

Law about Acquiring Real Estate Property in the Philippines

FOREIGNERS by law, don't have the right to acquire land in the Philippines (there have been many proposals to amend this law but of this writing, it is unlikely to change). The simplest way for a foreigner to acquire real estate properties is to have a Filipino spouse purchase a property. Another alternative is having a Filipino partner when acquiring a property. The partner owns 51% or more and the remainder is owned by the foreigner. (Tip: The foreigner can have a blank deed of sale signed by the Filipino partner for security)

Exceptions:

Filipino citizens and corporations or partnerships that is at least 60% Philippine owned are entitled to acquire land in the Philippines. An exception to this rule, is foreign acquisition of a Philippine real estate in the following cases:

- Acquisition before the 1935 constitution.
- Acquisition thru hereditary succession if the foreign acquire is a legal or natural heir. This means that when you are married to a Filipino citizen and your husband/wife dies, you as the natural heir will become the legal owner of his/her property. The same is true for the children. Every natural child (legitimate or illegitimate) can inherit the property of his/her Filipino father/mother even if he/she is not a Filipino citizen.
- Purchase of not more than 40% interest in a condominium project.
- Purchase by a former natural-born Filipino citizen subject to the limitations prescribed by law. (natural born Filipinos who acquired foreign citizenship is entitled to own up to 1,000 sq.m. of residential land, and 1 hectare of agricultural or farm land)
- Filipinos who are married to aliens who retain their Filipino citizenship, unless by their act or omission they have renounced their Filipino citizenship.
- Owning of houses or buildings is legal as long as the foreigner does not own the land on which the house is build.
- Setting up a corporation with 40% of the stocks in the foreigner's name and 60% to Filipinos is a good alternative. There must be a minimum of 5 stockholders, and foreigner can have the Filipino stockholders sign blank transfer of the stocks for security.

Rent

The land can be leased by the foreigner or a foreign corporation on a long term contract for an initial 50 year period and renewable every 25 years. A foreigner can rent a lot and at the same time legally own the house on the rented land.

Condominiums

- The Condominium Act of the Philippines, R.A. 4726, expressly allows foreigners to acquire condominium units and shares in condominium corporations up to not more than 40 % of the total and outstanding capital stock of a Filipino owned or controlled condominium corporation.
- Those who claim that foreigners can own a house & lot in the Philippines have a condominium title to their property. There are a very few single-detached homes or Townhouses in the Philippines with condominium titles. Most condominiums are high rise buildings. Please see our properties with condominium titles available to foreigners.

If you wish to stay permanently in the Philippines or if you frequent the Philippines and stay for long periods. Avail of the government's Special Resident Retirement Visa (SRRV).

For Filipinos & Former Filipino Citizens -"Balikbayans"

Former natural-born Filipinos who are now naturalized citizens of another country can buy and register, under their own name, land in the Philippines but limited in land area (see below). However, those who avail of the Dual Citizenship Law can buy as much as any other Filipino citizen. Under Republic Act 9225 (Dual Citizenship Law of 2003), former Filipinos who became naturalized citizens of foreign countries are deemed not to have lost their Philippine citizenship, thus enabling them to enjoy all the rights and privileges of a Filipino.

Steps to Gain Dual Citizenship:

If you are in the Philippines, file a "Petition for Dual Citizenship and Issuance of Identification Certificate (IC) pursuant to RA 9225" at the Bureau of Immigration (BI) and for the cancellation of your alien certificate of registration.
Those who are not BI registered and overseas should file the petition at the nearest embassy or consulate.

Requirements:

1. Birth certificate authenticated by the National Statistics Office (birth certificate from the NSO can be requested online and mailed to you)
2. Accomplish and submit a "Petition for Dual Citizenship and Issuance of Identification Certificate (IC) pursuant to RA 9225" to a Philippine embassy, consulate or the Bureau of Immigration.
3. Pay a \$50.00 processing fee, schedule and take an "Oath of Allegiance" before a consular officer.
4. The Bureau of Immigration in Manila receives the petition from the embassy or consular office. The BI issues and sends an Identification Certificate of citizenship to the embassy or consular office.

If a former Filipino who is now a naturalized citizen of a foreign country does not want to avail of the Dual Citizen Law, he or she can still acquire land based on BP (Batas Pambansa) 185 & RA (Republic Act) 8179 but limited to the following:

For Residential Use (BP 185 - enacted in March 1982):

- Up to 1,000 square meters of residential land.
- Up to one (1) hectare of agricultural or farm land.

