



HOW TO PURCHASE



The information for foreign purchasers

Buying a condominium is possibly the best investment possible for a foreigner in Thailand, as you can own it outright. But before you buy, make sure you understand exactly how to go about it.

The Thai government has recently changed the rules governing condominium ownership. Previously, foreigners were only allowed to buy up to 40% stake in any condo building. This was recently increased to 49%. This means that more condo units are now available on the market.

How can a foreigner own a Condominium in Thailand

A foreigner can own freehold a condominium in Thailand because a condominium's title deed (Chanode) does not have any land registered to or associated with the condominium. The land is owned by a Juristic Persons Group (Association) registered with the Thai Government and made up of a majority of Thai citizens. Buying a condominium is perhaps the simplest and easiest option available to foreigners. The only restrictions on purchasing a condominium are that the percentage of units sold to foreigners cannot exceed forty nine percent (49%) of the total number of units in the condominium block. If you really want to buy a unit in a building that already reaches the 49% ratio, you can still buy if you open a Thai company (ownership 49% foreign + 51% Thai). A foreigner may also own a condominium with a leasehold agreement. In this case, the property remains in the Thai owner's name, but you sign a 30, 60, or 90 year leasehold agreement, with all the legal obligations and benefits that this offers, including the right to buy, sell, trade and will the lease to heirs. Lawyers can help set up all the correct legal procedures and paperwork needed for this type of purchase. Purchases of condominiums by foreign individuals come under the jurisdiction of the CONDOMINIUM ACT (No. 3) B.E. 2542 (1999).



The Differences between Lease-hold and Free-hold property

Leasehold means that the buyer is only leasing the property from the land owner for a pre-determined period of time normally valid up to 30 years. Renewal for a further 30 years only is at the discretion of the lease holder (land owner). At the end of each term, both parties must register the renewal with the Land Department and pay government fees, including stamp duty. This gives the lessee "ownership" of the land. The downside is that the lessor may not wish to renew or the law may change to your detriment in the future.

Any capital you invest into leased property is therefore liable to be lost. Property owned by the Crown Property Bureau is always Leasehold. Some private property owners may also sell their property with a leasehold title deed. These are the conditions in operation today (2005), but they may change at any time in the future.

Freehold foreigners can buy and own freehold condominiums, giving you full ownership rights purchasers, including the right to sell or lease the property and to develop the property within the guidelines under Thai law.

The payment instruction for purchasing condominium in Thailand

Under the Condominium Act 1991, non-resident foreigners who purchase condominium units must bring in the funds to pay for the unit from overseas. That means that the entire payment must be transferred into the country as "foreign currency". The beneficiary bank will issue a "Foreign Exchange Transaction" certificate which should be presented to the Land Department when registering the ownership of the condominium.

For each transfer, banks will only provide a "Foreign Exchange Transaction" certificate for amounts of over US\$ 20,000. For amounts of less than this, the bank will issue a credit note, which may be presented, with the confirmation letter from the bank, to the Land Office in order to register the condominium.



In case that you do not have a bank account in Thailand, you will remit the funds directly to the Developer account.

In such case, the developer, as the beneficiary, will obtain the Foreign Exchange Transaction certificate from the bank on behalf of the purchaser. The developer will keep all the certificates and/or credit notes with the letter from the bank until the date on which the ownership of the condominium units is transferred. In the event that the purchaser wishes to keep those documents, a request can be submitted to the developer.

If you have a bank account in Thailand the procedures will be the same but you will be the beneficiary and you will have to obtain the Foreign Exchange Transaction certificate from the bank by yourself.

To obtain a “Foreign Exchange Transaction” certificate, please ensure that you follow the instructions below.

1. The name of the remitter must be the same as the purchaser (as indicated in the S&P agreement. Please fill in full name and address of the remitter and the beneficiary.
2. The money is transferred as foreign currency. Do not convert in Thai Baht before making a transfer. The conversion into Thai baht will be done by the beneficiary bank.
3. Please indicate in the transfer instructions that the purpose of transfer is “To purchase a condominium unit No..... at Condominium”

Please use the exact wording above in order to avoid any misinterpretation by the Land Department. For example, the word “apartment”, a term which is frequently used in other countries, has different meaning from “condominium”.



Payment adjustment

The conversion into Thai baht may result in the difference either a surplus or a shortfall amount regarding each payment. As such, the balance of all the payments will be adjusted in the final payment due upon registration of the ownership of condominium.

Transfer of ownership

Prior to the transfer of ownership, the developer shall inform the buyer about the amount due, including the final payment (after adjustment), transfer fee, common area management fee, electricity meter deposit, and sinking fund as well as the means of payment and the recipient names.

The final payment needs to be paid by a cashier cheque which will be exchanged with the condominium's title deed on the date of transfer of ownership.

We recommend setting up a non-resident bank account at a local bank in Thailand for the purpose of issuing a cashier cheque.

