

## **Tips Before Buying Real Estate in the Philippines**

Here are tips a buyer must remember before buying any property in the Philippines, specially if you are buying **a single property from an individual**:

1. Make sure the "Transfer Certificate of Title" is authentic. The easiest way to check if the title to the property you are buying is authentic is by getting "Certified True Copy" of the title from the Register of Deeds. This office is usually located at the city or municipal hall where the property is located. Ask the seller of the property for a photocopy of the title -you will need the title number and the name of the owner to get a certified true copy of the title from the Register of Deeds.
2. Verify that title is clean - meaning the property is not mortgaged (no liens & encumbrances on the property). You can see that at the back of the title with the heading "Encumbrances". This page must be empty if you are told that the title is "clean". But sometimes the space for the technical description of the property on the front page of the title is not enough and the description of the property is continued on the "Encumbrances" page, this is of course all right.
3. Make sure that the land described on the title is really the land that you are buying. You can validate this at the Register of Deeds or by hiring a private land surveyor or a geodetic engineer. Land titles don't have any street name and number to pin point a property, it is a must to confirm that the actual property you are buying matches the technical description on the Transfer Certificate of Title.
4. Make sure that the sellers are the real owners. If you are buying from an individual property owner, ask for identification papers like passport or driver's license, it is also a good idea to talk to the neighbors or the Barangay Captain to confirm the identity of the sellers (you might as well ask some history of the property).
5. Confirm that the yearly real estate taxes are paid. Ask for certified true copies of the Tax Declaration and original Tax Receipts to confirm that real estate tax payments are up to date.

If the above check list is in order, it is generally safe to proceed with the purchase of real estate in the Philippines.

## **Taxes, Commission & Registration**

This is the standard sharing of expenses between the buyer and the seller when transferring the real estate property title (TCT - Transfer Certificate of Title or CCT - Condominium Certificate of Title) to a new owner:

The SELLER pays for the:

- \* Capital Gains Tax equivalent to 6% of the selling price of the property. (Withholding Tax if the seller is a corporation)
- \* All unpaid taxes due (if any).
- \* Agent / Broker's commission.

The BUYER pays for the:

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

Incidental and miscellaneous expenses incurred during the registration process.

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" or "Deed of Absolute 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 after paying the documentary stamp, transfer tax and registration fees. Always verify from the Registry of Deeds the authenticity of a Transfer Certificate of Title before buying a property. If the seller only has a tax declaration, be extra cautious and check with neighbours, the Barangay captain or anyone who knows the community to verify the seller/owner's true identity and the property's history.

Your Agent / Broker will usually do the registration process (sometimes for a fee), however, all government , taxes, transfer fees and incidental or miscellaneous expenses will be shouldered by the buyer.

Documents needed when transferring the title (TCT or CCT) to the new owner:

- \* Certified true copy of the title
- \* Copies of the Deed of Absolute Sale
- \* Latest tax declaration of the property
- \* Certificate from the Bureau of Internal Revenue that the capital gains tax and documentary stamps have been paid
- \* Receipt of payment of the transfer tax 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.

## **Steps and Procedures of Real Estate Sale Documentation and Registration**

### **STEP 1: CITY/MUNICIPAL ASSESSOR'S OFFICE**

SECURE THE FOLLOWING:

1. Certified True Copy of Tax Declaration (House and Lot)

2. Certificate of No Improvement (If vacant lot)
- 2 Original Copies – 1 for BIR and 1 for Register of Deeds

## **STEP 2 : CITY/MUNICIPAL TREASURER'S OFFICE**

### SECURE A TAX CLEARANCE

\*In order to secure a Tax Clearance, Real Property Tax must be updated as of date of document of sale.

## **STEP 3: BUREAU OF INTERNAL REVENUE**

### PAY THE FOLLOWING:

1. Capital Gains Tax (6% for individual seller or 7.5% for corporation)
2. Documentary Stamps Tax (1.5%)

### Note:

\*Capital Gains Tax and Documentary Stamps Tax shall be based on Selling Price (per Deed of Sale)

, Market Value of Tax Declaration, or BIR Zonal Value, whichever is higher.

\*Form for Capital Gains Tax can be secured from the BIR or can be downloaded from the BIR website <http://www.bir.gov.ph>

### Requirements:

- a. Photocopy of Certified True Copy of Transfer Certificate of Title
- b. Certified True Copy of Latest Tax Declaration
- c. Real Estate Tax Clearance
- d. Original and two (2) Photocopies of Deed of Absolute Sale
- e. Certificate of No Improvement from the Assessor's Office if vacant lot.

### Additional Note:

- a. Payment for Capital Gains Tax and Documentary Stamps Tax shall be in cash or in managers check, to be paid to the BIR Regional office or BIR-authorized banks where property is located.
- b. Capital Gains Tax shall be filed and paid to the BIR within thirty days from date of sale.
- c. Documentary Stamps Tax shall be paid on or before the 5th day of succeeding month from the date of sale.

## **STEP 4: CITY/MUNICIPAL TREASURER'S OFFICE**

Pay the Transfer Tax at the Treasurer's Office.

### Requirements:

- a. Photocopy of Deed of Absolute Sale
- b. Photocopy Transfer Certificate of Title

- c. Photocopy of Tax Declaration
- d. Photocopy of Real Estate Tax Clearance

\*Transfer Fee is 1/2 of 1% of Selling Price or Market Value of Tax Declaration, whichever is higher

#### **STEP 5: REGISTER OF DEEDS**

Submit to the Register of Deeds where property is located the following documents:

- a. Owner's Duplicate Copy of Transfer Certificate of Title
- b. Deed of Absolute Sale (3 copies)
- c. Certificate Authorizing Registration from the BIR
- d. Transfer Fee Receipt
- e. Photocopy of Real Estate Tax Clearance
- f. Photocopy of Tax Declaration or if vacant lot, Certificate of No Improvement

A NEW TITLE UNDER THE NEW OWNER'S NAME WILL BE RELEASED BY THE RD

REMINDER: The owner or the broker as authorized by the owner should be the one to present the above documents to the Register of Deeds because the new TCT shall be released only to the presenter of the above documents

#### **STEP 6: CITY/MUNICIPAL ASSESSOR'S OFFICE**

Secure from the Assessor's Office a new Tax Declaration.

Requirements:

- a. Photocopy of Transfer Certificate of Title under the new owner's name, duly authenticated at the Assessor's Office
- b. Photocopy of Deed of Absolute Sale
- c. Real Estate Tax Clearance

*IMPORTANT:*

*Always bring Certified True Copies of the documents as well as necessary receipts to avoid inconvenience in case you will be required to present them.*