



To Buy or Not to Buy:

Issues to Consider When Buying a House in Thailand

Part II

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"Trust in the Lord, but tie your camel."

—ancient saying

Most psychologists list four or five events in our lives as being the most stressful. They include getting married, having a baby, divorce or a death in the family. One topic that is always mentioned is buying a home. While it is an exciting time and full of dreams and promise, it also requires major decisions involving money and one's future.

In Part I we covered a few ways to make the home buying decision less stressful. For those of you who have not had the opportunity to read it, here is a short summary of the main topics.

A. Do your homework and ask neighbors, real estate brokers and local residents about the development you are considering.

B. Investigate whether your development has a homeowners' organization. Learn about the costs, rules

and regulations that this organization has established.

C. Obtain copies of the contracts. Usually there are two, a house construction or sale agreement and a lease of the land.

D. Have someone review the contracts and help negotiate changes in connection with the following issues:

1. Are the provisions in the contracts generally fair?

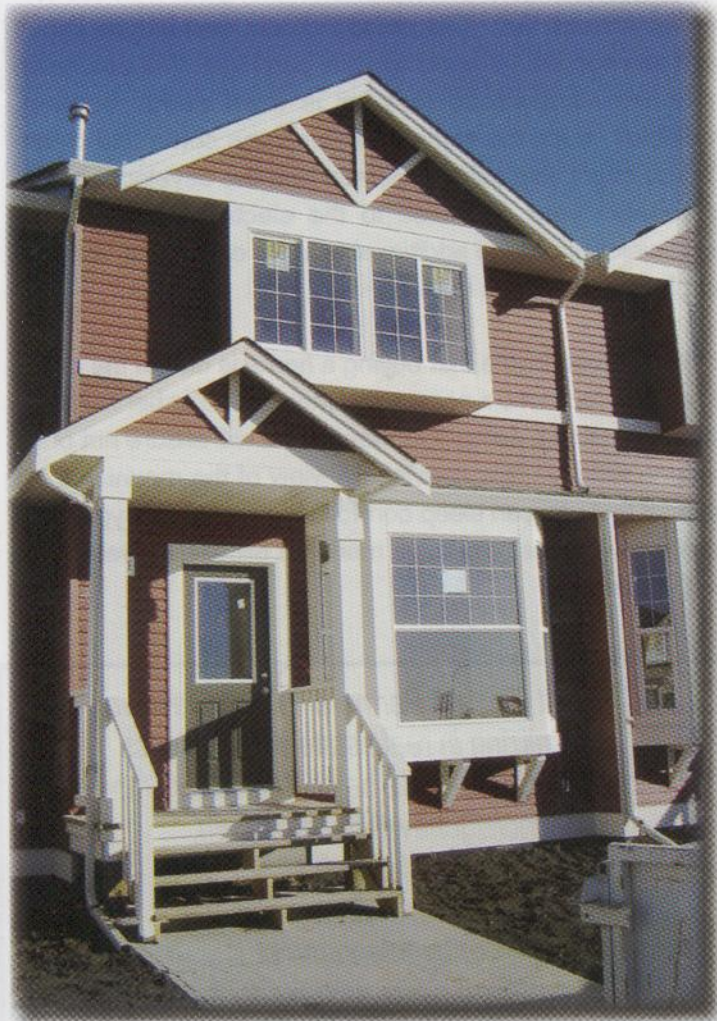
2. If the house is to be constructed in stages, are the stages realistic?

3. Are penalties mentioned if problems occur and are they reasonable?

4. If you don't make a payment, do you lose everything or is there a reasonable penalty?

5. Does the lease have a provision covering your death and who will inherit the lease? If not Thai law states that the lease will revert back to the landlord.

6. Does the lease allow you to sell to a Thai buyer in the future? This would require the landlord to convey it in freehold to the Thai buyer.



7. Are materials to be used in the construction listed in the contract or as an annex?
8. Who will cover the warranties of the construction and appliances?
9. Who will be responsible for the taxes on the sale of the house and the lease?
10. Is there an arbitration clause to help negotiate a settlement when considers arise?

Having done your homework, it is now time to move closer towards purchase. One necessary step is a title search. You should make sure the person from whom you are purchasing the land, home or condo from is in fact the person whose name is listed on the title. Many times the people who sign contracts of sale are not the owners. Sometimes the person signing is a relative and the sellers plan to sort the issue out informally at the land office, but you must insist that the person noted as owner on the land title deed is the party who conveys to you. We have rarely seen a problem like this that can't be rectified, but you want to do this before paying for home or land. A well done title search will list the title deed number and owner's name listed at the land office. The title will also list the area of the land, and whether there is a mortgage on the land.

Determining whether there is a mortgage or not is important to your purchase. If there is a mortgage, you should make sure there is a provision in your contract that states that the owner must lift the mortgagee before the land or home is transferred. If not, the lender will not allow the real estate to be transferred to you.

Additionally a title report should make sure there are no attachments or encumbrances on the land and that the town planning (we often call it "zoning") allows whatever you want on the land to be built there.

If you are buying a house you need to know if a construction permit has been issued to build it and in whose name the construction permit has been issued. One legal issue in this regard is if someone builds or puts on an addition without a construction permit there are penalties under Thai law. You want to make sure any such problem has been addressed to your satisfaction under Thai law before you take title.

Finally you might want to hire a consultant builder, engineer or architect to help evaluate the home or condo. In the west no home is sold without a home inspection. Usually the buyer hires a company to inspect all aspects of the home. A report is usually written by the inspector and given to the buyer. The buyer then has a clear understanding of any problems in the home. A physical inspec-



tion includes plumbing issues, structural integrity of the structure, electrical problems and concerns such as water damage or mold.

Building inspectors as a formal profession are few and far between in rural Thailand. You can, however, ask a knowledgeable builder or architect to inspect a house for you for a small fee. This person should also let you know what sewage issues apply to your purchase. Will you have to construct a septic tank or is town sewer hookup available? If it's the septic tank, who can come and clean it? You might also ask this person how the developer plans to connect your purchase to the electrical grid. Will the developer charge additional fees for electric, or will you simply pay municipal rates?

Most experts note that buying a home is one of the most important decisions a person can make in his or her lifetime. As with anything, doing your homework will ensure not only that you will love that spectacular view of the mountains or sea, but that you can sleep comfortably every night you are here, knowing that you have made an excellent investment for the future.

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