

Extrajudicial Settlement with Deed of Sale in the Philippines

by [Atty. Francesco C. Britanico](#) | Updated: Jul 13, 2025 | [Family Law](#), [Estate Law](#), [Wills & Inheritance](#), [Property Law](#)

[extra judicial settlement](#)[extra judicial settlement with deed of sale](#)[extrajudicial settlement of estate](#)[extrajudicial settlement of estate in the philippines](#)[extrajudicial settlement with deed of sale](#)

An Extrajudicial Settlement with Deed of Sale in the Philippines is a document used when heirs are selling inherited property to a new owner.

This document is used to:

- Settle an estate
- Sell the inherited property

Some people just try to sell the inherited property without settling the estate.

But an estate must be settled so that a buyer can transfer the land title to their name.

So, people combine settling the estate with selling to the buyer in one effort and document which can end up saving them effort and a little money.



It is possible to combine EJS and Deed of Sale under one document.

Below, I'll answer common questions on an Extrajudicial partition with sale and outline the requirements, cost and process to do it.

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What is an Extrajudicial Settlement?

EXTRAJUDICIAL SETTLEMENT OF ESTATE WITH DEED OF SALE

KNOW BY ALL MEN THESE PRESENTS:

This **EXTRAJUDICIAL SETTLEMENT OF ESTATE WITH DEED OF SALE** of the estate of the late I [REDACTED] R is made and entered into by and between:

[Extrajudicial Settlement of Estate](#) is a document that settles an estate so that the property can be transferred to the heirs.

An extrajudicial settlement means a document where the details of how a deceased's properties are divided between heirs are laid out.

An extrajudicial settlement is sometimes called an extrajudicial partition of estate.

It is also often shorted into its initials EJS. (If you've come across EJS and you are wondering what an EJS meaning in law or the EJS meaning in real estate is, it is

basically still referring to an Extrajudicial Settlement. I've also seen this called a declaration of heirship with deed of sale, but that is more a misnomer).

It is signed, dated and notarized.

It must also be submitted to the BIR and the BIR estate taxes must be paid.

An Extrajudicial Settlement is generally very easy to fill up when you have all the required property documents.

However, when you don't have the documents or the information, it can be very, very challenging to do.

What is a Deed of Sale?

For End-User Home Financing Program and Affordable Housing Program HQP-HLF-161
(V03, 02/2019)

CONTRACT-TO-SELL

KNOW ALL MEN BY THESE PRESENTS:

This DEED made and executed by and between:

_____ **Inc. (formerly, _____, Inc.)**

_____, a corporation duly organized and existing under and by virtue of the laws of the Philippines, with principal office at _____, represented in this Agreement by its _____, now and hereinafter referred to as the "VENDOR";

- and -

_____, single, Filipino, of legal age, with residence and postal address at _____

_____ now and hereinafter referred to as the "VENDEE".

Spouse

A deed of sale is a document that transfers property from the original owner to a buyer.

A Deed of Sale means a document where the details of the sale of a property are laid out.

It identifies the owner and the buyer and has property details.

It is signed, dated, notarized and submitted to the BIR.

BIR taxes must be paid on the Deed of Sale.

The payment of the taxes and the Deed of Sale itself are needed so that the BIR can release an eCAR, which then allows a land title name change from an original owner to a new one.

What is an Extrajudicial Settlement with Deed of Sale?

EXTRAJUDICIAL SETTLEMENT OF ESTATE WITH DEED OF SALE

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This **EXTRAJUDICIAL SETTLEMENT OF ESTATE WITH DEED OF SALE** of the estate of the late I [REDACTED] R is made and entered into by and between:

A combined Extrajudicial Settlement and Deed of Sale is the best option if an estate already has a serious buyer

An Extrajudicial Settlement with Deed of Sale is a document where the details of the estate and who the estate will go (such as the buyer) to are itemized.

For heirs aiming to sell inherited property while fulfilling all legal obligations, an Extrajudicial Settlement with Deed of Sale is helpful. This document acts both as a settlement of the estate and a sale agreement, significantly enhancing the efficiency of the process.

