

GUIDE TO BUYING PROPERTY IN CAMBODIA



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FOREIGN OWNERSHIP

Land – by law, foreign nationals are not permitted to own freehold land in Cambodia.

Co-owned Buildings – Foreign nationals are allowed rights of ownership over certain properties, subject to the 2010 Law on Provision of Ownership Rights. These rights, however, are restricted to buildings that have obtained a “Strata Title”, which is available only to newly completed apartment buildings. Foreigners can fully own private units in co-owned buildings from the first floor and above to a maximum of 70% of the total units in any single apartment building.

TENURES

Freehold: Gives perpetual ownership of the property to the buyer.

Leasehold: Up to 50 years and renewable once for another 50 years.

CAMBODIA LAND TITLE CLASSIFICATIONS

HARD TITLE

A hard title is the strongest form of property ownership in Cambodia and considered the preferred Cambodian land title. Hard titles are an ownership certificate provided by the National Land Management and Planning Office. Hard titles contain detailed information that has been duly recognised and certified at a national level with the Ministry of Land Management Urban Planning and Construction. A transfer tax of four percent applies when a hard title transaction occurs.

SOFT TITLE

A soft title is the most common form of ownership and the most commonly issued Cambodian land title. It is a property title that is recognised at the local government level. Soft titles are provided by the local Commune or

District and are not registered at a national level – but are still considered a possessory status. The majority of property transactions still occur with soft titles to avoid ownership transfer taxes and fees. However, soft title ownership may be contested by third parties and are open to litigation. Most new major development projects are being transacted with hard titles as these are considered the most durable Cambodia land title. Additionally, the government is systematically converting all soft land titles to hard titles.

LAND / LANDED PROPERTIES

Whilst foreign nationals are not permitted to own freehold land outright, there are several options that enable a foreign national to hold an interest over land.

INCORPORATING A LAND HOLDING COMPANY:

Setting up a legally recognised company where 51% of shares are owned by a Cambodian citizen.

This presents the least risk for foreign investors, although this is generally best reserved for high-value property due to the cost involved with setting up the company. It is also important to note that any LHC (land holding company) will be subject to tax on profits.

LEASING:

Long term leases allow all necessary rights to develop the land and gain construction permissions. Due to a recent change in the law, lease lengths are capped at 50 years, renewable for a further 50 years. This can be a great stepping stone to eventually setting up an LHC.

CAMBODIAN CITIZENSHIP:

The Government considers citizenship applications from foreigners when a significant investment is being made to the development of the country.

THE NOMINEE STRUCTURE:

Buying in a Cambodian citizen’s name is easy and is the most inexpensive means of controlling Cambodian land. But, by doing so, you will be ignoring the Constitutional prohibition on direct ownership of property by foreigners. Therefore, it is illegal and strongly discouraged by legal support in Cambodia.

Some companies offer a professional service where foreigners can purchase land for sale in Cambodia but the title is held in the name of a local citizen. These companies offer a service as a measure of reducing the more obvious risks of using a friend or spouse as the name used to hold the land. When choosing this option a high degree of due diligence is advised due to the lack of regulation available.

LEGAL FEES & ASSOCIATED COSTS:	
STAMP DUTY	4% of the total property value (for hard title) assessed through government valuation plus an additional \$1,000 fee for the service of the cadastral office (12 week process).
PROPERTY TAX	0.1% per annum. (Value determined by immovable property assessed by the Ministry).
LEGAL FEES	\$250 upwards for legal assistance (Lawyer) optional.
VAT	10% VAT borne by developers. VAT on re-sale applicable only for VAT registered companies.
CAPITAL GAINS TAX	Capital gains earned by nonresidents are subject to profits tax at a flat rate of 20%.
HOME INSURANCE	<ul style="list-style-type: none"> • Properties above \$100,000 = \$100 or higher per year. • Properties below \$100,000 = less than \$100 per year.
REAL ESTATE AGENTS FEES	Current market rate = 3% + VAT

TYPICAL DOWNPAYMENT

Between 10 - 30% of the total balance typically paid through a progressive payment scheme for off-plan projects. Alternatively full cash / Bank financing may also be accepted for completed projects.

BUYING A CONDOMINIUM FOR INVESTMENT:

OFF PLAN PROJECTS

This term refers to purchasing a unit in a development pre or under construction. Benefits include being able to handpick the best units plus the potential to earn capital gains through the asset's appreciation once the development is completed.

COMPLETED PROJECTS

Benefits include being able to inspect a tangible asset and assess the quality of the finished construction.

SUB DECREE ON THE MANAGEMENT AND USAGE OF CO-OWNED BUILDINGS –

CO OWNED BUILDING CATEGORIES

Detached buildings, semi-detached buildings, attached houses (that have several attached units and floors), and condominiums.

Co-owned buildings must be constructed on a single land parcel. Consolation of the Certificate of Title will be required if the co-owned building's ownership is made up of multiple smaller individual titles. Co-owned buildings must be governed by internal building regulations, and the internal regulations must be registered.

Foreigners may not own private units of a building located within thirty (30) kilometres of a land border (with certain limited exceptions).

FINANCING:	
TYPICAL LOAN TO VALUE RATIO	<ul style="list-style-type: none"> • Loanable amount is maximum 50 – 70% of the purchase price. • Interest is typically 8% to 10% per annum. • Repayment term can be up to 15 years.
BANK LOAN TO FOREIGN NATIONALS	<ul style="list-style-type: none"> • Most banks do not provide home loans for foreign nationals. • Maybank offers home loans to Malaysian Nationals (limited to Malaysian projects in Cambodia). • Maybank also grants home loans to Singaporean Nationals (limited to Singaporean projects in Cambodia) • BRED Bank offer loans to foreigners on specific cooperating projects.
REQUIREMENTS	<ul style="list-style-type: none"> • Pay slip • Bank statements • Employment contract • Collateral (typically property hard title)
COST	<ul style="list-style-type: none"> • Processing: 0.5% - 1% of total loan amount. • Legal fees: Starting from \$250 up.

TITLE CONVERSION TO CO-OWNED BUILDING

The sub-decree on co-owned buildings addresses new construction of a co-owned building and existing construction of a co-owned building (prior to and before 19 December 1997). A building's master title can be converted to separate titles for a number of individually owned units.

When attempting to convert a building to co-ownership, all owners of the building must agree (in writing) on the conversion.

Internal Regulations - After a building is registered as a co-owned building, internal building regulations must be established and the co-owners should form a management board or an executive committee to oversee the management of the building.

These internal regulations shall determine the rights, obligations, and responsibilities of each co-owner over the private units and common areas.

The share of expenses related to maintenance and repairs of the common areas should also be clearly defined and a procedure for decision making for the management of the building should be agreed upon.

Once the building has been registered as co-owned and internal regulations established, the Ministry of Land Management, Urban Planning and Construction (MLMUPC) has the authority to register certificates of title acknowledging the owners of the private units.