

Go ask Goldilocks: How Much Should You Know about Real Estate Before Buying?

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The long-haired allegorical wanderer, lost in the forest, takes refuge in the bed of a stranger. She then faces the ultimate retribution from three anthropomorphic Ursidae of the order Carnivora. They are ravenous, on a quest of their own—and she is the object. At the center of her epic adventure is the question: how much is just right?

When you buy a house you should do a background check before you buy. Lawyers, borrowing from the financial services industry, call it “due diligence,” meaning enough looking into dimness of the legal background of real estate so that you’re reasonably sure there aren’t any predators lurking out there. You should get a due diligence report on every piece of real estate you purchase in Thailand before you buy. You’ll see why when we mention the pitfalls of not knowing the right things, below.

But the word “due” in due diligence leads us to the question of not too little or too much, because too little won’t find the dangers in the dark and too much will waste a lot of time and be needlessly expensive. So, how much background check on a residential property in Thailand is just right?

The first thing you’ve got to know is who owns the property. The report should include a copy of the land title, and a translation of it, showing who the owner is. You’d be surprised how often it turns out that the property is being sold by someone else. When you ask about this, there’s usually a story that goes something like this: the nephew is selling it because it is owned by his aunt, an old lady, but she’s crazy and doesn’t want to sell and he’s sure he’s the only heir so he’s doing her a favor because she needs the money to pay the rent on the place where the whole family lives.

Trust us. There are mental competence and inheritance issues in there that’ll burn your tongue. The person selling the property has to be the owner. Period. If there is some other arrangement, for example that the aunt really has been certified mentally incompetent and somebody else is a guardian and has the power to sell, this may be fine, but you shouldn’t be deciding on this yourself. Your people should be talking to somebody else’s people about this. The point is that the report should disclose all of this and the problem should be dealt with before you pay the wrong person and don’t get title.

The report should include a physical inspection of the premises. Have you been promised a lot with a house on it and the lot you’re buying or leasing is really the undeveloped one down the street? Is there someone on the property claiming it adverse to the owner’s interest? Under section 1382 of the Civil and Commercial Code somebody on the spot claiming what lawyers call adverse possession and what everybody else refers to as squatters’ rights can get title away from the original owner after as little as ten years. You want to make sure this problem isn’t, well, hidden under the sheets somewhere before you doze off.

Another important factor is access. The report should show that the property you want to buy has direct access to a road. If it’s in a development the road need not be a public one, but the report should tell you if there are problems with access.

Speaking of access, there’s something else. You have to be able to get electrical power,

water and telephone service from somewhere. If these are supposed to come across somebody else's land, and there is some legal problem with this, the report should say so. And now that we're on the subject of services, where do the effluents go? Is there sewer access, or a septic system? Is the septic system legal? Better check the report.

Wait a minute, you say. I'm in love with the house, the price is right and if I wait until I have all this information somebody else may have snapped it up. That's what a reservation sheet is for. With a small deposit you can usually reserve a lot or a house, or whatever you're buying. Just make sure you write in, and the seller understands, that your deposit must be returned if the property report turns up something that can't be fixed. We usually write something like "Deposit will be returned if land title report not favorable," or something similar on the reservation form. If the seller doesn't speak English well, this should be explained to him or her in Thai by the estate agent or your representative.

Back to what should be in the report on your property. Is the lot the same as that described on the title deed? This should be checked at the land office (the government office where land titles and other such documents are filed) and mentioned in the report.

If there is a house to be built or being built on the property, there should be a construction permit. Although law requires these permits to be issued before construction begins, the practice is that most building is started before the builders get them. If there is a building permit, though, the name of the person in whose name the building permit is issued should be mentioned in the report. The person named on the building permit is not conclusively considered the owner of the house, but many consider it prudent to have this permit switched to the name of the buyer. This may not be possible prior to the sale, however, if all the documentation necessary to the to transfer of the permit is not yet in place.

The report should also disclose the assessed prices for the land and house, if any. While the taxes and how they work on purchase and lease of real property go way beyond the forest we're presently wandering, knowing these is the first step to calculating taxes and tax planning, the subject of a future article.

Zoning, or town planning as it is called in Thailand, is an important factor. Is the lot you're buying in a zoned area? If so does the planning category of the area allow for improvement, i.e. a house on the lot? The report should tell you this.

Expropriation. Don't forget it. The report should tell you whether your land has been or will be taken by the government for some reason. In particular, municipalities plan roads all over Thailand. Though these may not be built immediately, you don't want to buy property through which an as-yet-unbuilt road passes.

In this deep forest that is life, when confronted with emergencies it is always better to have foreseen them, or known about them beforehand and taken another path. This is why the property report makes sense.

It's unbelievable. We often see people shopping for an item of clothing costing, say, a thousand baht. And what do they do? They try it on—three times. They go over the seams. They compare it to other, similar garments. They go home and think about it overnight and bring back their spouses and mother in to see how it looks on them—too tight, too loose, or what?

How about when the same people go to buy a house costing, say ten or twelve or even twenty million baht? They like the view, the marble on the countertops and boom, they sign the contract.

What's wrong with this picture?

You already know the answer. When buying real estate, get a title report that covers the points above—and know your way home.

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