

BUSINESS THAILAND

Notes on Property Laws

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This is not a legal document and should be taken as a guide only.

If you have information that you feel should be included here, please let us know about it and we will publish it. Also, if you know for a fact that something you read here is NOT correct, please call and let us know what you think is incorrect and where you found the information that contradicts what we have published.

Certainly the laws are constantly changing and if you are planning any property purchase, for whatever reason, find a good lawyer.

Thailand land laws need careful study by any potential buyer of real estate in the Kingdom. The following notes are aimed at the Europeans' point of view and have been compiled from various sources and attempt to cover the main issues. These notes are meant as a guide only and anyone thinking about investment into the Thai property market is urged to seek professional legal help. There are several excellent international legal firms in Thailand - usually of European or American origin/ownership, as well as good local companies using foreign lawyers - who are often called "legal consultants".

MEASUREMENTS

Thai land measurements are fairly simple - being a combination of "imperial" and metric measurement systems.

Starting off with a Wah, which is taken as being 2 metres.

This is squared to produce 1 sq wah which is called a "Talang Wah" = 4 sq metres.

100 of these = 1 Ngan (400 sq m).

4 Ngan = 1 Rai (1,600 sq m = 400 Talang Wah).

So when you see measurements of say 2 Rai - 3 Ngan - 35 Talang Wah, that is $3200 + 1200 + 140 = 4,540$ sq metres.

1 Acre (4,047 sq m) = approx 2.53 Rai and

1 Hectare (10,000 sq m) = 6.25 Rai exactly.

LAND TITLING & RELATED

Apart from Condominium ownership and erecting buildings on land not owned (both covered below), land titling can be quite complicated.

There are various levels of land titling - from a simple right of possession through to a full title as we know it in the Western world. This full land title deed is called a "Chanut" and is backed up by being recorded by the government, using GPS to record both the area and boundaries. The Chanut paper itself is normally of a few pages and shows a surveyed plan of the land, various registration numbers, previous owners and mortgage history.

Beware of photocopies and make sure that official chops, notations and the Garuda (the official Government authority crest) are all clear and readable. This is an extremely valuable document - just like title deeds in Europe and losing it will give all sorts of problems.

Much of the land and property that is traded on the here has Chanut title. However, there will still be cases where a lesser title is only available - such as Nor Sor Saam and Nor Sor Saam Gor - usually in undeveloped areas in the countryside. This may still be acceptable and it is often possible to upgrade to Chanut over time. However, we are getting into a very specialised area and it is essential to seek legal advice in these cases. Although land prices may well be lower for these lesser titles, it may well be prudent to discount any property without Chanut title.

Buying land for subdivision is also a specialised area and involves many local and central government departments, building codes and suchlike. There are waiting periods before titles may be issued. Again, an area for experts. We are currently hearing some disturbing stories about the authorities clamping down on land subdivisions. Any scent of foreign ownership in the overall development might well mean that the issuance of eventual titles to individual owners is a problem. One precaution that an end-purchaser might take is to have some sort of break clause covering any problem in the issuance of the

individual end titles.

Condominiums are looked at below under 'Ownership by foreigners'.

Erecting buildings on land not owned does happen and this is invariably where a foreigner has taken a long lease (usually 30 years).

OWNERSHIP BY FOREIGNERS

Basically, Thai law does not allow a foreigner to own land in Thailand, although they can own the buildings thereon.

There are two notable exceptions to this strict law.

Firstly, where a foreign company has Board of Investment ("B.O.I.") approval and the land is part of the project (usually manufacturing). Even then, the ownership is very much tied in with the overall B.O.I. terms.

Secondly, a new law (Land Code Section 96, 2002) allows an Alien to buy up to one Rai for his or her residential purposes in metropolitan areas such as Bangkok or Pattaya providing they also invest at least 40 million Baht for five years in government bonds, recognised property, mutual funds or B.O.I. projects. Permission for this needs to be obtained from the Interior Ministry and the ownership is monitored by the Lands Department.

Apart from these two rare exceptions, both partnerships and companies also fall under the strict land ownership by foreigners prohibition - should the foreigners control too large a share.

The Alien Business Law, which regulates the investment in land by foreigners, states that "land trading" is prohibited to foreigners. A foreign-controlled company is defined under Thai land law, and states that any Thai registered companies or partnerships with more than 49% of the companies total capital, or more than half the shareholders being non-Thai, are considered foreign. It is often difficult for even a company with a 51% Thai/49% foreign ownership to purchase land - particularly if you are using an inexperienced lawyer.