

Fundamentals of Owning A Property in the Philippines

By Dean T. Alegado, PhD

As a licensed professional real estate broker and consultant practicing in the Subic Bay Area I am frequently asked by clients – primarily foreigners, including North Americans, Europeans, Australians, Japanese and Koreans, some married to Filipinas, as well as Filipino American friends and *balikbayans* exploring retirement in the country – about owning property in the Philippines.

Their questions come down to: *Who can own land in the Philippines? What rights do non-Filipinos have in owning property here?*

The right to own real estate in the Philippines is governed by the Philippine Constitution and other special or pertinent laws such as the Foreign Investment Act 1991 (RA 7042, as amended by RA 8179) and the “Citizenship Retention and Re-Acquisition Act (RA 9225, or the Dual Citizenship Act of 2003).

The general rule under the Philippine Constitution is that:

1. Only Filipino citizens can own land – by birth, naturalization process, by act of Congress, repatriation , and dual citizenship, and;
2. Corporations or partnership at least 60% of the capital of which is owned by Filipinos are entitled to acquire land in the Philippines.

There are several exceptions to the general rule that allow aliens (or non-Filipino citizens) to acquire land in the Philippines. These instances involve:

1. Acquisition of land before the 1935 Constitution;
2. Acquisition by hereditary succession;
3. Purchase of land by aliens of not more than 40% of the units in a condominium project.
4. Under Batasan Pambansa act 185 (1982, when President Marcos launched the Balikbayan Program aimed at attracting overseas Filipinos to visit the country) – Purchase by former natural born Filipino citizens, subject to the limitations prescribed by law.

These limitations require that:

- a. Acquisition shall not exceed 1,000 square meters for urban land or 1 hectare for rural land to be used solely for residence of the buyer;
- b. In case of married couples, one or both of them may avail of the privilege provided that the total area shall not exceed the maximum limit;
- c. When the transferee already owns urban or rural lands for residential purpose, he shall be entitled to acquire additional urban or rural land for residential purpose which, when added to those already owned by him, shall not exceed the maximum area allowed by law.

5. Foreign Investment Act of 1991 (or RA 7042 as amended by RA 8179) states that: Any natural born citizen who has lost his Philippine citizenship and who has the legal capacity to enter into contract under Philippine laws may be a transferee of a private land

- a. Up to a maximum area of Five Thousand (5,000) square meters in the case of urban land or Three (3) Hectares in the case of rural land to be used by him for business or other purposes;
- b. In the case of married couples, one of them may avail of the privilege herein granted: Provided that if both shall avail of the privilege, the total area acquired shall not exceed the maximum area allowed by law;
- c. In the case of the transferee already owns urban or rural land for business or other purposes, he shall still be entitled to be a transferee of additional urban or rural land for business or other purposes which when added to those already owned by him shall not exceed the maximum areas authorized.
- d. A transferee under the Act may acquire not more than two (2) lots which should be situated in different municipalities or cities anywhere in the Philippines, provided that, the total land area shall not exceed five thousand (5,000) square meters in the case of urban land or three (3) hectares in the case of rural land for use by him for business or other purposes. A transferee who has already acquired urban land shall be disqualified from acquiring rural land and vice versa.

6. A Filipina who married an alien retains her Philippine Citizenship (unless by her act or omission she is deemed under the laws to have renounced her Philippine Citizenship) and may thereof still acquire real estate in the Philippines.

7. Dual Citizenship Law (RA 9225) allows former natural-born citizen of the Philippines who became a citizen of another country to reacquire Filipino citizenship.

In future FAQs, I will discuss other topics that are also often asked by my clients, such as: principles of property relations between husband and wife under the Family Code of the Philippines (1988), especially dealing with issues affecting marriages between Filipinos and non-Filipinos, such as conjugal, community and exclusive properties between husband and wife; and those dealing with so-called “illegitimate children”; Sale, lease and mortgage of real properties in the Philippines; the Real Estate Service Action of 2009 (RA 9464) or RESA and the government’s effort to professionalize the key practitioners – brokers, appraisers, consultants and sales agents – in the real estate industry and crackdown on *colorum* or unlicensed and fake agents; and rules and regulations on the conversion of agricultural lands to non-agricultural uses.

Please send your questions or comments to Dean Alegado at dtalegadorealty@gmail.com