

Land title deeds: Part 2

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As part of our series on laws relating to condominiums, last week we explained Nor Sor 4s (chanotes) and Sor Kor 1s. This week we will unscramble the letters in the most frequently encountered of the remaining title deeds, with a warning about squatter's rights thrown in.



Nor Sor 3 (NS3)

The NS3, also known as a certificate of use, sets out the title holder's rights to possess and use a designated plot of land. However, the boundaries of the land will not yet have been formally delineated by the land department, meaning that a GPS survey has not been undertaken and the plot is not marked with numbered posts. The result is that there will not be an overall survey of the area that accurately records its boundaries.

NS3 lands can be mortgaged or leased, and can be developed. Like land held under a chanote, lands held pursuant to NS3 title deeds can be sold, but the transfer can be completed only after a 30-day public notice period. During this time neighbouring land owners often emerge and contest the proposed boundaries.

As boundary issues are the real problem with this type of land title, we generally recommend that prospective buyers ask the selling owners to first upgrade the land to chanote in order to ensure that the area stated in the NS3 is accurate. Often, that turns out not to be the case, which then allows potential buyers to renegotiate the purchase price or walk away from the deal.

Squatters rights: It is also important to keep in mind that squatters can acquire rights over NS3 land by occupying it unopposed for one year under Civil and Commercial Code Section 1374. It is not

uncommon for absentee owners to find that squatters have become the new occupiers of their land through what is legally referred to as "adverse possession" and informally known as "squatter's rights". However, even if a chanote exists, squatters can after a period of 10 years apply to the land office for a deed of ownership based on Section 1382 of the Civil and Commercial Code that they have "peacefully and openly possessed the property belonging to another, with the intention to be its owner".

Nor Sor 3 Gor (NS3G)

An NS3G title deed differs from an NS3 insofar as the boundaries of the land to which it applies have been delineated, though not as accurately as with NS4 (chanote) title. This is done through an aerial survey, which means it is also possible to verify adjacent land areas. The survey maps are always done to 1:5000 scale. Land held under an NS3G can be leased, subdivided and mortgaged, and can be sold without the 30-day public notice period required under an NS3. Land under an NS3G cannot lay fallow for more than five years (as opposed to chanote lands, which cannot lay fallow for more than 10 years). If the land is not to be developed within that time frame an alternative is to plant commercial crops to ensure the plot is deemed to have been occupied and used.

Sor Por Gor 4-01 (SPG4-01)

These documents are issued by the Land Reform Committee and refer exclusively to land used for agriculture. They were issued a number of years ago to poor people in Phuket who were occupying land illegally so that they could formalise their rights to stay. Despite the restrictions on the acquisition, use and transfers of these lands, unscrupulous investors were able to get their hands on plots of lands and in some instances upgrade them to SPG4-01. The land "titles" are actually properly surveyed and can be used as security for loans. The intention of the government was to allow squatters to capitalise their rights and support landless farmers.

Por Bor Tor 5 (PBT5)

These merely serve as proof that taxes have been paid in respect to the use of the land. Normally use of the relevant land is recorded only with the local administration office. Permanent structures may not be built on such land and there is no legal right to ownership. We mention this land usage right specifically because, surprisingly, many transactions are concluded whereby a "buyer" purchases the right to use the land in the hope that some day in the future the land will be upgraded to chanote status. In effect, the buyer assumes the obligation to pay taxes.

Local rumours often abound that the government will soon allow the land in such an area to be upgraded, but this is as likely as finding the proverbial pot of gold at the end of the rainbow. Many foreigners have fallen victim to get-rich-quick schemes involving assurances of upgrades in the near future.

Finally, people have even succeeded in building houses on PBT5 land despite the fact that permanent structures cannot legally be built on such land.

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