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The Professional Regulatory Board of **Architecture (PRBoA)**
www.architectureboard.ph

Philippine Presentation

Architectural Practice in the Philippines and the Implication of Global Practice on Local Practice

Ar **Armando N. ALLÍ**, *apcc ar*

Acting Chairman

Professional Regulatory Board of **Architecture (PRBoA)**

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AI	architectural interiors
BP	Batas Pambansa
BPO	Business Process Outsourcing
CE	Civil Engineer
DILG	Department of Interior and Local Governments
DoJ	Department of Justice
DoLE	Department of Labor and Employment
DPWH	Department of Public Works and Highways
FA	Foreign Architects
GATS	General Agreement on Trade and Services
GOCC	Government-Owned and Controlled Corporation
GPRA	Government Procurement Reform Act
IAPOA	integrated and accredited professional organization of architects
IRR	Implementing Rules and Regulations
KPO	knowledge process outsourcing ()
LEA	licensure examination for architects
LGU	Local Government Unit
MRA	Mutual Recognition Agreement
NBCP	National Building Code of the Philippines
NGA	National Government Agencies
PD	Presidential Decree
PH	Philippine
PRA	Philippine-Registered Architects
PRBoA	Professional Regulatory Board of Architecture
PRC	Professional Regulation Commission
RA	Republic Act
RLA	Registered and Licensed Architects
RRROW	road right-of-way
TRO	temporary restraining order
TSP	Temporary/ Special Permits

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Figure 1. The Philippine (PH) Legal Framework - page 2

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1.0 General

Under the Philippine (PH) legal framework, the 1987 Philippine Constitution reigns supreme over lesser/ derivative laws such as Republic Acts (RAs) issued over the last 65 years, Presidential Decrees (PDs) promulgated from c. 1972 through c. 1978, National Laws or “Mga Batas Pambansa” (BPs) approved from c. 1978 through c. 1986 and Commonwealth Acts (CAs) passed before 1941. However, international treaties/ agreements such as the General Agreement on Trade and Services (GATS), duly ratified by the designated agents of the State, may modify such derivative laws as applicable (reference **Figure 1**).

