

Inheritance Procedures and Practical Measures in the Philippines

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One Asia Lawyers – International Inheritance Practice Group

As cases of holding assets overseas continue to increase, inquiries regarding the succession of Japanese nationals who own bank deposits or real property in the Philippines have also been gradually rising. The Philippine succession system differs significantly from that of Japan, and involves many practical considerations, including the fact that court proceedings are, in most cases, virtually indispensable. This newsletter provides an overview of the basic framework and procedures of Philippine succession law.



1. Framework of Applicable Law and Differences Between the Japanese and Philippine Legal Systems

When a Japanese national dies abroad, an issue of private international law arises as to which country's law should govern the succession. Under Philippine private international law, the applicable law is determined by the national law of the decedent. Accordingly, if the decedent was a Japanese national, Japanese law applies; if the decedent was a Philippine national, Philippine law applies. The scope of heirs and their statutory shares are determined in accordance with the applicable national law.

Where Philippine law is applicable, it should be noted that, in addition to the Civil Code of the Philippines, there exists a separate legal regime governing succession under the Muslim Code of Personal Laws. If the decedent was a Muslim, the Muslim Code of Personal Laws applies; if the decedent was not a Muslim, the Civil Code of the Philippines applies. A legal system in which the applicable law varies depending on factors such as religion or ethnicity is referred to as a system of personal law pluralism.

In this newsletter, assuming the death of a Japanese national, we will therefore omit a detailed discussion of the provisions on statutory shares and related matters under the Muslim Code of Personal Laws.

2. Overview of Philippine Succession Law

(1) As noted above, even where Japanese law is the applicable law governing the succession, it is generally necessary to follow procedures prescribed by Philippine law in order to transfer and succeed to assets located within the Philippines.

The procedures for the succession of assets situated in the Philippines differ significantly depending on whether or not the decedent left a will. While will-making is not that prevalent in the Philippines, with a 2025 survey indicating that only about 32% of the respondents stated that they use wills and estate-planning documents, it is not an unheard-of practice.

(2) Where a will exists, the Civil Code of the Philippines requires that it must first be proved and allowed in court before the deceased's assets and properties may be transferred. Wills that are proved and allowed in Japan will still need to be allowed in the Philippine courts before the estate of the Japanese decedent in the Philippines can be transferred.

In other words, it is first necessary to initiate probate proceedings, that is, to file a petition with the Regional Trial Court to obtain judicial probate of the will. If an executor is designated in the will, the executor will file the petition for probate. The executor may be a family member, or alternatively, a professional such as a lawyer.

In probate proceedings, it is important for the smooth progress of the procedure that the will complies with the formal requirements prescribed under the Civil Code of the Philippines. However, even if the will does not conform to the formalities under Philippine law, a will executed in accordance with Japanese law will also be treated as valid where the decedent was a Japanese national.

Under the Rules of Court, the court having jurisdiction over the probate proceeding shall hold a hearing for the probate proceedings and notify all concerned parties such as the heirs. If the will is uncontested, only 1 subscribing witness to the will is required to testify as to the sound mind of the testator and the due execution of the will. If the will is contested, all subscribing witnesses must testify. If the witnesses reside in the same province where the testator resided or where the estate is located, their physical presence is required. But if they are residing outside the province or outside the Philippines, the court may instead obtain the deposition of the witnesses or obtain the testimony of other available witnesses.

If the will is uncontested, the typical duration can take a few months to a year. If contested, the proceedings are likely to take longer.

(3) Under the Civil Code of the Philippines, two types of wills are recognized as valid: holographic wills and notarial wills. The respective requirements for each are as follows.

(i) Holographic Will

- The entire will must be handwritten by the testator.
- It must be written in a language or dialect known to the testator.
- It must be in written form.
- It must bear a date.
- It must be signed by the testator.

