

Understanding the laws of land

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In recent weeks we have discussed some of the fundamentals of condominium law. Today, we begin a series of articles designed to explain the land classification and title system that provides the foundation for land (and condominium) ownership and leasing.



More specifically, we will consider the different types of land ownership rights, what documents are used to evidence them and at which public offices are they maintained.

But first, a bit of history and some statistics.

Despite years of rapid deforestation, more than 25% of Thailand's land area remains covered by woodland, while more than 30% is defined as agricultural land. According to a recent report by the United States Agency for International Development on Thailand's property rights and resource management, as of the mid-1990s more than 40% of all land was in private hands. The balance was public land, which includes land used by the state, land open to the public, land identified for allocation under land reform plans and forestry land.

All land not in private hands is considered to be owned by the state.

The land administration system was launched in earnest in 1872 when King Chulalongkorn introduced procedures to recognise the private ownership of land. In 1901 a land titles system was introduced that incorporated many attributes of the Torrens system used in Australia, under which the government issues certificates of title on which pertinent ownership details are recorded, eliminating the need for a purchaser to establish ownership by tracing the chain of title to land back to the original grant.

At this time the Department of Lands (DOL) was also established, with a mandate to administer the land ownership system. The Civil and Commercial Code and the Land Code were enacted in 1923 and 1954, respectively, and contain the governing laws relating to land ownership in Thailand.

Under the land administration system established by the DOL, title deeds are issued and administered by its regional and district offices. Phuket, for example, has a regional land office in Phuket Town and smaller offices in other districts on the island.

Most forms of title deed can be issued only after the relevant land parcel has been surveyed and charted on a cadastral map, which shows detailed information about the boundaries of a plot.

In the early days, the lack of survey controls and cadastral maps hampered the DOL's efforts to issue the appropriate titles to landholders. Aerial photography was used as the basis for issuing titles, but the photographs first had to be rectified using of survey data in order to ensure they were true to scale. This was a major problem in the mountainous regions of northern Thailand.

The land registration system established and maintained by the DOL remains a manual system. None of the records are computerised, so they cannot be reviewed remotely.

That said, all of the DOL's records are accessible via the relevant regional or district offices, and copies are often available in the DOL's main office in Bangkok. The result is a relatively efficient system.

A note of caution here. Unlike in many other countries, in Thailand it is not possible to rely completely on the information about land plots recorded at the DOL. Although a title may appear "clean", there have been cases in the past where irregularities have made a title deed susceptible to revocation.

This might happen if a title is issued illegally, or if the plot in question encroaches on forestry land, a national park or mangrove reserve, or public land. We recommend that all buyers seek legal counsel to conduct due diligence on these issues prior to committing to any purchase.

Land title documents in Thailand are incomprehensible without an understanding of the local system of measurement. In Thailand areas of land are usually measured in rai (1,600 square metres), with prices quoted in baht per rai. The subsets of the rai are the ngan (400 sq m) and the talang wah (4 sq m). Put differently, 1 acre is equal to 2.5 rai.

The range of title documents issued by the DOL, and the differences between them, can be bewildering even for the legal professionals.

The title documents issued are: Sor Kor Nung (SK1), Nor Sor Song (NS2), Nor Sor Saam (NS3), Nor Sor 3 Gor (NS3G), Nor Sor 3 Khor (NS3K), Nor Sor 5 (NS5) and Nor Sor 4 Jor (NS4J). The last one is more commonly known as a Chanote.

The land title documents issued by other government departments, such as the Department of Agriculture, include Sor Por Gor 4-01 (SPG4-01), Sor Tor Gor (STG), Por Bor Tor 5 (PBT5), Nor Kor 3 (NK3) and Gor Sor Nor 5 (GSN5).

In upcoming articles we will help you decipher this alphabet soup of title deeds, and will take you on a tour of the DOL office to see what records are held there and why you should care about what's in them.

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