

PROPERTY IN THAILAND Part 31 Your long lease _ is it registered?

If you already own a home in Thailand things may appear to be fine. But in Thailand problems of law and home ownership may be out there _ even if you think the coast is clear.



This week we'll discuss an important issue about your home in Thailand. Is your long lease really registered at the land office? Some foreigners are confused about this. Then, long after they have signed the lease and forgotten about the whole thing they discover that they have only a fraction of the protection they thought they negotiated with the person who sold them the home.

It can happen as follows. Often the seller and the foreign buyer sign an elaborate long lease in English that contains protections for the buyer. It may be that the foreigner has requested several provisions in the lease that give him or her a sense of confidence in the transaction.

The lease is signed and the money changes hands.

A tenant in a long lease might request protections like these: If the laws of Thailand change and allow foreigners to own land freehold (forever or for life), the landlord agrees to convey it to the tenant in freehold.

If the landlord is in default, for example by not providing certain services, the landlord must pay damages.

If the tenant wants to sublet or assign the lease, the landlord must allow this.

If the tenant dies, the lease will pass to his or her heirs.

But what happens then? Quite often this lease the parties have negotiated doesn't get filed at the land office. Instead all that is filed is a short notation of the lease and the names of the landlord and tenant in the file relating to the land.

Such a notation will have none of the protections for the tenant contained in what was signed between the parties. In fact, it may contain limitations on the tenant's enjoyment of the property that contradict what is in the lease the parties signed.

What happens to the lease that the parties negotiated and signed? Under Thai law, unless a lease has been filed at the proper land office, it is invalid after three years. This means that if the lease is for 30 years, the protections in the signed agreement will not last beyond three years.

If your lease is in English or another foreign language only, it cannot have been filed at a Thai land office. A translation of it in Thai can be filed, and a lease in both English and Thai in alternating translated paragraphs can be filed at a Thai land office, too. But if it was never translated into Thai, you can be sure it was never filed.

How do you find out if your lease was properly filed? Most lawyers can check this with the land office that has jurisdiction over the relevant area.

If the lease you signed was never filed at the land office, you should ask the landlord to cooperate in having it filed immediately. This can be done by having it translated into Thai, if this hasn't been done already. You and the landlord can then file it at the land office. Neither of you has to go in person. You can give power of attorney to someone else to do this.

Of course, the land office fees on the lease will have to be paid. If an agreement hasn't been reached on this, you can bet that your landlord will expect you to pay them. We've covered the amounts in recent columns. But the cost is worth it, considering the fact that without a lease you may have no claim to stay in the place at all, despite the fact that you may have paid for it.

Now that you understand what can happen, you also know why we recommend that the "someone else" mentioned above be a person who can explain to you what's being done and who fully understands how to protect your interests.

As with issues discussed earlier, the solution to the problem of the unfiled lease is quite simple and cheap. But the best thing to do is make sure the problem is solved at the time you lease the home _ not afterwards.