A foreigner who married a Thai

Prior to 1998, any Thai woman who married a foreigner would lose her right to purchase land in Thailand. She could, however, still retain land that she owned prior to marrying the foreigner. However, the recent (1999) Ministerial regulation now allows Thai national's married to foreigners the right to purchase land, but the Thai spouse must prove that the money used in the purchase of freehold land is legally solely theirs with no foreign claim to it. This is usually achieved by the foreign spouse signing a declaration stating that the funds used for the purchase of property belonged to the Thai spouse prior to the marriage and are beyond his claim.



A Mortgage Loan

Foreigners can not get a mortgage loan from local banks in Thailand to buy property, unless they have a Thai partner willing to act as guarantor. There are numerous other conditions too, so if you wish to go this route, make sure you have a totally reliable Thai partner, and you have plenty of demonstrated income (either here in Thailand, or from overseas). The purchase money must be transferred from banks outside Thailand, in foreign currency form. The buyer must state that the purpose for the money transferred is to purchase a condominium unit in Thailand on the funds transfer document. The Bank is then able to issue a Foreign Exchange Transaction Certificate, giving the foreign buyer authority to purchase.

The fees, taxes and costs are applicable to purchase a property

Whenever a property in Thailand is bought and sold, these are taxes that need to be taken into account.

Tax on purchasing of properties:

- **Ownership Transfer fee**

is paid to Land Department Office, the transfer fee normal rate is 2% of government appraised value or selling price depends on different cases.

- **Duty stamps fee**

is paid to Land Department at 0.5% of the government appraised value or the selling price, depends on whichever is higher.



In case of duty stamps fee are following:

1. The seller has owned the property for at least 5 years.
2. The seller has used the property as his primary residence for at least 1 year prior to the sale. Or the seller has registered living in House Registration Book (Blue Book) more than 1 year.
3. The seller received the property as an inheritance.

• **Specific Business Tax**

of 3.3% of the government appraised value or the selling price, depends on whichever is higher, this will be applied to all sales by company and to any private sales that occur within 5 years after the date of purchase and the seller has not used the property as his primary residence less than 1 year prior to the sale.

• **Withholding income tax**

1. For Private sales, is calculated on a very complex formula based on the assessed value of the property, the length of time owned and the applicable personal income tax rate.

2. Corporate income tax is calculated at 1% of government appraised value or the selling price, depends on whichever is higher

Appraisals price and valuations

There are generally three different appraisal values; the government value, the appraisal company's value and the market value of the property. The government value is calculated every 5 year, the last updated is in 2004. Over the last few years all of these rates have begun to come closer together.



Purchasing procedure

a. Deposit

Once you have found the property you made a decision to go for you must put a deposit of 10-15% is usually required to secure an agreement to purchase and sell such a property and remaining balance should be made within 15 to 30 days on the transfer date of the ownership and pay the transaction expenses to the Land Department. You can obtain longer periods but you will probably be required to pay a higher deposit. Deposits are normally non refundable, except by default of the vendor, so bear in mind that once the deposit is placed you are committed.

b. Purchasing Contract

On the same date you put the deposit to the seller both parties have to sign a purchase and sell agreement that shall stipulate a time limit which both the buyer and seller will complete a ownership transfer and pay remaining balance to the seller. If either party fails to meet the obligation, the failing party will have to pay a penalty. For example, their deposit could be forfeited or if the seller was wrong, the deposit would have to be refunded

c. The documents that need when buying condominium

To put a deposit and sign an agreement the buyer would need to give:

- A certified copy of the passport. (ID card if Thai citizen)

And the seller needs to give:

- A certified copy of the passport. (ID card if Thai citizen)
- A certified copy of the title deed.

Each party shall keep 1 identical copy of an agreement signed. And on the ownership transfer date at the land department a foreign buyer shall provide documents as follows:



- Foreign Exchange Transaction Certificate
- A certified copy of the passport
- A copy of marriage certificate (if any)
- A letter of consent from the wife or husband (if any) in case either is unable to attend the transaction of ownership transfer.

***all the above documents must be translated in Thai.*

Utilites Bill

If you own a condominium unit the only utility bill that's not issued from the government is a water supply because the condominium building has to pump a water to it's own tank normally provide on a roof top of the building and use a gravity to flow to your unit that means the building has to pay an electricity bill incurred from the pump. This is a reason why a unit price for water supply in every condominium building is higher than private house. Normally the water supply unit price is between

16-25 baht/cu.m. For other utilities such as electricity, telephone, etc. shall be issued directly for a government or a service provider, no extra charge to the building.

The Maintenance Fee (Common Area Fee)

The cost of maintenance for each condominium unit depends on the size. The cost varies from building to building and is charged per square meter per month and paid annually in advance.

The Charm Residence rate fee is 60 Baht/sq.m./month.



The Sinking fund

A sinking fund is often a one time payment made upon transferring ownership. The purpose of the sinking fund is to accumulate funds for major maintenance and replacement of utilities systems and facilities which may be undertaken in the future. It ensures that the condominium will be well maintained. Some condos require a sinking fund payment each year, and others require it “on demand”. Make sure you know in advance what their policy and how much it will cost you.

The Charm Residence rate is 700 Baht/sq.m

We hope the above information is useful and if you have any other queries, please feel free to ask our sales representative.

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