LAND ACQUISITION AND OWNERSHIP
(source: Land Registration Authority)

Land Ownership by Filipinos Overseas

Article XII Section 8 of the Philippine Constitution provides that a natural-born citizen of the Philippines who has lost his/her Philippine citizenship may be a transferee of private lands subject to limitations provided by law.

The laws on land ownership by Filipinos overseas are contained in Batas Pambansa Blg. 185 and Republic Act 8179, which amended the Foreign Investment Act of 1991. BP 185 stipulates guidelines on land ownership by former Filipinos for purposes of establishing residence, while Section 10 of RA 8179 specifies entitlements and conditions for land acquisition for investment purposes.

Transferee

The acquisition or transfer of private land refers to either voluntary or involuntary sale, devise or donation. Involuntary sale includes sales on tax delinquency, foreclosures, and executions of judgment.

Qualifications of Former Filipinos

Both laws define former Filipinos as citizens of the Philippines from birth without having to perform any act to acquire or perfect their Philippine citizenship, who lost said Philippine citizenship, and who have the legal capacity to enter into a contract under Philippine laws.

Provisions on Land Ownership

The following are the provisions of BP 185 and RA 7042, as amended, pertinent to land ownership by Filipinos overseas:

<table>
<thead>
<tr>
<th>Particulars</th>
<th>Provision under BP 185 (for establishing residence)</th>
<th>Provisions under RA 7042 as amended by RA 8179 (for investment)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size/Area of Coverage</td>
<td>• maximum of 1,000 sq. meters for urban land</td>
<td>• maximum of 5,000 sq. meters for urban land</td>
</tr>
<tr>
<td></td>
<td>• maximum of one (1) hectare for rural land</td>
<td>• maximum of three (3) hectares for rural land</td>
</tr>
<tr>
<td>Land Acquisition for Both Spouses</td>
<td>• either of the spouses may avail of the privilege</td>
<td>• either of the spouses may avail of the privilege</td>
</tr>
<tr>
<td></td>
<td>• in case both spouses wish to acquire lands for this purpose, the total area acquired should not exceed the maximum allowed</td>
<td>• in case both spouses wish to acquire lands for this purpose, the total area acquired should not exceed the maximum allowed</td>
</tr>
<tr>
<td><strong>Additional Land Acquisition</strong></td>
<td>In case he/she already owns urban or rural lands for residential purposes, he/she may acquire additional urban or rural lands, which when added to those he/she presently owns shall not exceed the authorized maximum area.</td>
<td>In case he/she already owns urban or rural lands for business purposes, he/she may acquire additional urban or rural lands, which when added to those he/she presently owns shall not exceed the authorized maximum area.</td>
</tr>
<tr>
<td><strong>Limits to Acquisition of Land</strong></td>
<td>A person 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 area of these lots do not exceed 1,000 sq. meters for urban land or one (1) hectare for rural land for use as residence. An individual who has already acquired urban land shall be disqualified from acquiring rural land and vice versa.</td>
<td>A person 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 area of these lots do not exceed 5,000 sq. meters for urban land or three (3) hectares for rural land for business purposes. Under Section 4 of Rule XII of the Implementing Rules and Regulations of RA 7042 as amended by RA 8179, a transferee who has already acquired urban land shall be disqualified from acquiring rural land and vice versa. However, if the transferee has disposed of his/her urban land, he/she may still acquire rural land and vice versa, provided that this will be used for business. A transferee of residential land acquired under <em>Batas Pambansa Blg. 185</em> may still avail of the privilege granted under this law.</td>
</tr>
<tr>
<td><strong>Use of Land</strong></td>
<td>The acquired land should not be used for any purpose other than for residence.</td>
<td>Section 5 of Rule XII specifically states that “the land should be primarily, directly, and actually used in the performance or conduct of the owner’s business or commercial activities in the broad areas of agriculture, industry and services including the lease of land, but excluding the buying and selling thereof”.</td>
</tr>
<tr>
<td><strong>Special Requirements</strong></td>
<td>In addition to the requirements provided for in other laws for the registration of titles to lands,</td>
<td>In addition to the usual registration requirements pertinent to the conveyance of</td>
</tr>
<tr>
<td>Violations and Penalties</td>
<td>Violations through:</td>
<td></td>
</tr>
<tr>
<td>--------------------------</td>
<td>---------------------</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• misrepresentation in the sworn statement</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• acquisition of land through fraudulent means</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• failure to reside permanently in the land acquired within two (2) years from its acquisition, except when such failure is caused by force majeure shall be penalized by the following:</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• liability to prosecution under the applicable provisions of the Revised Penal Code and subject to deportation in appropriate cases</td>
<td></td>
</tr>
</tbody>
</table>

- the transferee should submit to the Register of Deeds of the province or city where the property is located a sworn statement stating the following:
  - date and place of birth
  - names and addresses of his/her parents, spouse, and children, if any
  - area, location, and mode of acquisition of landholdings in the Philippines, if any
  - his/her intention to reside permanently in the Philippines
  - date he/she lost his/her Philippine citizenship and the country of which he/she is presently a citizen

- real estate, the transfer contemplated shall not be recorded unless the transferee submits to the Registry of Deeds of the province or city where the land is situated, the following:
  - certification of business registration issued by the Bureau of Trade Regulation and Consumer Protection of the DTI
  - sworn statement stating information required under Batas Pambansa 185
  - certification from assessor of municipality or province where the property is situated that the subject land for transfer is an urban or rural area
  - if an agricultural land is acquired, a certification from the Department of Agrarian Reform that the land is a retained area of the transferor and an affidavit of the transferee attesting that his/her total landholding inclusive of the land to be acquired does not exceed the 5-hectare limit provided under R.A. 6657, is required

- Violations through:
  - misrepresentation in the sworn statement
  - acquisition of land through fraudulent means
  - failure to reside permanently in the land acquired within two (2) years from its acquisition, except when such failure is caused by force majeure shall be penalized by the following:
    - liability to prosecution under the applicable provisions of the Revised Penal Code and subject to deportation in appropriate cases
- forfeiture of such lands and their improvements to the National Government through escheat proceedings by the representative of the Solicitor General

- permanent disqualification from availing of the privilege under this Act

**Requirements for Land Registration or Original Certificate of Title (Judicial Titling)**

The application for land registration should be filed in triplicate with the Clerk of the Regional Trial Court of the province/city where the property is located. The following documents should be attached to the application:

1. Original plan on tracing cloth duly approved by the Director of Lands or Regional Land Director, or in lieu thereof, a true copy of the same on a tracing cloth properly attested and certified by said Office or the official authorized to make such certification, together with two (2) print copies thereof

2. Three (3) copies of technical description

3. Three (3) copies of surveyor’s certificate

4. Certificate of the assessed value of the property issued by the provincial treasurer, in quadruplicate

**Requirements for Land Transfer or Transfer Certificate of Title**

The following documents are required for the filing of land transfer:

1. Copies of the Deed of Absolute Sale
2. Latest real estate tax payments
3. Latest tax declaration of the property
4. Certificate from the Bureau of Internal Revenue that the capital gains tax and documentary stamps have been paid
5. Transfer tax
6. Receipt of payment of the transfer and registration fees

For more information on land ownership by Filipinos overseas, please contact:

**Land Registration Authority, Law Division**
LRA Building, East Avenue cor. NIA Road
Diliman, Quezon City
Tel. Nos. (632) 920-1026/36
Telefax No. (632) 921-1368