — **Justine Irish DP Tabile**

DMCI Mining bats for carbon credit scheme

DMCI Mining Corp. said it proposed that the government adopt a carbon credits framework to help offset the continued use of fossil fuels.

DMCI Mining President Tulsi Das C. Reyes said the company met with the Environment department to make the proposal.

"We don't have a framework for carbon credit in the Philippines. We were burning a lot of fossil fuels. There's no commercial value to that, there's no story to that. We're not doing this type of protection of trees. I think it is about time the Philippines becomes a leader in that," Mr. Reyes said in a briefing last week.

Mr. Reyes said that the national greening program of the Department of Environment and Natural Resources (DENR) could be the foundation for the carbon credit framework, by providing an avenue tor emitters to offset their continued use of fossil energy.

The national greening program seeks to restore denuded forests, making it a possible candidate for companies seeking offsets.

"We would like to help the DENR with Marubeni., our partner. Marubeni (a Japanese trading company) has a global framework and they've done it in other countries before. If you use the national greening program, that is already a good foundation," Mr. Reyes said.

"All the transnational players need the carbon credits. If you don't have that, that is just one less opportunity to win this out. I think within the next six years, you'll see improvements in that space and we need it now," he added.

DMCI Mining is a unit of DMCI Holdings, Inc. — **Revin Mikhael D. Ochave**

RCEP ratification seen making progress after show of support from Marcos, Cabinet

THE DEPARTMENT of Trade and Industry said the ratification process for the Regional Comprehensive Economic Partnership (RCEP) is moving forward after it received the backing of President Ferdinand R. Marcos, Jr. and the Cabinet.

Trade Secretary Alfredo E. Pascual told reporters in a recent media briefing that Mr. Marcos has completed his review of the RCEP, adding that the Cabinet has requested the concurrence of the Senate.

"When I asked President Marcos about the RCEP, he said that he has reviewed it and that it is okay with him. We had a Cabinet decision in October in one of our meetings. The Cabinet, as a whole, made a decision to request the concurrence of the Senate," Mr. Pascual said.

"We have prepared communication from the Executive, so that the President can submit to the Senate. It is just a matter of sequencing the Senate's activities. They just finished approving the 2023 budget and then they will tackle RCEP. We are seeking the Senate's concurrence as required by our laws," he added.

Mr. Pascual said many potential investors are weighing the Philippines' participation in the free trade agreement (FTA) before investing.

"I'd like to point out that every time I meet a prospective investor, the initial question is will the Philippines ratify the RCEP because if they set up a factory here, they want to be able to export to all the RCEP-member countries competitively. That can be best helped by reduced tariff or no tariff at all. That is important," Mr. Pascual said.

Mr. Marcos had called for a review of RCEP to ensure agriculture is adequately protected.

RCEP, billed as the world's largest FTA, started coming into force in the various jurisdictions on Jan. 1. The trade bloc includes the 10 members of the Association of Southeast Asian Nations (ASEAN), Australia, China, Japan, South Korea, and New Zealand.

The Philippine Senate failed to ratify the FTA before the previous Congress ended over agriculture protections.

Former President Rodrigo R. Duterte signed on to RCEP in September 2021.

Separately, Trade Undersecretary Ceferino S. Rodolfo said that the signing of the FTA between the Philippines and South Korea is expected by the first quarter of 2023.

Mr. Rodolfo said that the FTA signing was delayed due to the recent Asia-Pacific Economic Cooperation (APEC) meeting.

"The agreement is ready to be signed. Actually, as early as a month ago, the FTA is ready to be signed. We were foreseeing before that the APEC meetings would be a good opportunity to sign this. But both sides agreed that for it given the prominence that it deserves, being an FTA between Philippines and Korea, it would be best to be sign it either in Manila or in Seoul," Mr. Rodolfo said.

"There might be a meeting, maybe a presidential meeting from either side, in the first quarter of next year," he added.

The negotiations for the FTA with South Korea began in June 2019 and concluded in October 2021.

