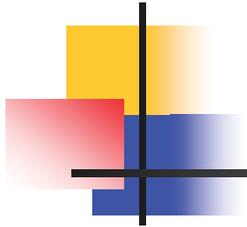


# **Foreigner Purchase and Ownership of Real Estate in Cambodia**



## **Contents:**

- **Land Law 2001**
- **Law on Commercial Enterprises**
- **Law on Providing Foreigners with  
Ownership Right in Private Units of  
Co-owned Buildings**
- **Getting a Title Deed in Cambodia.**

# 1. Land Law 2001

- This law has the objective to determine the regime of ownership for immovable properties in the Kingdom of Cambodia for the purpose of guaranteeing the rights of ownership and other rights related to immovable property, according to the provisions of the 1993 Constitution of the Kingdom of Cambodia.
- According Article 8 Land Law 2001  
Only natural persons or legal entities of Khmer nationality have the right to ownership of land in the Kingdom of Cambodia. Thus, the following persons or entities may be owners of land in Cambodia: Cambodian citizens, public territorial collectives, public institutions, Cambodian communities or associations, public enterprises, Cambodian civil or commercial enterprises and any Cambodian organization which is recognized by law as a legal entity. A foreigner who falsifies national identity to become an owner of land in Cambodia shall be punished as determined under article 251 of this law. Any property bought under these circumstances will be seized as State property without compensation from the State.
- According Article 9 Land Law 2001  
An enterprise registered in Cambodia, in respect of which 51% or more of the shares are held by natural persons of Cambodian nationality or by Cambodian legal entities recognized pursuant to the laws of Cambodia, may be the owner of land. Only percentages stipulated in the articles of incorporation are taken into account. Any private agreement signed by a shareholder that is contrary to this article is null and void. If percentages stipulated in the articles of incorporation are changed in a way that it [the enterprise] ceases to be Cambodian, the enterprise has the obligation to amend the articles of incorporation to comply with the actual circumstances and shall inform to the competent institutions of such amendment according to the laws in force.

## 2. Law on Commercial Enterprises

- This law applies to a partnership and company carrying on business in the Kingdom of Cambodia. A partnership composes of a general partnership and a limited partnership. A company composes of a private limited company and public limited.
- According Article 13(**Nationality**)Law on Commercial Enterprises  
A general partnership that has acquired legal personality shall be deemed to be of Khmer nationality only if:
  - (a) The general partnership has a place of business and a registered office located in the Kingdom of Cambodia; and
  - (b) More than 51% of the record ownership interest in such general partnership is held by natural or legal persons of Khmer nationality.
- According Article 101 (**Nationality**) Law on Commercial Enterprises  
Company composes of a private limited company and public limited shall be deemed to be of Khmer nationality only if:
  - (a) The company has a place of business and a registered office located in the Kingdom of Cambodia;
  - (b) More than 51% of the voting shares of the company are held by natural or legal persons of Khmer nationality.
- **IN CONCLUDING:** According to the articles 8 and 9 of Land Law-2001and Article 13(**Nationality**) Law on Commercial Enterprises, and Article 101 (**Nationality**), subject to the ownership on real estate (immovable property), Khmer Nationality only-both physical and legal persons-. It means that foreigner-non Khmer Nationality-has no any rights on Real Estate. However, Company who Khmer Nationality with more than 51% of shares has rights to possess on Real Estate, in compliance with the Commercial Enterprise Law. Therefore, Foreign Company or Foreigner can do business with Cambodian Company. Moreover, foreigner or foreign company can invest with 100% of shares, granted by Law on Co-Ownership, Law on Investment in Cambodia, Economic Land Concession.

### 3. Law on Providing Foreigners with Ownership Right in Private Units of Co-owned Buildings

- Law on Providing Foreigners with Ownership Right in Private Units of Co-owned Buildings was promulgated on 24 May 2010, for the purpose of facilitating investment in Cambodia by foreigners and in response to the growth of real estate market in Cambodia.
- According Article 6 Law on Providing Foreigners with Ownership Right in Private Units of Co-owned Buildings has 24 Articles and their right to use and get benefits from common part of co-owned buildings.
  - Foreigners have ownership rights in private units of co-owned buildings only from the first (1<sup>st</sup>) floor up. The ground floors and underground floors cannot be owned by foreigners.
  - Foreigners are not authorized to acquire ownership rights in private unit of co-owned building located within 30 (thirty) kilometers of the land borders of Cambodia.
  - This law sets forth rights and obligations of foreigners with ownership rights over private parts of co-owned buildings, and grants a 2-year grace period to foreigners who acquired, before the entry into force of this law, private parts of co-owned buildings without complying with the provisions of this law to correct the situation.