When combined, there is only one effort to go to the BIR.

It also protects the buyer since he can see the estate partition is actually going forward thus allowing the transfer of the property to his name.

It might also save a little bit on transfer fees at the Registry of Deeds and City Hall.

Understanding the Extrajudicial Settlement with Deed of Sale & Avoiding Common Mistakes

Correcting your NSO Birth Certificate (3 Major Corrections Explained): Administrative Proceedings



1. Correction of Clerical or Typographical Errors

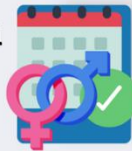
File a petition with the Local Civil Registry where the birth was registered.



Submit a notarized affidavit detailing the correction and supporting documents such as school records, baptismal certificate.

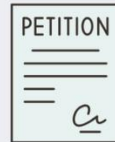


Pay the required fees and wait for the decision.



2. Correction of Birth Date or Gender

File a petition with the Regional Trial Court (RTC) in the area where the civil registry is located.



Provide details about the change and supporting documents such as medical records, affidavits.



Attend a court hearing. If approved, submit the court order to the LCR for the correction.



3. Correction of Name

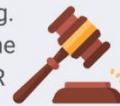
File a petition with the RTC.



Provide details about the change, reasons, and supporting documents such as affidavits, legal documents.



Attend a court hearing. If approved, submit the court order to the LCR for the correction.



Correcting your NSO birth certificate details can be done administratively without needing to go to court

Often, Extrajudicial Settlements with Deeds of Sale are started but not completed.

There are several reasons why.

Some of the most common are:

1. Incomplete Documentation:

It is vital to compile all necessary documents prior to initiating the process. Missing paperwork can cause delays.

2. Overlooking Tax Responsibilities:

Neglecting to settle estate taxes punctually can lead to additional penalties. Always account for these expenses in your planning.

3.Neglecting Legal Guidance

Many heirs attempt to handle this process independently, which can result in costly mistakes. Seeking advice from a lawyer skilled in estate law is highly recommended.

There are several legal implications to when the Deed of Sale is not completed properly or is delayed.

First, all heirs must consent to the extrajudicial settlement; otherwise, disputes may emerge, requiring court resolution. It is essential to understand your rights and duties to prevent conflicts.

It is also important that the Extrajudicial Settlement of Estate Process is done as soon as possible. This is so that ownership of the inherited property can be assured. If left too long, it might not be possible to transfer the property at all due to disagreement between the heirs or missing documents due to age. Furthermore, estate taxes increase for every year that the estate is not settled.

What are the requirements for Extrajudicial Settlement with Deed of Sale?



Documentary requirements must be complete before the BIR accepts it for assessment

Let's pretend we have one property from deceased parents and there are 2 heirs.

The requirements for Extrajudicial Settlement of estate in the Philippines are the following:

- Original Land Title
- Certified True Copy of Land Title from the Registry of Deeds

- Tax declarations
- Certified True Copy of the Tax declarations
- Death and marriage certificates of the parents
- Birth and Marriage certificates of the heirs
- Estate TIN and TIN of the heirs

Now, because this is Extrajudicial Settlement with Sale, we must also add the following:

- Buyer's TIN
- Buyer's Birth and Marriage Certificate
- Details of the sale

What if I am missing documents for the Extrajudicial Settlement of Estate with Sale?



An ONETT officer can easily deny your application if you miss one of the documentary requirements

If you are missing documents for the Extrajudicial Settlement with Deed of Sale, you might need to spend more time and money to get the documents.

If there are errors in the documents or lacking information, you might also need to budget more to find the information.

Let's take a few examples.

- Original Land Title is lost

If the Original Land Title is, then you **MUST GO TO COURT**. There is no other way to get a new Original Owner's land title. You can settle the estate but transferring to the

buyer must wait until the Reissuance court case is done as an Original Owner's land title is needed for transfer.

If there was never a land title, then you will have to go through a titling process. The titling process can take years and also requires a lot of documents. Be prepared to spend a lot of time and money.