(ii) Notarial Will

- It must be executed in a language or dialect known to the testator.
- It must be in written form.
- The testator must sign at the end of the will, or, if the testator is unable to sign, the will may be signed by another person on the testator's behalf, in the testator's presence and upon the testator's express direction.
- It must be attested and signed by least three (3) witnesses signing in the presence of the testator and of each other.
- Each page of the instrument except the last page must be signed on the left margin by the parties concerned and in each other's presence.
- All pages shall be numbered correlatively in letters placed on the upper part of each page.
- It must have a signed attestation clause stating: (a) the number of pages used upon which the will is written; (b) the fact that the testator signed the will and its every page, or that the testator has caused some other person to write his name, under his direction, in the presence of instrumental witnesses; (d) that the witnesses signed the will and all its pages in the presence of the testator and of one another.
- It must be acknowledged before a notary public by the testator and the witnesses.

While both types of wills are recognized in Philippine courts, notarial wills are generally recommended for being easier to prove in probate proceedings due to its extra formalities.

(4) Where no will exists, the heirs may first attempt to settle the division of the estate through an extrajudicial settlement. In such cases, significant savings in both time and costs may be achieved, provided that the following requirements are satisfied:

1. That no will exists
2. That the decedent left no outstanding debts
3. That all heirs are of legal age
4. That all heirs have agreed on the manner of distribution of the estate

The heirs may divide the estate among themselves by means of a public instrument filed in the Registry of Deeds, or if they disagree, may file an ordinary action for partition. The fact of the extrajudicial settlement must be published in a newspaper of general circulation, and the heirs must pay a bond equivalent to the value of the personal property involved. If any rightful heir was not notified or deprived of their participation in the settlement, the extrajudicial settlement shall not be binding.

(5) If the succession procedure cannot be completed through the above-mentioned extrajudicial settlement, it is necessary to file a petition with the court for the appointment of an administrator under intestate succession. Once appointed, the administrator will investigate the estate, settle the decedent's debts, file the necessary tax returns, and, upon court approval, distribute the remaining estate to the heirs.

(6) It should also be noted that there is a simplified procedure known as summary settlement, which allows the succession process to be completed needing to appoint an executor or administrator, relying instead on a petition and publication in a newspaper. However, this method is only available if the total value of the estate does not exceed PHP 10,000, so it is not commonly used in practice.

(7) Once the heirs and their respective shares have been determined through the above procedures, the estate may be transferred in practice, including the change of title to real property and the withdrawal of bank deposits.

With respect to real property, taxes required for the transfer of title must be paid, and an application for the change of registration must be filed with the Registry of Deeds. Depending on the level of congestion at the Registry, the process may take six months or longer.

As for bank deposits, succession can be effected by submitting an application to the relevant bank together with the necessary documents, such as the will or court orders.

3. Required Documents for Succession Procedures

In Philippine succession proceedings, the following documents are generally required to be submitted to the court and other relevant authorities. Documents prepared in Japan must be authenticated by an apostille. In addition, documents written in Japanese must be translated into English.

- Death certificate
- Marriage certificate
- Birth certificates

- Family registry records
- Will
- Documents relating to the decedent's assets (such as bank passbooks or real property titles)
- Documents relating to the decedent's liabilities
- Affidavit identifying heirship, such as an Acknowledgment of Paternity

4. Importance of Taxation, Foreign Exchange, and Lifetime Planning

In the Philippines, an **estate tax**, rather than an inheritance tax, is imposed on the decedent's estate at a flat rate of 6%, and must be paid within one year from the date of death.

Because the estate tax liability is imposed on the decedent, the tax is paid out of the estate before the heirs succeed to the assets. In addition, proof of payment of the estate tax is a prerequisite for applications to change title to real property and to claim bank deposits from financial institutions, and therefore requires careful attention.

5. Conclusion

International succession involves complex legal issues in which multiple jurisdictions intersect. Where Japanese nationals hold assets in the Philippines, it is essential that the succession process be handled in a manner consistent with Philippine law and procedures. In particular, close coordination with professionals well versed in Philippine law is critically important, especially in determining whether court proceedings are required and how they should be conducted.

Preparing an appropriate will at an early stage and managing assets from an international perspective can significantly reduce the burden on family members and help prevent disputes.

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