


 Expat Counsel

GIMMIE SHELTER: What you should know about condominiums in Thailand, Part 1

The concept of the condominium was coined in Roman times and was recognised as a concept of property ownership in France's 1804 Napoleonic Code. It is now used widely throughout the world, known as strata title in Australia and British Columbia and syndicates of co-ownership in Quebec. The equivalent concept, introduced in England and Wales in 2004, and still in its infancy, is commonhold.

It seems that everybody's moving into a condo, these days. But what is a condo, anyway?

Strictly speaking, a condominium is a group of individual housing units along with the land on which they're situated. A legal declaration, establishing the condominium, provides that the individual owners have title only to the inside of the units. The outside of the units and the land the building or buildings are on, including common areas such as halls, lifts, walkways and swimming pools, are held in an undivided way by a company set up at the time the condominium was established. In Thailand, when one says "condo," what is understood is a single apartment-style building, but there are other forms for this, such as low-rise townhouses.

The advantages of condominium ownership are that an association of owners can create restrictions on all of the housing units in the condominium. Thus, for example, the association could ban painting the outside of one's condo in outrageous colours, or playing loud music, or keeping vicious pets, or whatever. Also, for a reasonable fee from each of the owners, the association or its manager does all the maintenance and repairs on the place; gardening, pest control, fixing that leaky roof or the burst pipe — all the stuff that makes home ownership a burden.

What makes consumer trends in Asia? One could write a PhD thesis on the deep-seated similarities between them. Be it golf, karaoke or manga, it's not that it doesn't exist elsewhere, but that Asians have changed the particular concept to fit their cultures, and vice versa. So it goes in Thailand with the condominium, which is a creature of the Thai legal system — specifically, the Condominium Act, B.E. 2522 (1979), as most recently amended by the Condominium Act (No. 4) B.E. 2551 (2008), enforceable from July 5, 2008 onward. In Thailand, moreover, the condominium practice has a vocabulary all its own. For example, in Thailand the condominium company formed for the

benefit of the individual owners is called the condominium juristic person. Unlike other housing in Thailand, condominiums, especially the initial sale of them, are quite highly regulated.

The most notable difference for foreigners between condominium ownership and other forms of housing in Thailand is the fact that foreigners may own freehold, i.e. forever. If the condominium juristic person sends a letter to the local land office to the effect that a foreigner's purchase of a unit at a

condominium will not make the total floor space of the owned part of the condominium more than 49% owned by foreigners, the foreigner may take a freehold interest, just like a Thai.

How do you buy a condo? Because they're so popular among Thais, you may well be looking at either a presale, which is to say one not yet built, or an old one, approaching 20 years. But what's important is that somebody really familiar with the Thai laws mentioned above help you make the deci-

sion to buy or not, because most of the contracts for condominiums we review do not provide buyers the minimum protections required by the laws. More about this at another time.

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