



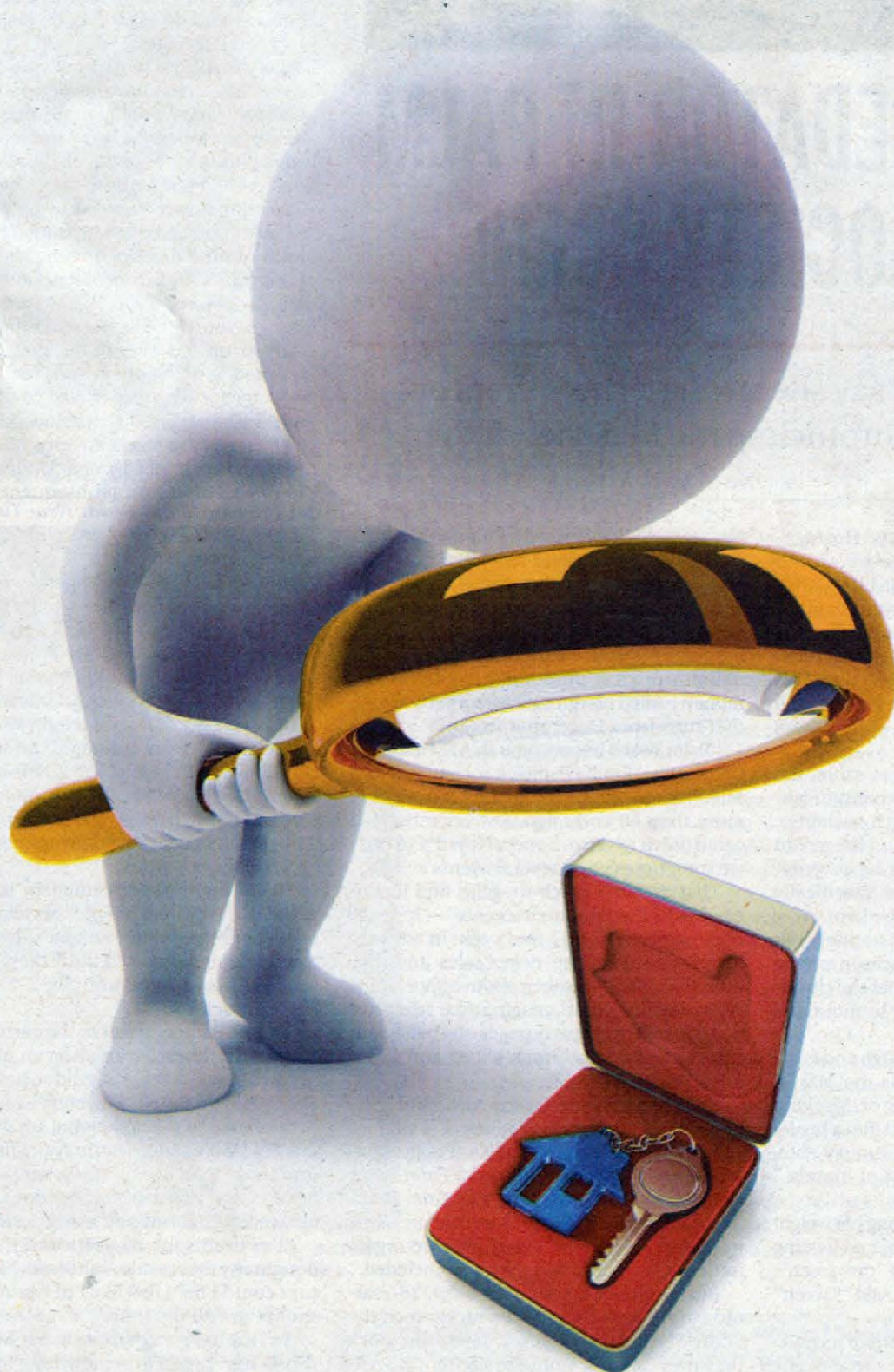
Expat Counsel

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# PROPERTY IN THAILAND

## Part 30

### Who owns your home?



There are many foreigners who have bought homes in Thailand with serious defects in title or ownership. Many first-time home buyers in Thailand, moreover, let the developer or seller complete all of the documentation and filing of the ownership documents without consulting someone who understands what must be done to protect the buyer's interests. And they sign documents that are in Thai, even though they can't read it.

An important issue is whether the home is in your name. If you are living in a condo, you should find out whether it is in your name and if you own it on a freehold basis.

If you have a house, you should first find out if the house is in your name, even if somebody else owns the land or the land is leased to you. Foreigners can own houses, even if the houses are on land they don't own. This is important because most of the value of your home purchase is in the house, not the land, and you should control the house.

How can you find out whether you own the house? Any lawyer can do a search and tell you. If it's not registered in your name, and you bought it from someone, you should take steps to have it registered in your name.

The registration is done by giving an official 30 days notice along with filing copies of the building permit, the certificate of completion, the blue or yellow book and other documentation.

Some land offices don't, as a matter of practice, allow foreigners to register houses in their names using the 30 day notice procedure. As a matter of present practice, though not law, there is another way title to the house may be considered to be in a foreigner's name. If, when the house is constructed, the building permit and the application for the blue book (*tor ror 900*) are in a foreigner's name property lawyers consider the title to be in the name of the foreigner.

Who controls the land on which your house sits? This may surprise you. The answer lies at the land office, not necessarily in documents you may have signed.

As we've discussed in earlier columns, all ownership of land must be registered at the government land office with jurisdiction over the area where the house is. Likewise, all leases longer than three years are not enforceable beyond three years unless they are registered at the land office.

Many foreigners we meet produce elaborate leases, corporate documents and deeds that they think protect their home ownership. Often when we check, nothing has been filed at the land office and they have no lease at all. What this means is that the real owner of record at the land office can sell the home to someone else. If this real owner dies, his or her heirs will take the home, not the foreigner.

If your long lease has not been filed at the land office, it should be, right away.

Numerous foreigners, for convenience, put land in the names of Thai spouses or friends. If the relationships don't work out the foreigners lose everything. This can be protected against by having the Thai party long lease the property back to the foreigner.

Alternatively, in the case the Thai party is your spouse, you can use a vehicle of Thai law called a right of usufruct, which gives something like a life estate to you. There are other ways, as well.

If your land is owned by someone else, even though that someone has held it for some time, you should protect your interests in it now, by asking that person to give you a lease or usufruct or other form of protection. ■

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