



Expatriate Counsel

By James Finch and Nilobon Tangprasit

CRIMINAL LAW IN THAILAND Part LVII: Beware of scams IV — Are they who they say they are?

A couple of weeks ago, a polite young man appeared in our office in Hua Hin. He identified himself as the nephew of the landlord. He said the rent had not been paid for the present month. He added that he knew that this was an oversight and it would all be forgotten if we paid him then and there in cash, against a receipt, of course.

This seemed odd to our office manager, because the rent is automatically paid monthly by our office in Bangkok. She told him to come back at another time. He hasn't showed up again, and, of course, it turned out that the rent had been paid by our office in Bangkok, as usual. We haven't even bothered asking our landlord if he sent his nephew to collect the rent. We know the answer.

Let's say we had believed the young man and paid him. Could we then refuse to pay our landlord, saying we'd already paid in good faith or something similar?

No. Our landlord could legally force us to pay him, too, because the lease provides that we must pay him, and he didn't authorise someone else to collect on his behalf. If we had paid the "nephew", this would be a crime for which he could be punished if he were caught. But the financial loss would have been ours, and we would have been legally obligated to pay a second time, to our real landlord.

But the point of the story is that you always have to know with whom you're dealing. If you don't, delay, find out and verify.

Here's a shocker. A foreign acquaintance of ours was selling a car. A couple responded to his newspaper advertisement and came over to look at the car. They said they were strongly considering buying it but wanted a test drive. He let them drive off in it.

The couple then took the car to a money lender. The money lender's story is that the couple said they owned the car, needed money and he gave them a loan, which was secured by the car.

Of course, the couple disappeared and our client reported the car as stolen. It was found a few days later with the money lender, who claimed also to have been fooled. He did, he said, lend the money and the car was his. Eventually the money lender just took the car in settlement of the loan and our acquaintance left the country. He'd had a terrible time in Thailand and this was just the crowning event.

In fact, we heard this story about our acquaintance through a third party.

We think, if he'd had a lawyer, he could have recovered the car and here's how. Under Section 17/1 of the Land Transport Act BE 2522 (1978), it is presumed that those with names on the car registration are the rightful owners of the car. Although the act allows a car to be delivered to a lender as collateral for a loan, the lender would be responsible to check the registration to make sure the car was owned by the borrowers. Under general principles of law, if the lender did not check the ownership, he or she would run the risk of having to return the car to the owner if the car had been stolen.

But it's too late for our acquaintance. He accepted the scam and went home.

The specific moral of this story is that if you're selling a car, and somebody wants to test drive it, fine. But you have to be in the back seat when they do.

The general one is stand up for your rights. If you've been scammed, don't be ashamed. Try to get help. ■

James Finch of Chavalit Finch and Partners

(finch@chavalitfinchlaw.com) and

Nilobon Tangprasit of Siam City Law Offices Ltd

(nilobon@siamcitylaw.com).

Researchers: Sutatip Raktiprakorn and Sitra Horsinchai.

For more information visit www.chavalitfinchlaw.com.

Questions? Contact us at the email addresses above.

