Global Corporate Real Estate Guide - Thailand

Real Estate Law

| Contents |
| --- |
| To generate table of contents, right-click here and select **Update Field.** |

# What is included in the term “real estate”?

The term “real estate” includes the following:

Land

Things fixed permanently to land, such as building, perennial plant and bridge

Things formed with land, such as soil, sand and stone

Real rights connected with land or things fixed to or forming a body with land

# What laws govern real estate transactions?

Mostly, real estate transactions are governed by the Civil and Commercial Code and the Land Code.

# What is the land registration system?

All provinces maintain a public land titles registration system where ownership can be verified and through which interests in land are registered.

# Which authority manages the registration of titles?

Title registration is managed by the Department of Lands, Ministry of the Interior.

# What rights over real property are required to be registered?

Transfers

Mortgages

Easements (servitudes)

Lease with a duration of more than three years or for the lifetime of the landlord or the tenant

Right of habitation

Right of superficies

Right of usufruct

Charge on real property

# What documents can landowners use to prove ownership over real property?

Land ownership may be proven using land title deeds.

# Can a title search be conducted online?

Electronic title searches are not available.

# Can foreigners own real property? Are there nationality restrictions on land ownership?

Generally, foreign individuals and legal entities deemed as being foreign are prohibited from owning land. However, the Land Code provides an exception in cases where the provisions of a treaty give foreigners the right to own real property (currently, Thailand is not a party to such treaty). There are exceptions under other laws. For example, land situated in an industrial estate (set up in accordance with the law on industrial estates) can be owned by a foreign operator. Moreover, a foreign investor of certain types of projects can apply for a promotion certificate under the investment promotion law, and following the receipt of such certificate, apply for ownership of land to be used for the promoted project.

There is no prohibition for foreigners from owning buildings. However, for condominium buildings, several foreigners holding ownership in condominium units altogether must not exceed 49% of the total area of the condominium units in the said condominium building.

# Can the government expropriate real property?

Real property can be expropriated by the government, but appropriate compensation must be paid.

# How can real estate be held?

Generally, an interest is held by any of the following means:

Freehold

Leasehold

# What are the usual structures used in investing in real estate?

A corporation is the usual structure used in investing in real estate. Investment through a real estate investment trust (REIT) is also feasible.

# How are real estate transactions usually funded?

Most real estate financing is arranged through banks. Interest rates can be fixed or variable but usually does not exceed 15% per year. Real estate is usually required to be mortgaged with the bank.

# Who usually produces the documentation in real estate transactions?

Generally, real estate transactions require official forms to be filled out at the land registry office. For preparation of the relevant documentation, it shall depend upon what the parties mutually agree.

# Can an owner or occupier inherit liability for matters relating to the real estate even if they occurred before the real estate was bought or occupied?

If the property is a point source of pollution, causing or is the source of leaks or contamination that cause death, bodily harm or health injury to any person, or has caused damage in any manner to the property of any private person or of the state, the owner or the occupier of the property is strictly liable to pay compensation or damages, regardless of whether such leakage or contamination is the result of a willful or negligent act of the owner or occupier thereof.

# Does a seller or occupier retain any liabilities relating to the real estate after they have disposed of it?

A seller and occupier can retain liabilities relating to the real estate even after they have disposed of it. Any contamination caused by the seller or occupier shall result in liabilities for such persons.

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