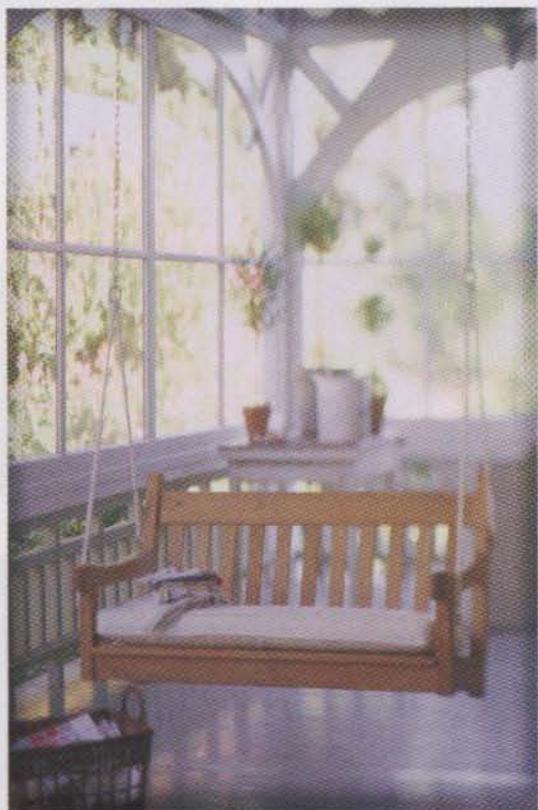




To Buy or Not to Buy:

Issues to Consider When Buying a House in Thailand

by Nilobon Tangprasit
Natthawut Ayuwan and
James Finch of
Chavalit Finch & Partners, Ltd.



Visitors to Thailand are impressed with the smiles of the people and views from their hotels. Living here seems like an impossible dream-waking up to the sound of the surf lapping against the shore or listening to birds singing in the trees next to your bedroom. Then one day the visitor enters a real estate office and the dream slowly becomes reality. The visitor looks at some gorgeous places and imagines a great future living in them. But in the end he or she has to ask the important question: "Do I buy?"

Below is a list of topics to consider when you need to make that decision. Of course you need a support team to aid in your decision. The real estate broker can answer questions, a lawyer can provide legal advice, and a building consultant can also convey vital knowledge to the decision, but first you need to ask the right questions. Here are topics crucial to your decision.

- Take time to meet your

prospective neighbours. Return to the development as often as you can and ask them if they have been happy living there. Did the developer meet his/her contractual obligations? Was the house completed on time? Were the warranties fulfilled? Were problems corrected in a timely manner? Were general amenities for the development completed? No home is problem free, but it is important that you feel confident that problems will be rectified.

Additionally you may want to find out how the development is being run after the homes are completed. Is there a homeowners association? What are the costs involved and how active is the group? You will want to see a copy of the homeowners' rules and regulations. Here's an example. A lady we know has a large poodle and wanted to build a fence in the back of her home for her dog. She discovered that the homeowners association had a rule that owners could not build such a fence and even after

she petitioned for an exception to the rule, her request was denied. Rules and regulations can cover all types of topics from whether you can have swings for children in your front yard, to preventing owners from owning pets or allowing children in the development. It is important to obtain a copy of the rules, before you buy.

- When you feel comfortable with a development you should ask for a copy of their form contracts to study. In Thailand today, for most homes there will be two contracts. One will be either a home construction contract or a contract for an existing home. Secondly there will be a contract for the lease of the land. As you review the contracts you should make sure that you are comfortable with the provisions. Do you believe they are fair and objective? If you have questions does the developer answer them completely and is the developer willing to address areas of the contract that may seem unfair?

- Are materials specifically listed in the contract or as part of an annex to the contract? When you visit a development, a buyer is frequently told there will be hardwood floors or terracotta tiles will be used in the kitchen. You should make sure specific materials are documented in the contract.

- Are specific dimensions of the rooms documented or are design drawings included in the contracts, or as annexes? Once again it is important to have specifics of the development detailed in the contracts for future reference if problems arise. Additionally, any special changes in the house should be noted in the contract or



a variation order. If you desire a larger swimming pool, or specific kitchen appliances that the developer has promised to install for free as part of price of the home, for example, make sure these are mentioned in the contract.

- What type of warranty is provided by the builder? You need to know what items are covered by warranty and the period of time the warranty covers. Some items like appliances may only be covered by the manufacturer's warranty. You need to know who will cover problems with the pool, roof, driveway, etc. Does the developer take responsibility for these areas or does he believe it is the responsibility of his sub-contractors to provide the warranty? If that is the case you may find that you have to track down numerous parties in the event of problems.