Some of the Philippine products covered by the FTA are banana and pineapple, while South Korean products covered by the deal include vehicles and auto parts. — **Revin Mikhael D. Ochave**

ABB sees greening of PHL power grid driving sales of equipment used by utilities

ENGINEERING company ABB Ltd. said Philippine investments in decarbonizing its power grid are driving sales of equipment used by utilities, including battery energy storage systems (BESS) that optimize the operations of some renewable sources of energy.

"Our focus is more on the utilities; we are an active vendor of all those medium-voltage requirements," Allan B. Bonagua, product marketing director at ABB said at a briefing Friday.

ABB, a Swedish-Swiss conglomerate, specializes in industrial, automation, and electrical equipment in the Philippines

Roman Gvritishvili, product marketing manager for medium-voltage instrument transformers and sensors, said the company hopes to help the Philippines decrease its carbon emissions by introducing solutions for measuring and monitoring current and voltage in medium-voltage power systems.

Mr. Bonagua said ABB is planning a regional launch of its medium-voltage sensors in the Philippines next year.

"When it comes to power generation, we've been working with several companies. We are a big supplier of battery energy storage systems," Mr. Bonagua said.

In 2021, ABB supplied SMC Global Power Holdings Corp. with an 80-megawatt (MW) energy storage project.

Barbette Atienza-Soliven, communications manager for ABB Philippines, said the company's goals include helping make electricity distribution more sustainable. — **Ashley Erika O. Jose**

OPINION

A question of trust: Revocable or irrevocable?

SUITS THE C-SUITE

JULES E. RIEGO

The pandemic introduced a tectonic shift of perspective about wealth planning, changing from "it's never too late to plan" to "it's never too early to plan." As people become more cognizant of their own mortality, they have also become more pragmatic because, as Dr. Susan David, award-winning Harvard Medical School psychologist and named one of the world's most influential management thinkers, aptly said, "Life's beauty is inseparable from its fragility." Given this change in mindset, one favored tool for wealth planning is a Trust — a malleable tool even with the backdrop of the particularly challenging and sometimes complex compulsory heirship rules in the Philippines.

A Trust is primarily a fiduciary relationship between a person called a Trustor or Settlor and a Trustee. The Trustor sets up a Trust, i.e., putting assets in a Trust or under the name of a Trustee. The Trustee is a person or entity appointed by the Trustor to take care of the assets placed in the Trust on behalf of or for the benefit of the Beneficiaries named in the Trust. As the Trustor is trusting the Trustee to take care of assets in favor of designated beneficiaries, the Trustee has a fiduciary obligation to the Trustor. Fiduciary obligation here means that the Trustee's responsibility is not just within the level of a "good father of the family;" the Trustee should handle the Trustor's and beneficiaries' interests with the highest meticulous care. They hold a duty to preserve good faith and the trust reposed upon them.

A TRUST AS A WEALTH OR ESTATE PLANNING TOOL

Employing a Trust is similar to writing a Last Will and Testament but without the burden of a costly, cumbersome and possibly protracted probate proceeding. Under Philippine rules, a Last Will and Testament has to be probated or have its legal validity recognized before a court. Because a probate proceeding is a judicial process in our jurisdiction, it will require lawyer's fees and may result in considerable delays in the distribution of the benefit to the heirs.

It is in the Trust Deed or Trust Agreement that the Trustor should put all their instructions as regards who should be benefited, when they should be benefited, what they will get (if hard assets), how much (if cash), and what conditions the beneficiaries must fulfill to be entitled to the income and/or principal of the Trust. In all of these, the Trustor must bear in mind the concept of "legitime" or the minimum entitlement under the law of compulsory heirs, which cannot be burdened with any condition.

Once the Trustor passes away, the Trustee simply implements the distribution to the heirs/beneficiaries in accordance with the instructions of the Trustor. In most Trust arrangements, the Trustor is free to appoint a Protector or Overseer (usually a close and trusted family friend) who is tasked to see to it that the Trustee will perform all of its fiduciary obligations to the letter.

REVOCABLE OR IRREVOCABLE?