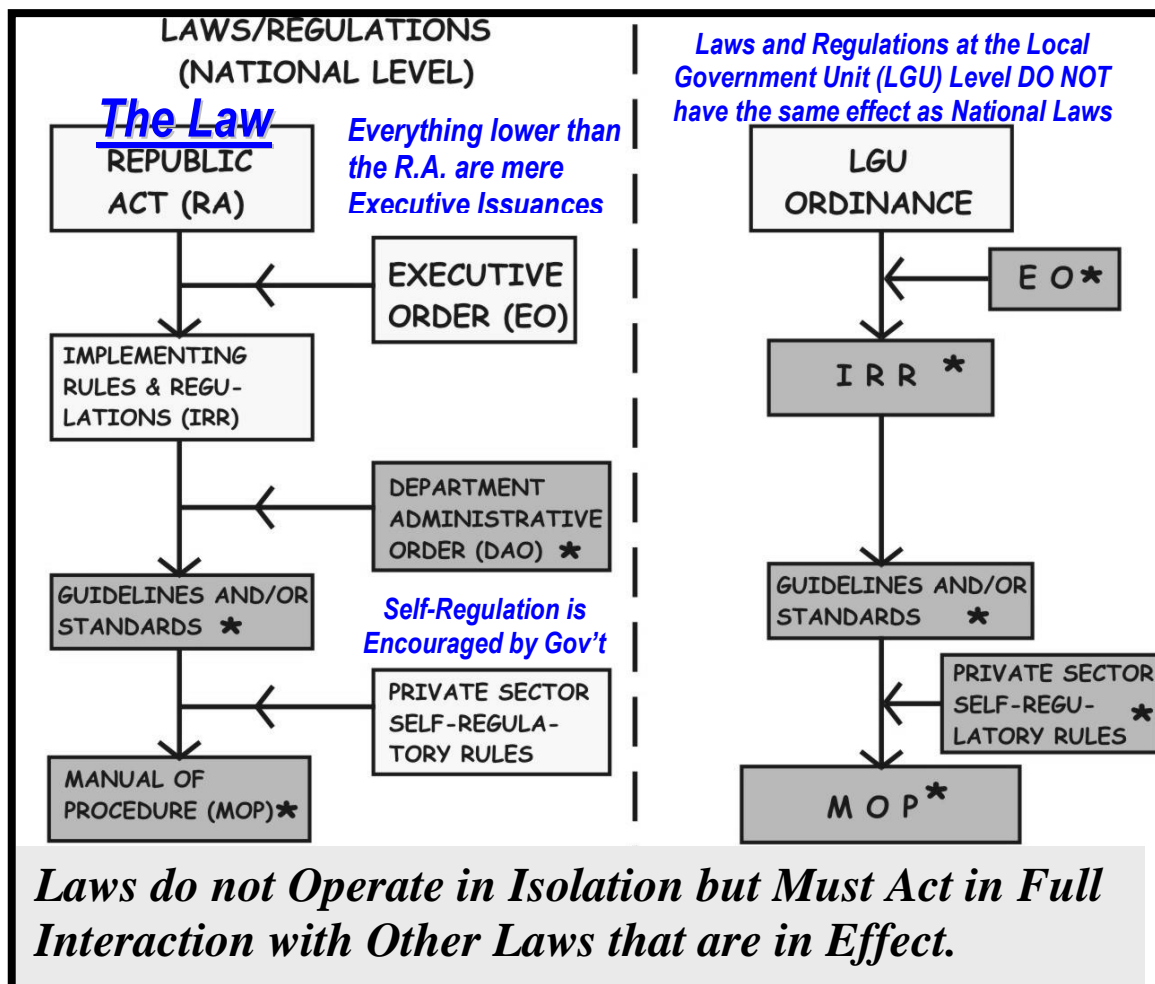


Figure 1. The Philippine (PH) Legal Framework: *A Layman’s Appreciation of Philippine Laws and Regulations [covering Laws Lower than the Philippine Constitution and Lower Than International Treaties/ Agreements (such as GATS), which may have the power of Law only if duly ratified by the Philippine Senate or by the duly authorized Executive Agents of the State]*

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2.0 Laws Governing the Practice of Architecture in the Philippines

One such law is **R.A. No. 9266** (The Architecture Act of 2004) approved by the President on 17 March 2004 i.e. in full effect since 10 April 2004 (last 6.5 years). The same is implemented and enforced by the Professional Regulation Commission (**PRC**) and the Professional Regulatory Board of Architecture (**PRBoA**) thru representations with the executive agencies and instrumentalities of the national and local governments i.e. National Government Agencies (NGAs), Government-Owned and Controlled Corporations (GOCCs), Local Government Units (LGUs), etc.;

R.A. No. 9266 prescribes that ONLY registered and licensed architects (**RLAs**) and other duly-permitted entities such as Foreign Architects (**FAs**) with valid Temporary/Special permits (**TSPs**) shall practice architecture for ALL buildings sited on Philippine soil. The same law governs the practice of about 26,000 Philippine-registered architects (**PRAs**) and approx. 16,000 **RLAs** (+/-61% of PRAs), the only natural persons under Philippine law who can lawfully prepare, sign and seal **ARCHITECTURAL** Documents (specifically Architectural PLANS, designs, drawings and specifications).

Another important law for RLAs/ permitted FAs is **P.D. No. 1096**, otherwise known as The 1977 National Building Code of the Philippines (**NBCP**). Its **AUTHENTIC** Sec. 302 **DOES NOT** and **NEVER** stated that Philippine Civil Engineers (**CEs**) can sign or seal **ARCHITECTURAL** plans/ documents i.e. a matter that has been duly certified by the **National Printing Office** (which publishes all laws on the Official Gazette of the Philippine Government) and by the **Malacañang Records Office** (which safeguards all documents promulgated by the Office of the President of the Philippines).

Sec. 302 of **P.D. No. 1096** does NOT state that Architects (PRAs or RLAs) shall sign or seal **ARCHITECTURAL** documents (which was later repealed by **R.A. No. 9266**). As **separate** professional regulatory laws (**PRLs**) for Architects and CEs were then in force, the same were supposed to have been followed in the implementation of the National Building Code (**P.D. No. 1096**). To date, the NBCP remains a valid and subsisting law i.e. in full effect, remaining unchanged since 1977, as duly certified by the Malacañang Records Office in 2005 and 2009.