- Original Land Title has errors



Make sure that the ONETT officer has given you a compliance form so you know who to look for on your next round of visit

If the Original Land Title has errors, then you might have to go to court or the Registry of Deeds to correct those errors, depending on how significant they are.

- Death Certificate is missing

So long as you have complete details such as place, name and date of death, the Death Certificate can be retrieved. However, if you don't have firm dates and are unsure of the name, this will entail physically going to the Civil Registrars, the National Archives or the Spanish Archives. If you don't find the information, it will be very, very difficult to settle the estate.

These are only some of the examples.

I've had people inquire with us but they only have a name and do not have any property documents.

If that's the case, completing the deed of extrajudicial settlement of estate with absolute sale becomes very difficult since it would lack the information in these missing documents.

What is the process of Extrajudicial Settlement in the Philippines (with deed of Sale)?



Some government offices don't accept walk in so try coordinating with them by phone or email first

The process of extrajudicial partition of estate is simple (although time consuming and very labor intensive) if you have all the requirements.

- Gather the documents
- Create the Deed of Absolute Sale with Extrajudicial Settlement
- Heirs and buyer must sign the Deed of Absolute Sale with Extrajudicial Settlement
- BIR submission
- BIR Estate taxes are paid
- BIR eCAR is picked up and transfer to the buyer is done at City Hall and the Registry of Deeds.

As you can see, a lot of steps in an Extrajudicial Settlement of Estate with Deed of Sale is prior to submission at the BIR.

These steps prior to the submission are usually difficult for people because they don't have the documents or there are problems in the documents.

These steps might also be difficult because the heirs are not on good terms.

Additionally, heirs might not be able to settle the estate tax (extrajudicial settlement BIR requirements are mainly the documents above but really nothing is done if you cannot pay the estate tax.)

How much is an Extrajudicial Settlement?



The tax due for the sale and EJS will be combined too

The cost of an Extrajudicial partition in the Philippines up to transfer can be expensive.

Below are the costs:

- Lawyer's fees
- Accountant's fees
- 6% Estate tax of the total value of the estate
- Transfer fees at the city hall and the registry of Deeds
- Unpaid Property Taxes
- Late fees when you don't pay the BIR estate tax in time

It is already expensive to settle an estate due to the 6% BIR estate taxes, which would mean that you would pay 600,000 BIR estate taxes for a 10,000,000 estate.

However, if you don't settle the estate as soon as you can, this will just get more expensive since late fees will be added **EVERY YEAR** that the estate is not settled.

So, if you are trying to do an Extrajudicial partition of property in the Philippines, do it as soon as you possibly can.

Do all heirs have to agree to sell property in the Philippines?



It is important to settle family matters first before processing an estate settlement

Yes, all the heirs have to agree to sell property for a Deed of Extrajudicial Settlement of Estate with Absolute Sale.

If the heirs cannot agree on the sale, then they can split up the property but they still have to settle the estate.

If the heirs cannot agree on how to even split up the estate, then they will have to go to court.

Going to court to settle an estate is called a Judicial Partition of Estate in the Philippines (vs. An Extra Judicial Partition of Property where extra in front of judicial make the phrase mean “out of court”)

A court order for transfer of property detailing how it should be divided will be released after a successful court case, but it is really best to avoid court.

