

Mail-Anfrage vom 7. August 2013

Hallo H.Gerschwiler.

Ich habe mit großem Interesse ihren Artikel über Landkauf auf den Philippinen gelesen.

Ich bin selbst mit einer Philippina verheiratet die bereits die Deutsche Staatsbürgerschaft angenommen hat.

In vielen Internetforen liest man, das ehemalige philippinische Staatsangehörige legal Land kaufen dürfen.

(1000qm Bauland und 1ha Farmland)

Vielleicht wissen sie genaueres darüber?

MfG

Richard Jost

Unsere Antwort vom 8. August 2013

Hallo Herr Jost,

Danke für Ihre Anfrage.

Ihre Annahme, dass Ihre in den Philippinen geborene Ehefrau in den Philippinen Land erwerben kann, ist grundsätzlich richtig.

Die gesetzliche Regelung hierzu lautet, in Kürze zusammengefasst, wie folgt:

Ihre Frau kann in städtischen Gebieten bis zu maximal 5,000 m2 Land erwerben, in ländlichen Gebieten bis zu drei Hektaren. Sie darf das Land für residential purposes, aber auch für business purposes nutzen. Ausgeschlossen ist der Handel mit Land im Sinne eines Maklers. Der englische Begriff transferee (verwendet im nachfolgenden Gesetzestext) meint in diesem Zusammenhang einen Käufer.

Dieses Gesetz gründet in der 1987 Constitution (of the Philippines) und lautet im Originaltext wie folgt:

THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES
ARTICLE XII (NATIONAL ECONOMY AND PATRIMONY)

Section 8. Notwithstanding the provisions of Section 7 of this Article, a natural-born citizen of the Philippines who has lost his Philippine citizenship may be a transferee of private lands, subject to limitations provided by law.

Die genauen Bestimmungen hierzu finden sich in Republic Act No. 8179 und lauten (Passagen, die für Sie zutreffen, habe ich fett hervorgehoben):

Republic Act No. 8179 (**AN ACT TO FURTHER LIBERALIZE FOREIGN INVESTMENTS, AMENDING FOR THE PURPOSE REPUBLIC ACT NO. 7042, AND FOR OTHER PURPOSES**)

SEC. 5. The Foreign Investments Act is further amended by inserting a new section designated as Section 10 to read as follows:

“SEC. 10. Other rights of natural-born citizen pursuant to the provisions of Article XII, Section 8 of the Constitution. – **Any natural-born citizen who has lost his Philippine citizenship and who has the legal capacity to enter into a contract under Philippine Laws may be a transferee of a private land 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.** In the case of married couples, one of them may avail of the privilege herein granted: Provided, that if both shall avail of the same, the total area acquired shall not exceed the maximum herein fixed.

“In case the transferee already owns urban or rural land for business or other purposes, he shall 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 herein authorized.

“A transferee under this 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 thereof 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.”

Republic Act No. 7042 was amended by Republic Act No. 8179, which was approved on March 28, 1996. The date of effectivity thereof was on April 15, 1996.

Zu diesem “Republic Act” gibt es auch Ausführungsbestimmungen, sogenannte “implementations”, die Sie nachstehend finden. Den wesentlichen Abschnitt habe ich wiederum hervorgehoben, der Rest sind Ausführungsbestimmungen, die zum Tragen kommen werden, wenn Ihre Frau in der Tat Land erwerben wird.

IMPLEMENTING RULES & REGULATIONS

OF
THE FOREIGN INVESTMENTS ACT OF 1991
[Republic Act No. 7042]

AN ACT TO PROMOTE FOREIGN INVESTMENTS, PRESCRIBE THE
PROCEDURES FOR REGISTERING ENTERPRISES DOING BUSINESS IN THE
PHILIPPINES AND FOR OTHER PURPOSES

(Approved: 9 July 1996)

RULE XII

RIGHTS OF FORMER NATURAL-BORN FILIPINOS TO OWN PRIVATE LAND

SECTION 1. Any natural-born citizen who has lost his Philippine citizenship and who has the legal capacity to enter into a contract under Philippine laws may be a transferee of a private land up to a maximum area of 5,000 square meters in the case of urban or three [3] hectares in the case of rural land to be used by him for business or other purposes.

SECTION 2. In case where both spouses are qualified under the law, one of them may avail of the said privilege. However, if both shall avail of the privilege, the total area acquired shall not exceed the maximum allowed.

SECTION 3. In case 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 allowed.

SECTION 4. A transferee may acquire not more than two [2] lots which should be situated in different municipalities or cities anywhere in the Philippines. The total land area acquired shall not exceed 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. However, if the transferee has disposed of his urban land, he may still acquire rural land and vice versa, provided that the same shall be used for business or other purposes.

SECTION 5. Land acquired under this Act shall be primarily, directly and actually used by the transferee in the performance or conduct of his 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. A transferee shall use his land to engage in activities that

are not included in the Negative List or in those areas wherein investment rights have been granted to him under this Act.

SECTION 6. *Registration of land.* - The Register of Deeds in the province or city where the land is located shall register the land in the name of the transferee that it will be used for any of the purposes mentioned in Section 5 above, *i.e.*, certification of business registration issued by the BTRCP/Department of Trade and Industry and affidavit that the land shall be used for business purposes.

The provision of B. P. 185 [An Act to Implement Section 15 of Article XIV of the Constitution and for Other Purposes Pertaining to the Ownership of Private Lands for Residential Purposes by Former Natural Born Filipinos] and its implementing Rules and Regulations shall be adopted, where applicable, in the implementation of this Act through a Circular to be issued by the Land Registration Authority.

The Register of Deeds shall also ensure that the limits prescribed by law are observed.

Ich hoffe, das beantwortet zunächst Ihre Frage.

Mit freundlichem Gruss,

Paul Gerschwiler