Siam Legal Phuket Advises Property Buyers on Contract Risks, Lease Misconceptions, and Tax Exposure in Thailand

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Siam Legal Phuket, a full-service law firm with over 20 years of experience assisting foreign investors and property buyers in Thailand, is advising individuals to exercise heightened caution when reviewing real estate contracts, following continued patterns of disputes linked to unclear terms, unenforceable clauses, and evolving tax regulations.

According to the firm, many foreign buyers assume that signing a sale and purchase agreement marks the final stage of a property transaction. In practice, however, improperly reviewed contracts can expose buyers to significant financial risk. Hidden clauses, one-sided penalty provisions, unfavorable deposit terms, and unexpected tax liabilities may all be enforceable under Thai law if agreed to without proper legal review.

Thailand?s legal framework operates on a ?buyer beware? principle. This means that once a contract is signed, buyers are generally bound by its terms, regardless of whether they fully understood the implications. Developers and sellers often structure agreements in their favor, including provisions that shift transfer costs to the buyer, allow forfeiture of deposits for minor breaches, or omit safeguards in the event of construction delays in off-plan developments.

Siam Legal Phuket highlights a critical distinction that many buyers overlook: property transactions in Thailand involve two separate legal documents. The first is the private Sale and Purchase Agreement (SPA), which governs the commercial terms of the transaction, including payment schedules, warranties, and obligations. The second is the official Land Office registration document, which is the only instrument recognized by Thai authorities for transferring ownership.

If inconsistencies arise between these documents, the registered Land Office document typically prevails in

determining legal ownership. As such, legal review must ensure alignment between contractual terms and the registered transfer instrument to avoid disputes that may not favor the buyer.

The firm also cautions buyers regarding reservation agreements, which are commonly used to secure a property prior to signing the SPA. While these agreements often appear straightforward, some include non-refundable deposit clauses that may not comply with Thailand?s consumer protection laws, particularly if the developer has not yet obtained the necessary approvals or permits. Buyers are advised to confirm that refund conditions are clearly defined and legally enforceable before making any payment.

In terms of contract structure, Siam Legal Phuket recommends that buyers ensure the inclusion of several key protections. These include compliance with consumer protection regulations for off-plan projects, clearly defined construction warranties, confirmation of foreign ownership quotas for condominiums, and balanced penalty clauses that apply equally to both parties in the event of delays or breaches. Under Thailand?s Unfair Contract Terms Act, one-sided penalty provisions may be subject to legal challenge.

The firm further addresses a widespread misconception among foreign investors regarding long-term land leases. While lease structures such as ?30+30+30? are commonly marketed, Thai courts have consistently clarified that renewal clauses beyond the initial registered term are not automatically enforceable against new landowners or heirs. As a result, such arrangements may not provide the long-term security buyers expect.

To mitigate this risk, Siam Legal Phuket advises considering registered real rights, such as superficies or usufruct arrangements, which are recorded directly on the title deed. These structures may provide stronger legal protection and greater flexibility, including the ability to transfer or mortgage the interest without requiring ongoing consent from the landowner.

In addition to contractual risks, the firm emphasizes the growing importance of tax planning in property transactions. Under updated guidance from the Thai Revenue Department, individuals who reside in Thailand for 180 days or more in a calendar year may be subject to personal income tax on foreign-sourced funds remitted into the country. This includes funds used to purchase property.

As a result, buyers must ensure that fund transfers are properly structured and documented, including compliance with foreign exchange transaction reporting requirements. Failure to do so may result in unexpected tax liabilities after the transaction is completed.

?Siam Legal Phuket continues to see cases where buyers rely on assumptions rather than verified legal advice,? said Omar O. Manee, Attorney-at-Law at Siam Legal Phuket. ?A property purchase in Thailand is not just a commercial transaction. It is a legal process that requires careful review of contracts, ownership structures, and tax exposure to ensure that the buyer?s interests are properly protected.?

For buyers seeking guidance from a qualified Phuket property lawyer, Siam Legal Phuket provides legal advisory services covering property due diligence, contract review, ownership structuring, and tax planning for foreign investors seeking to acquire real estate in Thailand.

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Siam Legal Phuket

Siam Legal Phuket provides litigation, immigration, family law, contract drafting, real estate conveyancing, and corporate services. Our lawyers assist foreign clients with effective, cost-efficient legal strategies in Southern Thailand.

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