For Business / Commercial Use (RA 8179 - amended the Foreign Investment act of 1991):

- Up to 5,000 square meters of urban land.
- Up to three (3) hectares of rural land.

Document Requirements for the Purchase of Real Estate in the Philippines

For Individuals

1. Photocopy of residence certificate or passport.
2. Taxpayer's Identification Number (TIN).
3. Photocopy of valid ID with picture & signature of buyer(s).
4. 2 Original kind of proofs of billing.(utilities, credit card billing statement etc... with the same address as that appearing on the signed docs/application.)
5. For married individuals, photocopy of marriage certificate.

Additional Requirement For Individual Applying for a Bank Housing Loan

1. Certificate of Employment notarized by Philippine Consul
2. Copy of 2-year Income Tax Return / IRS
3. Copy of 3 months Pay slip
4. Copy of 6 months bank statement
5. Copy of cheques (for commissions , rental collection , allowance ...etc.)

For Bank requirement detail & loan calculator visit the following websites:

www.bpiexpressonline.com
www.rcbc.com.ph
www.metrobank.com.ph
www.bdo.com.ph

or any other bank

Note: For married individuals, both spouses need to submit requirements 1, 2, & 3.

Document Requirements for the Purchase of Real Estate in the Philippines

For Corporate Accounts

1. Photocopy of By-Laws of the Company.
2. Photocopy of Articles of Incorporation.
3. Notarized Board Resolution of the Company or Secretary's Certificate stating the following
 - The date and place of the board meeting
 - That a quorum was present in approving the board resolution
 - That the board authorized the purchase of the property

- The designated signatory for the sale documents
 - The designated playing representatives for corporate golf shares
4. Residence Certificate of the Company and appointed representative(s).
 5. TIN of the Company and appointed representative(s).
 6. 2 Original kind of proofs of billing of the corporation (not the representative).

For Balikbayans (Returnees)

1. Photocopy of passport.
2. Photocopy of valid ID with picture & signature of buyer(s).
3. 2 Original kind of proofs of billing. (Should show same address as that appearing on the signed Reservation Application.)
4. For married individuals, photocopy of marriage certificate.
Note: For married individuals, both spouses need to submit requirements 1 & 2.
5. Affidavit as required by law and is necessary for registration of the lot in his/her name. Affidavit should indicate that buyer was a natural-born Filipino who has lost said citizenship or otherwise has reacquired the same.
 - For more information, see The Balikbayan Act.

For Capital or Paraphernal Properties

6. Same requirements as that of INDIVIDUAL buyers.
7. Affidavit from non-buying spouse confirming that the fund used by the buying spouse are indeed exclusive funds.
Note: The non-buying spouse is still required to sign the sale documents.

Transfer of Property to a new owner Taxes & Expenses:

The Seller shoulders the: Capital Gains Tax (6% of the contract price)

The Buyer Pays for the:

- Documentary Stamp Tax - 1.5% of the contract price, or zonal value or fair market value, whichever ever is higher.
- Transfer Tax - 0.5% of the contract price, or zonal value or fair market value, whichever ever is higher.
- Registration Fee - 0.25% of the contract price, or zonal value or fair market value, whichever ever is higher.

The above sharing of expenses is the standard practice in the Philippines. However, buyers and sellers can mutually agree on other terms as long as it is done during the negotiation period (before the signing of the "Deed of Sale").

The "Deed of Sale" is the document showing legal transfer of real estate property ownership. The deed of sale is then taken to the Registry of Deeds to be officially recorded. Always purchase property with a proper Title & a deed of sale if possible, and if there is not one, a tax declaration is your last choice.

Your Agent / Broker will usually do the registration process without any additional payments (aside from the commission).

- Documents needed for the Transfer of Certificate of Title (TCT):
- Copies of the Deed of Absolute Sale
- Latest tax declaration of the property
- Certificate from the B. I. R. that the capital gains & documentary stamps have been paid
- Transfer tax
- Receipt of payment of the transfer and registration fees

An adapted form of the "Torrens" system of land registration is used in the Philippines. The system was adapted to assure a buyer that if he buys a land covered by an Original Certificate of Title (OCT) or the Transfer Certificate of Title (TCT) issued by the Registry of Deeds, the same will be absolute, indefeasible and imprescriptible.