R.A. No. 9266 is a **special and later law** that contains implied and express repeal provisions that supposedly amends or supersedes all conflicting provisions in other general, special or earlier laws such as: 1) P.D. No. 1096 (The 1977 National Building Code of the Philippines/ NBCP), 2) R.A. No. 544, as amended by R.A. No. 1582 (the Civil Engineering laws of 1950 and 1956), 3) R.A. No. 7160 (The Local Government Code of 1991), 4) R.A. No. 9184 (The Government Procurement Reform Act/ **GPRA** of 2003), 5) P.D. No. 957 (Condominium & Subdivision Buyer's Law), 6) R.A. No. 9283 (The 1997 Intellectual Property Code of the Philippines), etc.

Under **R.A. No. 9266**, the professional practice of architecture in the Philippines is an exclusive **PRIVILEGE** extended to RLAs and duly-qualified FAs. In about 40 instances, that same privilege was taken away by the State for cause but only after due process took full course.

Under Sec. 304.5.b of the **authentic** State (**DPWH**)-published 2004 Revised IRR (effective 01 May 2005), it was clearly intended for the **PRLs** such as **R.A. No. 9266**

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to be fully observed/ complied with in the implementation and enforcement of the 2004 Revised Implementing Rules and Regulations (IRR) of **P.D. No. 1096** (the 1977 **NBCP**).

3.0 Minimum Qualifications to Practice

Philippine Law limits to Registered and Licensed Architects (**RLAs**) the acts of preparing, signing and sealing ARCHITECTURAL Documents, specifically Architectural PLANS and designs. The following are the minimum requirements for entry into practice:

- a. a Bachelor of Science (B.S.) ARCHITECTURE degree (5-year course);
- b. 2 year (or equivalent 3,840 hours) of diversified experience in architecture (DEA) i.e. an apprenticeship program under a Mentor-RLA;
- c. a general average of 70% (as passing mark) in the Licensure Examination for Architects (LEA) given by the PRC; the LEA is ALL about the ARCHITECTURAL planning & design of BUILDINGS, their grounds and environs;
- d. an Architect's Certificate of Registration & PRC identification (ID) card, signature in the Architect's Registry Book and Recitation of the Architect's Oath before the PRC/ PRBoA;
- e. membership in the integrated & accredited professional organization of architects (IAPOA); and
- f. continuing professional education/ development (CPE/D) credit hours.

For FAs desiring to practice locally, the following are the minimum requirements for possible entry into local practice:

- a. a work permit from the Department of Labor and Employment (**DoLE**);
- b. a Temporary/ Special Permit (TSP) from the PRC, which prescribes prior partnering/ collaboration arrangement with a RLA; and
- c. locally secured Professional Liability Insurance (**PLI**) or malpractice insurance (or their acceptable equivalent in bond form commensurate with the nature and magnitude of the FA's project involvement and the FA's compensation).

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4.0 R.A. No. 9266 and P.D. No. 1096 Prescriptions for the Preparation, Signing & Sealing of ARCHITECTURAL DOCUMENTS

R.A. No. 9266 provides:

“SEC. 20. Seal, Issuance and Use of Seal. - A duly licensed architect shall affix the seal prescribed by the Board bearing the registrant's name, registration number and title "Architect" on **all architectural** plans, drawings, specifications and all other contract documents prepared by or under his/her direct supervision. xxx

(2) **No** officer or employee of this Republic, chartered cities, provinces and municipalities, now or hereafter charged with the enforcement of laws, ordinances or regulations relating to the construction or alteration of buildings, **shall accept or approve any architectural plans or specifications which have not been prepared and submitted in full accord with all the provisions of this Act**; nor shall any payments be approved by any such officer for any work, the plans and specifications for which have not been so prepared and signed and sealed by the author (referring to a registered/ licensed architect).

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All architectural plans, designs, specifications, drawings and architectural documents relative to the construction of a building shall bear the seal and signature only of an architect registered and licensed under this Act together with his/her professional identification card number and the date of its expiration.” (emphases and underscoring by the PRBoA)

The **ARCHITECTURAL DOCUMENTS** as defined under various IRRs implementing Philippine Law are as follows:

- a. site development plan (SDP);
- b. architectural perspectives (exterior, interior & sectional) for buildings;
- c. architectural floor, ceiling and roof PLANS for buildings;
- d. architectural sections and elevations for buildings;
- e. architectural detail designs and drawings;
- f. architectural interior (**AI**) plans, designs, etc.;
- g. architectural specifications [including schedules of finishes, fixtures & (non-engineering equipment or FFE)]; and
- h. architectural estimates.

