

Gimme Shelter!

What you should know about Condominiums in Thailand

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The concept of condominium was coined in Roman times and was recognized as a concept of ownership of property ownership in France's 1804 Napoleonic Code. It is now used widely throughout the world, known as strata title in Australia and British Columbia and syndicates of co-ownership in Quebec. The equivalent concept, introduced in England and Wales in 2004, and still in its infancy, is commonhold.

It seems that everybody's moving into a condo, these days? But what is a condo, anyway? Strictly speaking, a condominium is a group of individual housing units along with the land on which they're situated. A legal declaration, establishing the condominium, provides that the individual owners have title only to the insides of the units. The outside of the units and the land the building or buildings are on, including common areas such as halls, lifts, walkways and swimming pools, are regarded as jointly owned by all condo unit owners. This ownership is in the proportion each condo's individual price bore to the total price of all units in the condominium at the time the condominium was registered with the land authority. The owners of the units must pay for all expenses of the common areas in these proportions.

In Thailand, when one says "condo," what is understood is a single apartment-style building, but there are other forms for this, such as low-rise townhouses.

The advantages of condominium ownership are that an association of owners can create restrictions on all of the housing units in the condominium. Thus, for example, the association could ban painting the outside of one's condo in outrageous colors, or loud music, or vicious pets, or whatever. Also, for a reasonable fee from each of the owners, the association or its manager does all the maintenance and repairs on the place—gardening, pest control, fixing that leaky roof or the burst pipe—all the stuff that makes home ownership a burden.

What makes consumer trends in Asia? One could write a Ph.D thesis on the deep-seated similarities between them. Be it golf, karaoke or manga, it's not that it doesn't exist elsewhere, but that Asians have changed the particular concept to fit their cultures, and vice versa. So it goes in Thailand with the condominium, which is a creature of the Thai legal system—specifically, the Condominium Act, B.E. 2522 (1979) as amended by the Condominium Act (No. 3) B.E. 2542 (1999) with a vocabulary all its own. For example, in Thailand the condominium company formed for the benefit of the individual owners is called the condominium juristic person. Unlike other housing in Thailand, condominiums, especially the initial sale of them, are quite highly regulated.

The most notable difference for foreigners between condominium ownership and other forms of housing in Thailand is the fact that foreigners may own freehold, i.e. forever. To do this, the seller of a condo unit must inform the land office that the foreign buyer's portion of the individually owned-floor space in the condominium added to that of already-existing foreign-owned units in the same condominium will mean that less than 49% of this space is owned by foreigners. The seller must back this statement up with documentation. When this is accepted by the land office, the foreign buyer may take a freehold interest, just as would a Thai.

How do you buy a condo? Because they're so popular among Thais, you may well be looking at either a presale, which is to say one not yet built, or an old one, approaching 20 years.

First, a little consumerism. Always look at least three competing projects and compare the maintenance fees and what these fees cover. Is there some kind of sinking fund that has been built up to provide for capital expenditures in the future? If not,

and you buy in now, you are paying for the use by others of the machinery and equipment used up by fellow owners in the past.

Especially if there isn't a sinking fund, you may want to have an experienced contractor, civil engineer or architect you hire give you a report on the place. Remember, the useful life of a residential high-rise building is forty or fifty years. If you're buying in after twenty years you should know how the building's structure is holding up. Are there major moving parts, such as lifts, water and electrical equipment that need to be replaced? What will all of this cost, and what will be the impact of this on the maintenance fees?

I've said the following before in other contexts. But it's true. Don't be shy. The best way to find out about how a condominium is run is to hang around there for a while. Go up to people in the lobby. Tell them you're thinking of buying and ask them what you should know. People are incredibly glad to talk and forthright about these things, and everybody who lives in a place knows the dirt about it. If there don't seem to be foreigners around, take a Thai speaker with you. In particular, what you want to know is whether the manager—the individual or company the condominium juristic person has hired to run the place—effective and responsive to the needs of the individual owners. In the same vein, never underestimate the knowledge of the estate agent who is taking you around; they know a lot. If you take the trouble to get to know this person, you will be surprised how much information you will get from him or her. Once you get to know them they're delighted to compare projects for you in a very frank way, particularly if you let it be known that you will not share their comments with the rest of the world.

Next put in some real time inside the unit you want to buy. Spend the night there if the owner will let you. Try everything—the oven, the air conditioners (especially), the shower, the hot water, everything. We are willing to bet you that practically every moving part in a twenty-year-old condo needs replacing. For example, our offices are in a twenty-year-old attached townhouse complex in a nice part of Hua Hin. When we moved in, everything looked fine, and the rent was in the basement. Since we've been operating, however, we've replaced nearly everything that could be replaced, and anything that hasn't been yet will be replaced soon.

If you know specifics when you negotiate the price you can get the owner to reduce it to accommodate some

things you will need to replace. If you discover these after you've signed on the dotted line, forget it.

The same goes for furniture, if you're buying the place furnished. After twenty years of use it is junk, and you may be better off having the owner cart it out than include it in the price. You may, moreover, be able to negotiate a little reduction to accommodate replacement, and new furniture is not expensive in Thailand.

On to legal matters. The title report should tell you what fees for the condominium are overdue. Examples of these are water pump and tap water fees, past electricity fees common area fees. Since these are the responsibility of the owner, if you take the condo without your predecessor having paid them, they are your responsibility. As alluded to above, you may be responsible at the time you buy for a sinking or reserve fund and security money for electric and/or water meter. In addition to the above, the title report should confirm that the condo was built pursuant to a valid construction permit, when the construction was completed and that the zoning does or did not, at the time the building was constructed, prohibit the construction. The land on which the building sits should not be subject to expropriation, for example, a planned municipal road.

As to your contract, it should be registered at the land office after the condominium juristic person certifies, as discussed above, that you can own as a freehold interest. The contract should provide a time limit such as 45 days within which this should be done. Make sure if you are supposed to pay over time that if the contract is terminated you don't lose everything, but get back what you've put down, less damages. If there is a mortgage on the unit the seller should agree to pay it off before it is transferred to you. There should be a provision that if the seller changes his or her mind that your money will be returned plus a penalty.

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