



Legal Clinic: questions and answers on Thailand property legal issues

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# Buying and Selling Multiple Properties

**Q.** I want to buy one unit in a resort managed real estate project for my own private use, and a second unit for rental. Should I approach the acquisition of each unit differently? Are there any legal differences I should consider? Can I be more cost efficient with my legal fee outgoings?  
– *Jonathon Rolling, Dubai*

**A.** There are certain parts of buying units in the same project that means you can apply cost efficiency to the due diligence and enquiries, and even the contract of purchase. The parts of the acquisition that can be made efficient are the land title search (because you should check the entire land surrounding your unit covering the project area or at least the relevant 'phase'; access-ways and common area facilities. The building regulations and environmental regulations covering the project also affecting the location of your units should be checked, and these in fact might vary even if your units are next to each other if one unit falls within one 'zone' and the other unit across the boundary or in another 'zone'. Properties near the beach would be 'measured' for setback from the 'shoreline' restrictions for example.

Then, in terms of contracts, the purchase contracts can be almost identical, subject to payment terms; detail of the unit number, if the actual units are the same – such as two condominium units for example.

The specific matters which should be analysed relate to the different intended use of the two properties; relate to rental and value with respect to management. You should imagine a scenario where you may wish to convert both units into rental, or take both units out of a rental programme, and see what legal rights you have when instigating such a change. This means that even for the non-rented unit, you need to be aware of its relationship with the development and opportunity to enter into a rental program in the future.

You should therefore ask your lawyers to review both units in respect of land and building regulations; contracts; rental programme; com-



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mon area maintenance and rules of regulations of use and occupation.

**Q.** I own one leasehold interest in property through a BVI that I control, and one condominium directly in my name, in the same project. I have a buyer that would like to buy both properties. What legal processes would be involved in the sale? How do I prepare for the sale to accommodate a smooth transaction? – *Donald Trevallo, Mauritius*

**A.** To sell the BVI which owns the lease, you would need to provide to the buyer's lawyers: a copy of the land title due diligence pack issued to you when your BVI entered into the lease agreement; a copy of documents relating to the building if the building is owned separately to the lease of land (if not, there will be a lease of land and building); a copy of the registered lease; a copy of the corporate documents of the BVI and a draft of the Share Sale and Purchase Agreement for the acquisition of the BVI. You should also ask the buyer to 'reserve' the acquisition of the BVI pending due diligence through placing a deposit which could be placed with a third party to safeguard the monies,

To sell the condominium, you should provide evidence that you own the unit in your name (on the back of the condominium unit title deed); a copy of the rules and regulations of the condominium; a copy of all meetings for the last three years of the condominium juristic person; a statement of account of the sinking fund and common area management fees; details on any other fees payable which may be in the project but outside of the remit of the condominium juristic person; and a draft sale and purchase agreement for the unit.

In both cases you should use a lawyer for the contract negotiation but also to assist with ensuring the transfer of legal interest is synchronised and coordinated with the receipt of funds from the buyer for the acquisition.

**Q.** I would like to enter into a contract to purchase five properties, but am in the process of selling two in order to fund that acquisition. One of the sales is dragging on, and I need to lock down the acquisition of the five properties. How can I limit my risk but still reserve the five properties conditional on the stalled sale? – *Roger Dalton, Germany*

**A.** The contract of reservation for the five properties should have built in 'conditions' relating to the sale of the property which is currently delayed. Full details in the conditions will mean that you will have the right to withdraw without losing a significant deposit. This of course depends on the willingness of the seller of the five properties to accept a conditional reservation. What can be a good compromise is an increased deposit once per month, so that if the seller is kept waiting you must increase your commitment if it is simply a matter of time for your own sales to complete. This contract condition must be drafted very carefully.

This legal clinic was co-written by Desmond Hughes (Partner) and Christian Glanville (Partner) based in the Phuket and Koh Samui offices of Limcharoen Hughes & Glanville respectively, which has also offices in Bangkok and Ho Chi Minh City and with a new office in Bali, Indonesia opening soon. [www.limcharoen.com](http://www.limcharoen.com)