Despite the supplied definition, PH Civil Engineers and other unregistered entities continue to prepare, sign and seal such documents, apparently with the full support by many agents of the Government, albeit in willful violation of law.

In stark contrast, the Civil Engineering Documents as defined under the 2004 IRR of the 1977 National Building Code of the Philippines (NBCP) are limited only to the following:

- a. site civil works plan (including grading and drainage);
- b. foundation plan for buildings;
- c. floor, ceiling and roof structural framing plans for buildings;
- d. structural engineering sections and elevations for buildings;
- e. civil works & structural detail designs and drawings;
- f. civil works and structural engineering design specifications, schedules and computations; and
- g. civil works and structural engineering design estimates.

Despite the supplied definitions which they themselves co-crafted, the PH Civil Engineers still went to Court in 2005 to question the said definitions. Presently, there is **no** Court-issued temporary restraining order (TRO) or injunction on the foregoing definitions but the **executive** branch of Government still obstinately **refuses** to comply with the law and its own issued regulations.

5.0 The Philippine Executive Framework for Architectural Practice

The executive branch of the Philippine Government is supposed to implement and enforce the laws of the State. Necessarily, these include the Department of Labor and Employment (DoLE), the Department of Public Works and Highways (**DPWH**), the Department of Justice (DoJ), the Department of Interior and Local Governments (**DILG**), and the Housing and Urban Development Coordinating Council (HUDCC), or the 5 State agencies that primarily affect the implementation and enforcement of the law on the practice of Architecture in the Philippines (**R.A. No. 9266**). These agencies are all headed by Cabinet-level Officials.

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The Professional Regulation Commission (**PRC**), which regulates the practice of the professions under the professional regulatory laws (**PRLs**), is presently directly under the DoLE and by law, the Professional Regulatory Board of Architecture (**PRBoA**) is under the administrative control and supervision of the **PRC**, but is allowed to maintain a certain level of autonomy.

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The **PRC**, which regulates the practice of 45 professions under various professional regulatory laws (PRLs), through the **PRBoA**, are the only official entities mandated under Philippine law to regulate the practice of Architecture locally.

The Secretary of the Department of Public Works and Highways (**DPWH**), which implements and enforces the National Building Code of the Philippines (**NBCP**) is **NOT** empowered by law to **regulate** the practice of the profession of Architecture. Necessarily, the DPWH must yield to the PRC, which retains exclusive jurisdiction over the practice of the regulated professions, Fortunately, in October of 2009, in a meeting of the DPWH NBCRC and DPWH BoC with the PRC and some professional regulatory boards (**PRBs**) at the DPWH Central Office Operations Room, the entities represented have finally **AGREED** that all professional practice-related issues shall be resolved by the PRC, NOT by the DPWH.

6.0 Wanting Executive Action on the Implementation and Enforcement of Valid and Subsisting Laws

While the 2004 Revised IRR of P.D. No. 1096 (the 1977 National Building Code of the Philippines/ **NBCP**) was promulgated by the DPWH in October 2004 (taking effect 01 May 2005), its effectivity was momentarily interrupted by temporary restraining orders (**TROs**) and a preliminary injunction secured by civil engineers (CEs) on the basis of the **wrongly worded** text of Sec. 302 of P.D. No. 1096, purporting that CEs can sign and seal **ARCHITECTURAL PLANS/ documents**. The said injunction was eventually **LIFTED/ DISSOLVED** through a Court Decision promulgated early 2008. Despite the apparent **executory** nature of the Court Order in said Decision, the DPWH and the bulk of LGUs under the DILG still **refused** to comply.

The PH CEs then elevated the case to the Court of Appeals (**CA**), which to date has **NOT** issued their petitioned TRO or injunction. To date, the DPWH still refuses to comply with the 2008 Court Decision, again in stark contrast with the DPWH action in 2005 when the it **immediately complied** with the Court's TROs and preliminary injunction (already **DISSOLVED** in 2008).

There are NO legal impediments to the full implementation and enforcement of R.A. No. 9266 (The Architecture Act of 2004). There is **NO** TRO on any of its provisions (from 10 April 2004 to date/ 08 Oct 2010). There is **NO** Injunction on any of its provisions (from 10 April 2004 to date) and there is **NO** pending constitutional question on any of its provisions.

