

Transaction costs are very high in the Philippines

How high are realtors' and lawyers' fees in the Philippines? What about other property purchase costs?

Transaction Costs		Who Pays?
Legal Fee	5.00% - 10.00%	buyer
Local Transfer Tax	0.50% - 0.75%	buyer
Deed of Sale	0.225% - 0.50%	buyer
Capital Gains Tax	6.00%	seller
Real Estate Agent's Fee	3.00% - 5.00%	seller
Document Stamp Tax	1.50%	seller
Costs paid by buyer	5.73% - 11.25%	
Costs paid by seller	10.50% - 12.50%	
ROUNDTRIP TRANSACTION COSTS	16.23% - 23.75%	

See Footnotes
Source: Global Property Guide

How difficult is the property purchase process in the Philippines?

Foreigners cannot own land, but can own condominium units or apartments in high-rise buildings as long as the foreign proportion does not exceed 40%. They can also buy a house but not the land on which it is built. Leases on land up to 50 years, renewable for another 25 years, are available.

If a foreigner is keen on acquiring land, there are several options. One, if married to a Filipino citizen, is to have the ownership of the land under the Filipino's name. However, in the event of death or separation, the land cannot be transferred to the foreigner. Another option is to acquire land through a corporation. Corporations can only be, at the maximum, 40% foreign-owned.

The maximum area that may be acquired for residential purposes is 1,000 square meters of urban land or one hectare of rural land.

When buying new property, it is important to look for properties backed by established developers and licensed real estate agents/ brokers, especially in cases of off-plan or pre-selling (the property is at the planning stages and non-existent during the time of the sale).

In general, property can be acquired by simple agreement. After deciding what property to buy as well as inspecting the premises and documents, the buyer usually signs a binding notarized Deed of Sale.

Employing the services of a reputable sales agent is convenient because they not only provide vital information regarding the transaction and property, but also assist the buyer in getting mortgage loans.

Buying condominiums

A down payment of 10%-30% is usually required. Ownership of condominium units is evidenced by the Condominium Certificate of Title (CCT) but the transfer of title is usually not executed until the property is fully paid. Foreigners can only own up to 40% of a condominium project.

Holders of Special Resident Retiree's Visa (SRRV), a non-immigrant resident visa, can get additional benefits aside from being allowed to buy a condo unit or lease a parcel of land or a house and lot. The SRRV holders can reside in the Philippines permanently, with multiple-entry privileges and zero travel taxes. Other benefits and information about the SRRV is available on the Philippine Retirement Authority Website.

Buying land

The process of buying land in the Philippines is cumbersome and tedious. Aside from the fact that foreigners are not allowed to buy land, the system of land registration and classification should make any investor think twice. The farther you are from the capital the more caution one must take.

However, serious land problems also exist in the NCR. There are 11 laws directly related to land registration and nine others indirectly related to land disposition and administration. Aside from the Department of Environment and Natural Resources and the Bureau of Lands, there are several agencies that have direct and indirect control over land. The courts also have the authority to award land ownership.

Legal Procedures in transfer of title (land and apartments)

1. Owner and Buyer agree on sale of a piece of land. Through a lawyer, a Deed of Absolute Sale (DOAS) is created and notarized.
2. A Land Tax Declaration is secured from the Bureau of Internal Revenue (BIR) and submitted to the city or municipal Assessor's office.
3. Buyer pays real estate tax to the City Treasurer's Office.
4. The Assessors office assesses the market value of the property.
5. Transfer taxes are paid by the buyer to the Assessors Office.
6. Capital Gains Tax and Documentary Stamp tax are paid to BIR.
7. The Registry of Deeds (RD) cancels old title and issues a new one in the name of the buyer.
8. The buyer, now the new owner, obtains a photocopy of the new title and requests tax declaration from the Assessors office.

Ownership is evidenced by the Transfer Certificate of Title (TCT) in the case of single houses and raw land, and The Land Registration Act requires the owners of property to register titles with the Registry of Deeds. The titles must be registered in the same province as the property. However, the records are inaccurate in such that overlapping might exist. There is a proliferation of fake and double titles. The completion of survey of all the lands in the country, mandated by the 1903 Public Land Law, is nowhere in sight. The whole process of registering property may take around 33 days to complete eight procedures.

Value Added Tax

According to RA 9337, the following sales of property are VAT-Exempt

1. Sale of real properties not primarily held for sale to customers or held for lease in the ordinary course of trade or business;
2. Sale of real properties utilized for low-cost housing as defined by R.A. No. 7279, otherwise known as the "Urban Development Housing Act of 1992" and other related laws, such as R.A. No. 7835 and R.A. No. 8763 wherein the price ceiling per unit is P750,000.00 or as may from time to time be determined by the Housing and Urban Development Coordinating Council (HUDCC) and the National Economic Development Authority (NEDA);
3. Sale of real properties utilized for socialized housing as defined under R.A. No. 8763, wherein the price ceiling per unit is P225,000.00 or as may from time to time be determined by the HUDCC and the NEDA and other related laws;
4. Residential lot valued at one million five hundred thousand pesos (P1,500,000) and below, house and lot, and other residential dwellings valued at two million five hundred thousand pesos (P2,500,000) and below: provided, that not later than January 31, 2009 and every three (3) years thereafter, the amounts herein stated shall be adjusted to their present values using the Consumer Price Index, as published by the National Statistics Office (NSO).

Deed of Sale

Registration Fees

PHP 4,398 (US\$88) + PHP 45 (US\$0.90) for every PHP 20,000 (US\$400) in excess of PHP1,700,000 (US\$33,900)

Notarial Fees

PHP200 (US\$4) per title or document

Registration Fees	PHP	US\$
Property value	12,500,000	250,000
Value in excess of 1,700,000	10,800,000	215,000
PHP 45 for every 20,000	24,300	485
Plus fixed amount	4,398	88
Plus notaries fees	200	4
Total Fees	28,898	577
as % of property value	0.231%	0.231%

Footnotes to Transaction Costs Table

The round trip transaction costs include all costs of buying and then re-selling a property – lawyers' fees, notaries' fees, registration fees, taxes, agents' fees, etc.

Currency:

Philippines uses the Philippine Peso. The exchange rate was US\$1 = PHP52.742 as of July 6, 2006.

Local Transfer Tax:

Imposed by Municipal or City governments. 0.5% to 0.75% of the contract price, zonal value or fair market value, whichever is higher.

Legal Fees:

Negotiable; generally at PHP20,000 and up. In some instances, legal fees can reach up to 10% of property value.

Capital Gains Tax:

The capital gains tax on sale of real property is levied at 6% of gross selling price or fair market value, whichever is higher. What is referred to as Capital Gains Tax is actually a local transaction tax, which is usually based on zonal values. Who actually pays the transaction costs is also dependent on the agreement between the buyer and the seller. In some instances, either the buyer or seller pays all the taxes and fees but the cost is debited or charged to the sale price.

Real Estate Agent's Fee:

The Agent / Broker will usually do the registration process without any additional payments aside from the commission (3 -5%.)

Documentary Stamp Tax:

PHP15 (US\$0.30) per PHP1,000 (US\$20) of consideration or 1.5%.