

99 year leases are now needed in Thailand

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Freehold and leasehold wouldn't matter

NOTWITHSTANDING the current problems in Thailand of a super baht, rising prices and continuing political uncertainty, the global trend amongst expat retirees is to buy property in the chosen destination. Thailand is far and away the most popular country in south east Asia for westerners and easterners planning to make a fresh start in their fifties or sixties.

Research suggests that most of these potential buyers spend from one to three months in the country before making their selection of property. They spend a lot more during that period than average tourists, thus composing a segment which is very desirable in overall financial terms. In areas such as Pattaya, over 90% of holiday homes costing more than four million baht are believed to be bought by foreigners.

Condominiums are obviously a popular option as the foreigner can own the unit in his or her own name provided that not more than half of all the flats in a given development are owned outright by aliens. Even where the foreigners exceed the 50% ceiling, there are several alternative routes to buy including the setting up a company. Some foreign owners are married to Thai nationals and may feel comfortable with the documents in a Thai name.

But Thailand, as is well known, does not allow foreigners to own freehold land and restricts leases to 30 years. It's common in resort areas to provide leases of 30 years, along with options to renew by 30 years each (30+30+30), and the prices tend then to be similar to the freehold value. However, there is no experience of what actually happens after the first 30 years expires. It seems that the freeholder and the lessee will need physically to contact each other to renew the lease even though the full price has been paid. As buyers frequently remark, this is a complicated process.

It would be the best way forward if a simpler process was established to permit foreigners to have a longer lease than 30 years. The most suitable lease would in fact be 99 years which has the advantage of being well known in European countries. The lease would be registered for 99 years with the land department upon payment of the lease value. Such properties could then be sold without equivocation at virtual freehold prices.

In turn, Thailand would become more attractive to overseas investors than competitor countries in the region and would generate a growing demand for resort homes at the mid and high end of the market. In other markets, including

Vietnam, 70 year leases are being offered to aliens with options of multiple extensions.

China, for its part, offers up to 70 year leases as well and Singapore up to 99 years in some specially promoted areas such as Sentosa Cove. Malaysia as its own special retiree programme and offers both the opportunity to buy freehold land or to obtain leases up to 99 years according to the location in the country.

The investment market would also benefit as foreign institutions and property companies tend to fight shy of countries where the hotels and office blocks can't be owned by foreigners. Cambodia has the same problem at the moment as major investors await the outcome of a government committee currently looking at lease and purchase options for non Cambodians.

The Thai government, if it is serious about longer term tourism and investment, has to bring the property laws up to date.

One of the most important recommendations, if not the most important, is the extension of leases on freehold property. If Thailand is to be a serious player in an increasingly competitive environment for cash inflows and transfer of capital, it's high time that property legislation was put under the microscope. A review is already long overdue.