As a valid and subsisting law since 10 April 2004, **R.A. No. 9266** mandates its implementation and enforcement by **ALL** national and local government officials of the Philippine Government. It also has a codified/ coherent set of implementing rules and regulations (**IRR**) to guide the **executive** branch of the PH Government (at all its levels) in its full and proper implementation and enforcement. In sharp

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contrast, the **executive** branch of Government tries to implement the 60-year old CE law in the **absence** of a codified IRR.

7.0 What the PRBoA Does to Implement and Enforce R.A. No. 9266

While admittedly part of the **executive** branch of Government, the **PRBoA** has to do the following to effect compliance:

- a. officially call the attention of the violating Philippine Government agencies and officials and to advise them of the need to harmonize laws affecting the practice;
- b. officially warn violating Philippine Government agencies and officials of the possible consequences of their apparently continuing, willful and potentially concerted violations of law;
- c. issue official correspondences and undertake liaison and dialogue with State legislators, various identified stakeholders (including the academe), Government agencies and officials, media and other concerned entities;
- d. crafted implementing rules/ regulations, resolutions and derivative instruments to effect the proper implementation of law; and
- e. if all else fails, finally **sue** violating Philippine Government officials and private entities (benefiting from their apparently unlawful acts) for graft-related offenses relative to their apparent willful and concerted violations of law.

8.0 Philippine Architectural Practice (and Practice Preparation) in the Last 65 Years

From 1945 through 1950, **Non-Architects** (including about 1,800 civil engineers/ CEs) were allowed to render portions of the scope of the practice of Architecture in the Philippines as part of the post-World War II reconstruction effort i.e. only about 300 Architects were around at the time. Over the last 65 years, the Architects in the Philippines generally confined their involvement mainly to the space planning/ programming, design, contract documentation and construction supervision for all forms of habitable buildings but the Architects have also largely participated in various forms of physical planning work, including land use/ transportation planning.

Philippine-trained and certified/ licensed Architects are now engaged in various capacities relating to the supply of architectural services/ expertise in many countries, chiefly in the Middle East and on either side of the Pacific Ocean (primarily in the USA, Canada Hong Kong & Singapore).

In the 1990s, the practices of interior design (but **NOT** the design of architectural interiors/ AI) and of landscape architecture were segregated from architectural practice; and in 2004, detailed structural engineering design was also segregated from practice.

With limited successes at legislation, advocacy work and generating public awareness/ support coupled with the very visible failure of the Government to implement and enforce its own law, the **litigation** of **R.A. No. 9266** violators by the **PRBoA** (and by individual/ grouped RLAs) while admittedly time-consuming and costly, now appears to be the last viable resort to finally implement and enforce the law. Eventually, lawyers/ judges may also have to be sued as part of this effort.

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9.0 Clarity of State Policy for the Last 60 Years

Over the years 2002 through 2009, the Philippine Congress (the legislative branch of Government), the Court (representing the judicial branch of Government) and the Departments of Justice and Public Works/ DoJ/ DPWH (representing the executive branch of Government) have all ruled in favor of the Architects, without fail.

Despite the clear spirit and intent of the State, as enunciated in its policies/ laws passed as early as 1950, the executive branch of Government, for the last 6 decades, continually allows **NON**-Architects (specifically CEs) to prepare, sign and seal **ARCHITECTURAL DOCUMENTS** in direct violation of law. Apparently however, the concerned CEs (who are **neither** academically trained nor officially tested by the State for proficiency in/ knowledge of Architecture) are able to do the same only with the **unlawful** aid extended persons with very limited knowledge of architecture i.e. students, graduates of architecture or drafting courses or failed licensure examinees, who are induced by supposedly high pay offered by the concerned CEs.

10.0 The Effect of the Non-Implementation of R.A. No. 9266 on Local Architectural Practice/ on the Built Environment

The continued non-implementation of **R.A. No. 9266** has resulted in truncated architectural planning and design processes i.e. to cut costs, key **pre-design** services such as **site selection/ analyses, space planning/ architectural programming** are either minimized or eliminated, resulting in wrongly/ poorly planned solutions, thereafter masked in aesthetics; on many projects (done by **NON**-Architects), the situation has also resulted in the **full reversal** of the design process i.e. focus on the design first, and then on the plan later, forgetting the all-important **research** aspects (which are the actual bases for the plan and design).

