


 Expat Counsel

AVOIDING PROPERTY EMERGENCIES – PART II

Last week we emphasised the importance of finding out everything you can about property before you buy.

Here's an example of what we mean.

We were recently contacted by a foreigner, a new client, who wanted to sell his home. He had lived in a development in southern Thailand for a year or so without serious problems, but now had a buyer willing to purchase the home at a premium. In looking at the existing documentation, however, it was obvious that our client didn't own or lease the home at all.

The developer had entrusted the transfer process to his wife. She had simply gone down to the land office and put the house and land in her own name because this had been the easiest way to get a blue book for the place. Neither the developer nor our client had picked up on this because they don't read Thai. Our client had moved in and everything had seemed fine.

Eventually the problem was solved, because the developer's wife was willing to transfer to the buyer. Our client was pretty nervous before she did this, however. What if the developer and his wife had split up before all of this had been discovered and the developer's wife had decided to sell the place on her own? Or what if she had died before this was discovered? All of the "what ifs" that he had not even thought about haunted him, even after the sale went through.

All of this leads us back to our simple rules of buying property in Thailand. Here are some more.

RULE NO 4

Make sure you review the sales contract or lease closely. This document is the key to protecting your rights and you should view it accordingly. If you do not feel that you can do this adequately on your own, you should seek advice from someone who will competently represent your interests. This should not be anyone who benefits financially from the sale. We can't tell you how times we have heard our clients say that they trusted someone like this to do the right thing and have been disappointed.

You have to take responsibility for your own purchase and that starts by making

sure there is a legal document that states clearly what is expected of all parties, what is to be provided by them and what is being purchased. You should also be aware that if the sale contract or lease, and not just a small synopsis of it, is to be registered at the land office, it must also be in Thai. You must therefore make sure that all contracts that you agree to are translated exactly into the Thai language and filed at the land office. If they aren't, even if you have contracts that protect you, you won't benefit from these protections.

A client of ours recently fell in love with a piece of land by a lake and wanted to build a dream home there. Before purchasing, however, he asked us to do a title search. The search disclosed that while he could build on the land, to meet the town planning restrictions the house would have to be so small he decided not to go forward. This guy was one of the lucky ones. He discovered this fact before he purchased the land.

This leads us to the next rule.

RULE NO 5

Make sure you do a title search of the land. Many of the title searches we have completed have shown irregularities with ownership. Almost all of these issues can be corrected. If you purchase without correcting them, however, you may not end up with what you think you will be getting. You may, for example, find as a result of the title search that if the mortgage is not released on the property before you pay the seller, you will be obligated to pay off the seller's mortgage even though you have already fully paid him/her for the home.

In Thailand you have a choice about buying property — stick with the rules or do something quickly that you don't understand. If you follow the rules above, you won't need to call 191. ■

James Finch of Chavalit Finch and Partners (finch@chavalitfinchlaw.com) and Nilobon Tangprasit of Siam City Law Offices Ltd (nilobon@siamcitylaw.com)

For more information visit www.chavalitfinchlaw.com.

Comments? Questions? Contact us at the email addresses above.



ILLUSTRATION: NATTAYA SRISAWANG