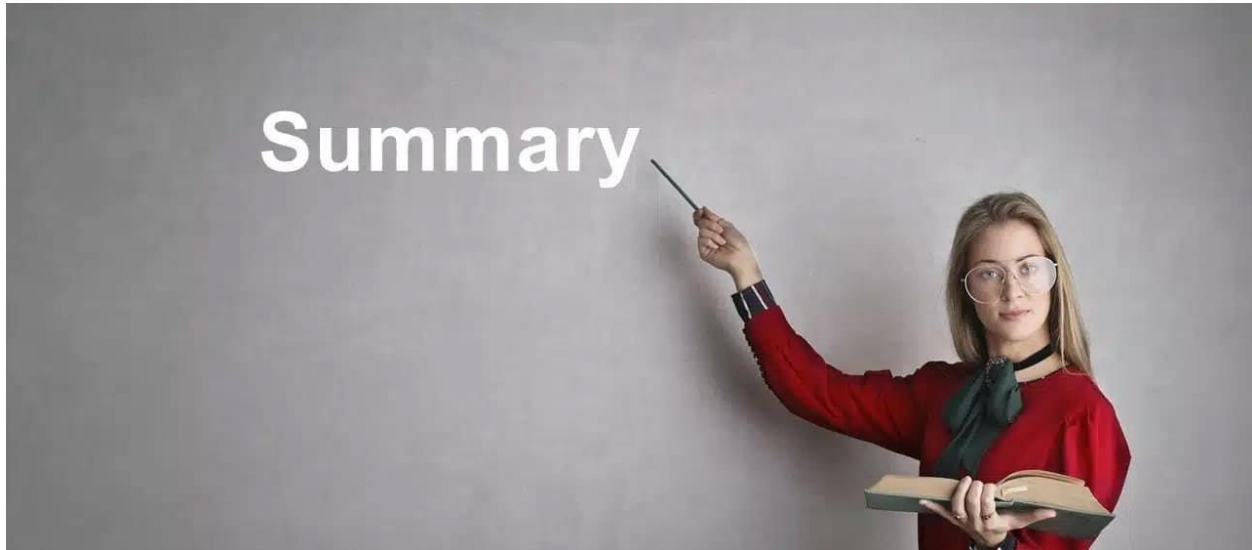
Court is expensive and takes a lot of effort.

You can hire a lawyer to go to court but you might realize it is best to just talk amongst yourselves.

Your best course of action is to negotiate with those that don't agree and come to a compromise.

You can hire a lawyer to negotiate, but it will also cost money. You are better off trying to settle it on your own and bracing yourself for difficult conversations.

Extrajudicial Settlement with Deed of Absolute Sale Philippines: Final Thoughts



Gather the information as it will be a lot easier for you and your lawyer to assess your case

When we are asked about the sale of property of a deceased person for an unsettled estate, we may recommend this path especially.

This protects the buyer because the settlement of the estate is the same document where the sale is recorded. This assures the buyer that the property is actually going to him.

This also helps the heirs since there is just one effort. They only have to sign and work on one thing, instead of doing a Deed of Sale and then a Deed of Partition in the Philippines later on.

It is easier logistically due to that.

Due to the above, and EJS with Deed of sale is often used when children are selling property of their deceased parents in the Philippines.

Frequently Asked Questions

1. What occurs if one heir objects to the sale?

If an heir does not agree, it could lead to a judicial partition, which may be lengthy and costly.

2. Can I proceed with the sale if some documents are absent?

While it may be feasible to move ahead under specific circumstances, it is strongly advised to gather all necessary documents before starting an extrajudicial settlement.

3. Can I complete an Extrajudicial Settlement of Estate even without the original title?

Yes, you can settle an estate even without the original title.

It is advisable to settle an estate as soon as you can since this would stop the increase of late fees. Late fees are levied each year that the estate is not settled, and can grow to be very, very substantial.

It is only after settling the estate that you will need the original title as the original title is then needed as it is presented to the Registry of Deeds so that a new title can be issued in the heir's name.

If this is your situation, please speak to a lawyer for proper assessment.

4. What is the typical duration of the process?

The duration for completing Extrajudicial Settlement of Estate can differ markedly based on document availability and the cooperation of heirs; however, it typically spans several months.

5. How much does an Extrajudicial Settlement of Estate with Deed of Sale cost?

Aside from lawyer's fees and CPA fees, a major cost is the 6% estate tax at the BIR. The 6% estate tax is on the net estate value and thus can be substantial.

6. Can I do an Extrajudicial Settlement of Estate with Deed of Sale on my own?

Yes, you can do this on your own but note that many issues can be avoided when you have the right counsel. Be prepared to spend a lot of time and money doing this as the process is very manual – there is no online option for many of the steps.