The model adopted by the Government for its public architectural **consulting service** procurement (under **R.A. No. 9164**) is **not** ideal for Government buildings. Both the procurement law and its IRR were apparently crafted with little to **no** consultation done with **RLAs**.

The continued non-implementation of **R.A. No. 9266** has resulted in widespread violations of the 1977 National Building Code (**P.D. No. 1096**), the 2008 Fire Code (**R.A. No. 9514**), and the Accessibility Law (**B.P. No. 344**), due to work done by **NON**-Architects (accepted/ processed/ officially condoned by the Government in **contravention** of its own laws), violations of legal easements and the illegal usage of the public domain (primarily the RROWs), compounded and constant threats from natural calamities (exacerbated by improper/ illegal man-made structures, particularly **informal settlements along waterways** and **oversized non-mobile billboards**), all of which compromise the safety, security/ privacy and comfort of building occupants/ public domain users/ general public.

11.0 Licensure Examination Syllabi, the Curriculum and Anticipation of Global Practice

While already considered part of the knowledge/ competency-based testing at the State licensure examination for architects (**LEA**), basic academic instruction on Philippine construction, development, environmental and building laws and their

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rules and regulations must officially constitute a good part of the 5-year academic program.

Academic research and instruction on specific overseas building laws/ regulations and on generic architectural practices overseas may also make up part of the 5-year academic program; some foreign language courses may also need to become electives. Finally, the Mentor-based apprenticeship program required for completion by aspirants prior to taking the **LEA** must be thoroughly supervised by the **IAPOA** to ensure the quality of the 2-year training mandated by law, which may necessarily include involvement with architectural projects on foreign soil or collaboration with FAs on Philippine projects.

12.0 Present Local Practice by Foreign Architects (FAs)

FAs now practice in the PH under the following modes:

- a. **APEC Architect Registry**, initially via a **collaborative** mode (whereby a Filipino registered and licensed Architect/ RLA must partner with a Foreign Architect/ FA if the FA is to work on an architectural project on Philippine soil);
- b. **ASEAN Mutual Recognition Agreement (MRA)**, also via **collaboration**;
- c. **Reciprocity** on the basis of absolute terms of **equality** in academic and/or training credential evaluation, licensure and certification i.e. as provided by the concerned laws;
- d. **Other Modes** (including electronic or virtual practices subject to the application of Philippine laws such as the Electronic Commerce Act and **R.A. No. 9266**, and other practice modes by/ for FAs still to be discovered, proposed, developed or agreed upon by the countries concerned); under this category falls the illegal practice of FAs collaborating with non-RLAs;
- e. Only FAs as as natural persons, and **NOT** as firms or juridical entities are issued Temporary/ Special Permits (**TSPs**) to work in the Philippines; and
- f. To be able to work on Philippine projects, duly-qualified Business Process Outsourcing (**BPO**) or knowledge process outsourcing (KPO) firms engaged in the provision of architectural services must be registered with the DTI/ SEC and with the PRC/ PRBoA as mandated under law.

13.0 Philippine Practice Scenario Under GATS

GATS is widely perceived by RLAs to be able to complement the Local Practice of FAs under the APEC Architect Registry, ASEAN MRA, Reciprocity and Other Modes. Under GATS, it is expected that many RLAs will offer various forms of architectural services to foreign clients by doing the work right here in the Philippines. More knowledge process outsourcing (**KPO**) firms engaged in the provision of architectural services for overseas projects are expected to base in the Philippines.

More importantly, since an FA may practice under GATS without an RLA, such FAs, in their individual/ personal capacities must assume the requisite responsibilities, undertakings and liabilities as a natural person (and **NOT** as a juridical person) under Philippine civil law (for a period of from 15 to 25 years).

14.0 Practice in An Ideal World

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In an ideal world where the Law is faithfully implemented and enforced, Architects would **NOT** have to compete for the market side by side with **illegally** practicing entities, who should actually be jailed or fined in full accordance with law. Architects can better their craft by focusing on specializations/ specialized practices, possibly to enable them to play a greater role in the planning and urban design of the **public domain** (chiefly the road rights-of-way/ **RROWs**), and by extension, technical assistance for the protection of the natural and built environments through their faithful adherence to development, environmental and building laws.

If Philippine law is properly and fully implemented and enforced, Architects can pay better attention to research and development relative to their offered/ contracted services. With possibly a little more time and resources to spare, practicing Architects can then have a fuller participation in the academic preparation of future architects.

Nothing follows.