

PHONE CALL FROM PHUKET

*Who Said All The Con-Men
Are In Pattaya?*

My friend, who has lived in most parts of the world, and also resided in Thailand for a good number of years, recently went on a business trip to Phuket. He speaks a number of languages, and as luck would have it, he met a German woman who is in the initial stages of starting an export business in Thailand. She informed him that she had just paid a 1-million baht deposit on a 5-million baht property, and that the two legal advisors concerned were recommending that she place this property in a Thai registered company, with herself as a Director holding 49% of the shares. As he had some time to spare, he went with the German lady to meet these two legal advisors, and after the meeting he was of the opinion that their manner, plus their general conduct left a lot to be desired. Being a "man of the world," he is a very intuitive guy, and it was at this point, he telephoned me in Pattaya. I listened intently to this fascinating scenario, and agreed that something seemed to be amiss, with their recommendations, because there has been a large amount of information on the news media throughout the Kingdom, urging foreign people to be cautious in the way that they register real estate. This is because the Thai Government is reviewing the existing land ownership laws, especially as they relate to the following matters: -

(a) Companies where Foreign Nationals hold more than a 39% shareholding, may attract investigation by the Department of Land Office.

(b) Thai Company shareholders, who are Thai citizens, will be asked to justify the sources

of their wealth in these above mentioned companies.

(c) Land that appears to have been purchased for speculative purposes by foreign Nationals, will attract investigation by the Department of Land.

(d) If the investigating officer from the Department of Land Office believes that any actions have taken place, in order to circumvent the law, then a report will be made to the Minister.

The old method of forming a 51% Thai owned company to hold land on behalf of a Foreign National, (holding 49% shareholding), was fine in the past, but now the existing laws have been interpreted differently, this is no longer acceptable.

A Happy Ending Was The Result

In the case of the German lady who was purchasing property in Phuket, I thought that she would be wise to seek further legal advice on this matter, as trying to purchase land with herself as a large shareholder in a Thai company, was obviously not the way to go. Upon the recommendation of Evans Marketing, who have offices in both Pattaya and Bangkok, she was put in touch with a top of the line Lawyer, who was able to give her the best legal advice available. Here case was slightly different as she was also in the process of setting up an export company within the Kingdom. It must be remembered that all cases are different, and there is no doubt that the manner in which the application is presented to the Land Department is extremely

The **Andaman Post** welcomes contributions from any Phuket based company wanting to get their story across to our readers in the business or real estate section.

Contact 06 151 1600 or
email: andamanpost@yahoo.com

important. No doubt they examine everything on a "case-by-case" basis and often the intentions of the individual are just as important as the "letter of the law," especially later, where legal disputes could arise. However, according to many in the legal profession, forming a company may not be the best option, in relation to property purchases, and this is a matter for deep discussion & careful evaluation of the particular case in question. This should take place between the client and a highly qualified lawyer, who should at least be a legally qualified "public notary." No advisors, facilitators or anyone of doubtful origin are necessarily needed for these final discussions. Contrary to popular belief, Pattaya is not just a town full of "con-men" and crooks, with a happy ending being achieved, thanks to the services and advice of some very professional people, who gave honest advice on what at the moment is a very difficult situation.

Department Of Land Intervenes

Now, since April 2003, after several directives having been issued to Provincial Governors, some serious Government investigations will commence on all companies that deal with real estate transactions and / or have foreign nationals amongst their shareholders. All provincial Governors in the Kingdom of Thailand were notified in August 2003 that under Section-74 of the Land Code, that any Thai company with more than 40% foreign interest, that purchased land, would be investigated.

Continued Page 15

**Phuket Property
Market**