



Expat Counsel

AVOIDING PROPERTY EMERGENCIES

Many of you may have seen a popular US television show called *Nanny 911*, a reality show that follows parents who can't control their children. Things are so bad they enlist the help of a nanny who enters the home, provides some tough love, behaviour modification and establishes some rules for the family to follow. After a few days the family learns how to function in a realistic way and the nanny leaves.

Recently we've been contacted by a number of clients who have encountered property problems. Some involve misrepresentations by sellers or miscommunications between the parties. Other times buyers have failed to follow the basic rules of property purchases.

Because of some of the problems that have come up lately it has become apparent to us that some simple rules need to be conveyed to anyone considering purchasing property. So they don't need to call 911.

Here's an example of where our property 191 rules could have been used. We were recently in a restaurant and overheard a conversation at the next table between an estate agent and a client. The agent — a young woman — was attempting to explain that under Thai law foreigners are unable to take direct title to land. The client, a much older man and a foreigner, didn't want to listen to the advice being offered and felt he already knew all the facts he needed to know.

The reality that there are very specific Thai laws governing the ownership of land was not of interest to the man in the restaurant. Somebody had told him the law allowed foreigners to take title to up to one rai (1,600 square metres) of land in Thailand. He was even berating her for not being more "creative". Wait till he gives his money to that somebody and then finds out, too late, that in his case she was probably right.

Interestingly, misconceptions about Thai property law and practice often contain nuggets of truth. The case above is no exception. If you walk into any bar in Thailand where there are regular foreigners and ask about ownership of property, somebody will tell you that any foreigner has the legal right to own a rai of land.

In fact, Section 96 bis of the Land Code does provide for foreigners to own up to one rai of land, but it has to be approved by the Minister of the Interior in conjunction with an investment in Thailand of not less than 40 million baht in, a) certain Thai government bonds, b) some kinds of mutual funds traded on the Thai Securities and Stock Exchange, or c) a Board of Investment approved project.

The land must also be in a residential area such as Bangkok, Pattaya, or a municipality or a zone declared to be residential. In any event, owning land isn't possible for just any foreigner who wants to buy land — it is a complicated process.

In light of all the misconceptions, we've

come up with a few simple rules to keep them from having to call property 911. Here are some of them.

- Rule No 1: Research all laws governing the purchase and ownership of land, homes and condos in Thailand.
- Rule No 2: Do not base your decisions solely on friendly advice from friends, home owners, estate agents or developers. Often friends and acquaintances are misinformed or are basing information on old laws.
- Rule No 3: Find out everything about the location, the developer, the development and the home you will buy. It is crucial you do this *before* you put any money down.

More of the rules for avoiding disasters next time. ■

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