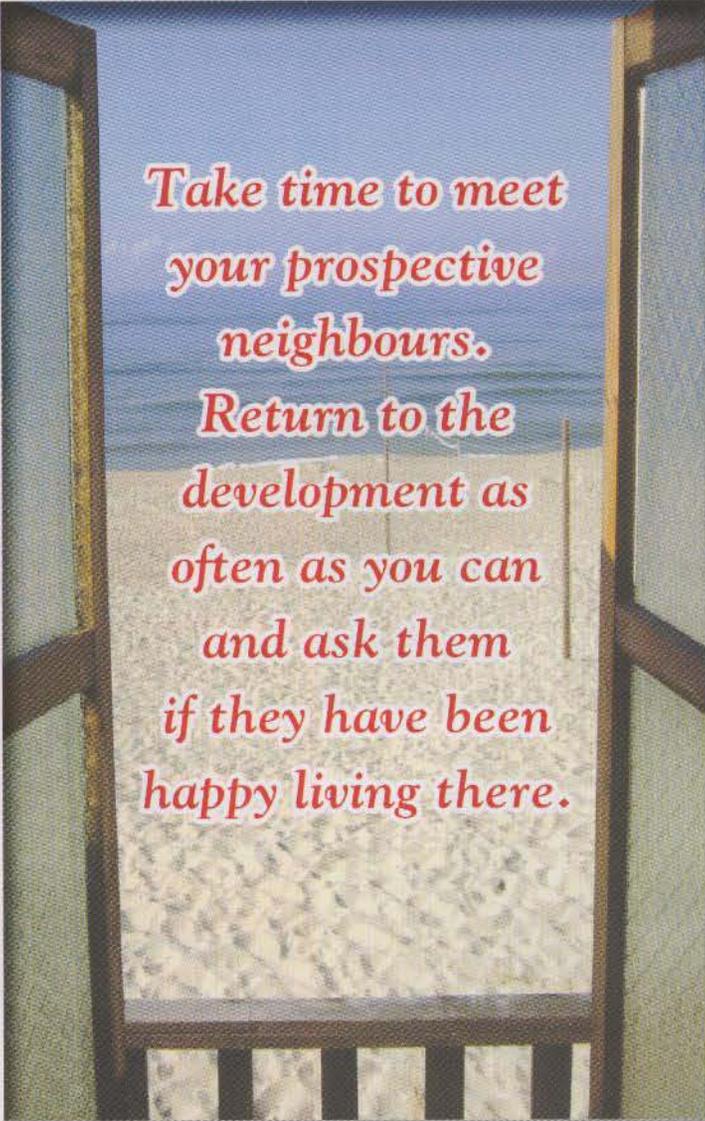
- What penalties are discussed in the contract? This issue can impact the buyer in two ways. First, there may be penalties for the buyer if he/she fails to pay in a timely fashion and second, what penalties will the developer pay if the house isn't delivered on time. Do the penalties seem fair?

- If the contract is for a lease, does it have a provision for the death of the tenant? Under Thai law, if a tenant dies the lease will revert back to the landlord. It is important to have a provision in the lease that notes that both landlord and tenant agree that if the tenant dies the lease will be inherited by the tenant's heirs.

- F) An additional question for a lease contract is whether there is a provision in the lease for future sale to a Thai national. If you want to sell you home to a Thai national you will need a provision in the contract that states the landlord will switch the lease to a freehold interest. This will ensure you have the ability to sell your property to whomever is interested in purchasing it.

- One further area that you should check in the contract that there is an arbitration clause in the contract. An arbitration clause enables you to resolve a dispute regarding your purchase quickly and without having to go to court.

Now that the contract meets your concerns it is time set your sights on other areas including title issues, post construction evaluation and land use issues. Next month we will tackle those areas. Fornow, good hunting. There are some great dreams out there waiting to be realized.



*Take time to meet
your prospective
neighbours.
Return to the
development as
often as you can
and ask them
if they have been
happy living there.*

Chavalit Finch & Partners, Ltd. are lawyers specializing in real estate and business transactions. They can be contacted by email at finch@chavalitfinchlaw.com, on the web at www.chavalitfinchlaw.com or by telephone at 032 522237, 032 522273

Their offices are located at 19/51 Hua Hin Soi 19, (Wat Klaikangwon), Petch Kasem Road, Hua Hin, Prachuab Kirikhan 77110, Thailand.