

## LAND TITLE DEEDS: Deciphering the differences

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The array of letters and numbers that comprise the numerous forms of title deeds in Thailand can be bewildering, and the differences between them can be subtle and confusing.



But fear not; help is at hand. Poker serves as a useful analogy: A Nor Sor 4 (or chanote) is the royal flush, and trumps a Nor Sor 3 Gor, which trumps a Nor Sor 3, which trumps a Sor Kor 1. And these trump all else. Clear as mud? Let's take each in turn, beginning this week with the chanote and the lowly Sor Kor 1.

### **Nor Sor 4 (chanote)**

Commonly known as a chanote, this is the strongest form of title deed in Thailand. It is a certificate of title giving the owner full rights of possession to the land, and approximates to freehold rights in many Western countries. For a chanote to be issued, the relevant land must be accurately surveyed with GPS coordinates and staked with its own numbered concrete marker posts. The detailed survey requirements result in fewer chanotes being issued in rural areas, though this is being remedied.

A red garuda (mythical bird-like creature) is stamped on a chanote. The front of the document shows a map of the land area with the marker numbers, size of the land, date of first issuance, name of first registered owner and filing references. On the back transactions such as transfers, mortgages and easements are recorded.

Holders of land with Nor Sor 4 can develop and subdivide as they see fit, subject only to applicable zoning regulations, land subdivision laws and building codes. The land can also be leased or mortgaged. Condominium projects can be developed only on land held under Nor Sor 4.

### **Sor Kor 1**

Sor Kor 1 land title deeds were issued up until 1972, generally to provide rights of use and occupation to farmers. They serve to notify others of these rights to the land, and permit the holder to upgrade the title deed (to a chanote, for example). Sor Kor 1 title deeds cannot be held by foreigners.

Sor Kor 1 lands are not surveyed, but rather the neighboring properties to the north, south, east and west are shown on a rudimentary map, as are the length and width of the land. This has given rise to "flying" Sor Kor 1 title deeds described below, whereby a title deed applicable to one property is used by the deed holder to represent rights in respect of another property with similar characteristics. Lands held pursuant to Sor Kor 1 title deeds cannot be mortgaged, have a lease registered against them, or be subdivided.

A chanote title is by far the most secure type of ownership evidence, but it does not provide an insurance policy against challenges by government officials. Revocation is a possibility, such as in the various examples set out below of Sor Kor 1 being improperly converted to chanotes, and although quite rare, revocation has happened in the past.

Land in Thailand's coastal areas has become very valuable, but it was not always considered so. Over the past two centuries the most fertile properties of land-owning families would generally be passed on to the eldest son.

Younger sons would often end up getting the "sand boxes" \_ "valueless" beach sites where nothing could be grown. In many cases the owners of these coastal land plots applied for a Sor Kor 1 title deed as the first evidence of possession.

These could later be upgraded to chanotes or certain lesser forms of title deeds. Because these owners didn't wish to pay taxes on large tracts of land, they would often understate the size of their plots. In itself this was not always a problem, because in case of an application for an upgrade the owner could claim the real land area, and in many cases officials obligingly issued title documents for the actual, larger area.

Thus, no problem necessarily arises. However, if in the meantime the area is declared as part of a national park, forest reserve, mangrove reserve or other protected area, the situation becomes infinitely more complicated, and this is exactly what happened in the 1960s and 70s. Large areas along Thailand's west coast along with many islands were declared national parks or forest reserves. What this means is that generally the owner of a Sor Kor 1 could not claim a larger area than was designated on the deed. Many did though, and through the ignorance or unethical behavior of officials they sometimes got away with it.

Unprincipled land owners and/or corrupt public officials also cause another, much worse problem.

We are referring to the so-called "flying" Sor Kor 1.

Because Sor Kor 1 are documents with very basic land maps and descriptions, those for less desirable areas would often be used to apply for upgrades to other, more valuable plots within the

same district. The Sor Kor 1 would therefore "fly" like a magic carpet from the less desirable area to the desirable area. The financial benefits can be quite significant, and therefore this problem is not unusual in areas with nice beaches.

Finally, in truly flagrant cases public land has been claimed by private individuals with the assistance of unscrupulous officials. Take for example Koh Samui, where there is more land listed under chanote titles than the officially recorded land area available for private ownership.

Although it is not easy to track down irregularities resulting in the improper granting of land titles, it is often possible to do so with the assistance of a lawyer through a process of historical due diligence conducted on the plot.

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