When deciding whether the Trust should be revocable or irrevocable, the following points should be considered:

Generally, the substantial terms and conditions of an Irrevocable Trust (e.g., addition or subtraction of named beneficiaries) can no longer be changed. In a Revocable Trust, the Trustor can change the terms and conditions of the Trust for whatever reason. There is more flexibility for the Trustor in a Revocable Trust in terms of control over the assets in the Trust and in adding or removing beneficiaries.

Transfers of assets to an Irrevocable Trust is essentially a donation, attracting a donor's tax of 6%. This means that assets transferred to an Irrevocable Trust are no longer part of the estate of the Trustor and will no longer be subject to the 6% estate tax upon the passing of the Trustor. Therefore, the decision to set up an Irrevocable Trust is also a choice between paying a 6% donor's tax at today's value or paying the 6% estate tax based on the prevailing value later. This is particularly crucial for real property assets to be passed on to the next generation since the appreciation in value of real estate, especially those in prime locations, is unbelievably exponential.

On the other hand, assets transferred to a Revocable Trust are still considered assets of the Trustor, such that upon the Trustor's demise, the assets in a Revocable Trust will still be subject to 6% estate tax as donor's tax was not paid during the transfer of assets to the Revocable Trust.

Assets transferred to an Irrevocable Trust are also protected from creditors of both Trustor and beneficiaries, subject to certain rare exceptions. This also means that assets in an Irrevocable Trust are protected from future in-laws. This is the complete opposite in the case of assets transferred to a Revocable Trust, as future in-laws can potentially acquire assets from the Trustor's family line due to Philippine compulsory heirship rules or other contingencies like annulment. This is also the reason why an Irrevocable Trust is very useful in wealth planning if the Trustor intends for specific assets not to cross family lines. For example, an Irrevocable Trust can shield shares of stock in a family-owned corporation if it is the family's policy not to allow in-laws from owning shares in the family corporation to prevent potential complexity to the family dynamics.

In an Irrevocable Trust, as long as the title to the assets is in the name of the appointed Trustee, estate tax will not apply even if any of the beneficiaries passes away since none of the latter own any assets in the Trust. This means that several generations of estate tax can be saved for as long as the corpus of the assets remain in the Irrevocable Trust. This benefit is not present in a Revocable Trust arrangement as assets from a Revocable Trust are distributed to beneficiaries upon the death of the Trustor.

An Irrevocable Trust can also be used for wealth replenishment or "reforestation" if used in combination with life insurance. The fund of an Irrevocable Trust can be used to insure the life of the beneficiaries, and name the Trustee of the Irrevocable Trust as custodian of the proceeds of the life insurance policy for the benefit of or on behalf of the next generation. As long as the designation of the intended beneficiaries is irrevocable, the beneficiaries of the policy will get the proceeds tax-free. This cycle can be repeated in every generation to replenish the fund in the Trust.

This arrangement is also useful when the intended beneficiaries of the life insurance policy are minors, suffering from any physical or mental disabilities and require life-long care, or when the parents believe that the beneficiaries would not be able to handle their own finances. Appointing a Trustee to manage, grow and control the periodic distribution of the funds would be ideal. However, when the named beneficiary of a life insurance policy is the Revocable Trust, the proceeds of the life insurance policy will be subject to estate tax, since a Revocable Trust has no personality distinct and separate from the Trustor.

In a blog article, "Are trusts on your radar for succession planning?" Michael Parets, EY EMEIA Private Tax Desk Leader, offered other insights about Trust as wealth planning tool, such as choice of jurisdiction and the presence of laws recognizing Trusts; the domicile and citizenship of intended beneficiaries; the competence and reputation of the Trustee; and of course, the expertise of the tax advisor.

FUTURE-PROOFING WITH TRUST

A Trust is not just a planning tool for the wealthy, but a viable wealth management tool for everyone who wishes to future-proof their assets for their heirs. In addition, we should remember that while there is certainly a cost in planning, there is a potentially higher cost in doing nothing – not just in tax, but more importantly, in maintaining peace and harmony within the family.

This article is for general information only and is not a substitute for professional advice where the facts and circumstances warrant. The views and opinion expressed above are those of the author and do not necessarily represent the views of SGV & Co.

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