# 4. Getting a Title Deed in Cambodia

## I: Certificate of Possessory Right over Immovable Property



### Certificate of Ownership over Immovable Property and



- Ownership right over immovable properties is recognized, guaranteed, and protected by the Constitution (Art. 44) and Land Law (Art. 1, 4, 5). In this regard, the State has obligation to issue definitive title of ownership to any Cambodian person who, for no less than ten years prior to the promulgation of the 2011 New Civil Code, enjoyed peaceful, uncontested possession of immovable property that can lawfully be privately possessed (Art. 162 of New Civil Code). Ownership may also be acquired through sale, make contract, succession, gift, and other methods of transfer of ownership (Art. 160 of New Civil Code). The procedure of registration and issuance of definitive title of ownership is determined by the Sub - Decree on the Procedure of Establishing of Cadastral Index Map and Land Register (2000) and Sub - Decree on Sporadic Land Registration (2002). In effect, if you own the flat alone (individually), your ownership type is individual ownership. In such a case, you may choose to register your property through one of the following methods:
  - 1. Sporadic registration, if your property is not located in adjudicative area. In this case, you must bear all costs and fees for the registration of the property; and the title you will get is called "**Certificate of Possessory Right over Immovable Property**"
- 2. Systematic registration, if your property is located in adjudicative area. In this case, the title you will get is called "**Certificate of Ownership over Immovable Property**"



- **II: Certificate of Ownership of Private Unit**



- On the other hand, if the immovable property in question is owned not only by you but also by other person(s) exercising exclusive rights over certain parts of the building, while other parts, namely common parts, are subject to legal rules or contractual agreement, your ownership type is called co - ownership (Art.10 ). Before 2009, in the absence of specific rules, the regime of co - ownership was regulated by the provisions of articles 177 to 185 of Land Law (Art.176). In 2009, a Sub - Decree on Management and Use of Co - Owned Buildings was issued for the purpose of determining mechanisms and procedures for registering “private units” of co - owned building (Art.1 of the Sub - Decree). Co - owned building is defined as building or construction in which several co - owners are living. A co - owned building has some parts that are the exclusive ownership of each co - owner and are called “private units,” while other parts are commonly used by the co - owners and are called “common area.” Categories of co - owned buildings that fall under the application of this Sub - Decree include detached building, semi - detached building, attached houses, condo, and other kinds of house with common structure (Art. 4 of the Sub - Decree).Under this sub - decree, each and every one of you and other two owners is entitled to apply for a **“Certificate of Ownership of Private Unit”**  (Art. 5 of the Sub - Decree). The application must be submitted to the municipal/district/ khan office of land management, urban planning, construction and geography where the co - owned building is located (Art. 17 of the Sub - Decree)

### ■ **III: Certificate of Ownership over Private Unit**



- In case you built up a condominium on the parcel of land you own, you are free to transfer each unit of the condo to different buyers by observing the following procedures:

At time you undertake the first transaction of any of the private units, you have to firstly apply to the cadastral administration to register the change of parcel type to "Co - owned Parcel" (Art.7 of the Sub - Decree). In this case, your original title deed over the whole parcel will be encrypted and kept by the cadastral administration in exchange of the **Certificate of Ownership over Private Unit**



issued for each unit of the condo (Art. 7 of the Sub - Decree). Supporting documents required for the application are the same as in the answer to question 2 above.

- **Note:** In case you do not hold ownership right over the parcel, but right to perpetual lease, the issued certificate will be **Certificate of Perpetual Lease of Private Unit**



## IV: Other (Economic Land Concession) □ □ □ □ □ □ □ □ □ □ □ □ □ □ □ □

1. The objectives of this sub-decree are to determine the criteria, procedures, mechanisms and institutional arrangements for initiating and granting new economic land concessions; for monitoring the performance of all economic land concession contracts; and for reviewing economic land concessions entered into prior to the effective date of this sub decree for compliance with the Land Law of 2001.
  - Economic Land Concession refers to a mechanism to grant private state land through a specific economic land concession contract to a concessionaire to use for agricultural and industrial-agricultural exploitation.
  - Industrial-agricultural exploitation refers to:
    - Cultivation of food crops or industrial crops including tree planting to be tree plantation.
    - Raising of animals and aquaculture,
    - Construction such as a plant or factory and facilities for the processing of domestic agricultural raw materials.
2. Economic land concessions may be granted to achieve the following purposes:
  - To develop intensive agricultural and industrial-agricultural activities that requires a high rate and appropriate level of initial capital investment.
  - To achieve a specific set of agreements from the investor for developing the land in an appropriate and perpetual manner based on a land use plan for the area.
  - To increase employment in rural areas within a framework of intensification and diversification of livelihood opportunities and within a framework of natural resource management based on appropriate ecological system,
  - To encourage small as well as large investments in economic land concession projects, and
  - To generate state revenues or the provincial or communal revenues through economic land use fees, taxation and related services charges.

Thank You