ADVERTORIAL

AVOIDING THE SHORT CUT MENTALITY – DOING GOOD BUSINESS IN THAILAND

Thailand is an attractive place on its surface and – if you dig deep and carefully – possesses hidden treasures and rewards that create a balance between making money and enjoying a great country at the same time. Like all things, there is a flip-side to this dynamic, where bad choices or behaviour create a framework for chaos and financial losses. Personally, my spiritual beliefs also lean towards a curated form of karma, limited to a more likely set of negative results flowing from negative actions, with obvious exceptions to this such as tragedies and unearned misfortune.

Even the highest calibre of decision maker can fall prey to loosening their discipline in planning and execution of business in Thailand. It still surprises me how accomplished businesspeople hang up their rationality and objective analysis on an invisible hook at the airport on arrival. I say this from a place where I have also made my fair share of mistakes, able also to help others willing to listen on how to avoid doing the same.

Early misleading information

Prior to artificial intelligence-driven search and question applications, word-of-mouth foreign investor and agent/broker information would often be distorted and led with self-interest. Investors might not wish to reveal their own internal risks and issues so might omit critical information when reporting to potential new investors in the market on the true risks of certain behaviours and processes. Agents/brokers would and still trade ethics/values off against commissions and naturally present the best angle of a potential investment with many risks or – at worst – present a false narrative of what a safe investment comprises.

Now, with AI in full swing, advice can be compared and analysed by reference to other sources and with brutal mechanical dissection.

Nominees

For example, for years and years, I and many others had to listen to market participants trumpet the use of nominees with the laziest irrational notions dressed up as 'investor friendly advice':

"...many other advisers are informing clients it is ok"

"...it is common practice in the market"

"...the government knows but they don't enforce which means they are ok with it"

"...if you don't do it then you will lose your investment opportunity to someone else willing to do it"

"...there are only small penalties so it is worth the risk"

Ridicule, disparagement and ostracisation from transactions were the main behaviours of these market participants towards advisers holding firm and not facilitating the nominee structure. Sending the Department of Special Investigations 'checklist' of what constitutes nominees was met with accusations of 'deal klling' 'scaremongering' and the like.

Any attempt to say "We told you so" now will be met with accusations of arrogance, enjoyment of market upset or just plain non-recognition of the quality of foresight and discipline required not to take the easy 'dollars' for engaging in such work in the first place.

Structuring an investment now doesn't just involve the 'quickest way to incorporate' with the 'can it be done in a day' unnecessary rush to secure a poor foundation.



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Instead, a joint venture must evolve between parties, with neither the Thai or foreign investor being superficial, illegally controlling land resources or conducting business prohibited for foreigners to conduct without a foreign business license of applicable exemption. It must flow naturally from an understanding into a commercial agreement, entity structure selection with appropriate selection of debt/equity, capitalisation and cashflow. This is not a normal vehicle for a stand alone property real estate investment unless there is a bona fide and lawful rental income objective involved in the mix.

Shortcuts will inevitably become unstuck and those that are tempted to take them should try to visualize a set of uniformed intelligent investigative officers probing an investment and its structure to test for obvious circumvention and/or illegality.

Land title quality due diligence

By now, it is amazing that investors and market participants are still not as mindful as they ought to be about the unavoidable fact that some land titles, even though a very small relative percentage of titles – contain defects or issues which could lead to an investigation to amend or revoke that title at some point in the future unless such investigation leads to no action at all.

This fact has an impact on the risk attached to placing a reservation deposit, who holds the deposit, its refundability and also the time allowed to conduct thorough checks and address any issued uncovered in a methodical and organised way. The old "there are other buyers waiting to buy who will skip due diligence" narrative wears thin in a pressured market thin on buyers. A more positive approach would be to encourage transparent thorough due diligence and not try to find ways to secure a forfeitable payment if logically there is confidence that all is in order.

Contract templates & the 'AI saves unnecessary fees' mentality

Yep, I have read Isaac Asimov's 'I, Robot' and a host of other literature and analysis on AI's pros and cons, most likely just as you have. I also use Claude, Chat GPT and a host of other tools in my work. Does it mean that my firm bills far less or completes 50% faster? No. We do issue advice these days and have clients send it back to us after they have uploaded to AI to ask questions. Some questions are good and some are simply an over elaborated analysis of the already analysed first instance response. Right now we need skilled humans, who ought to be more real-world qualified and experienced than the 'average' AI functionality tool and be able to add value to output by being 'adaptive' and reorientating output to the scenario and fact pattern more closely.

LEGAL MATTERS.AVOIDING THE SHORT CUT MENTALITY – DOING GOOD BUSINESS IN THAILAND XX

The internet is festooned with contract templates but, even when I was a trainee solicitor back in the UK in the early 2000s, my 'Big Law' law firm had a massive repository of agreements in every business sector imaginable. If you wanted an 'electricity grid profit sharing joint venture agreement' – you could get one, in minutes. But that didn't help with directly addressing the task for a new client on a new matter in the same structure. It merely provided a working tool for the assigned lawyer which prompts drafting guidelines and gives a framework for adaptation to the facts. The lawyer must still think about each clause, add appropriate new clauses, think before deleting items and consider enforceability and validity issues to boot.

If this is done with AI, then the process can be shortened. This allows more time to apply to more strategic aspects of the transaction to planning and implementation. Better, more efficient lawyers will use the time to shape the transaction pro-actively. If time is saved, they can move to the next step efficiently too.

One time I put many years of messenger application exchanges into AI in the context of a dispute and asked for an analysis and scrape of relevant issues. The AI tool simply provided six bullet points from literally years of exchanges. This surface level scratch doesn't provide the firepower necessary to prepare for a trial or to manage a transaction. Watch this space, obviously improvements will be made that cannot yet be foreseen.

Conclusion

Taking short cuts – unless you are avoiding Heroine's Monument, Thekpassatri Road, the school runs, the Patong Hill and various Patong intersections or other famed traffic bottlenecks – is not advisable in general. Unnecessary lengthening or stalling of a process isn't great either for just as many good reasons. A balanced but cautious approach to investments requires advisory and internal management to blend commercial with compliance to ensure that a project remains on a good foundation at as much of the project timeline as possible.

If we all keep our wits about us, help each other with good information, avoid self-interest, identify the bad market participants and avoid them, we may fare well and better in our information analysis, investment decisions… and returns.

Instead of counting imaginary sheep jumping over fences if you find a particular night's sleep difficult, replace the sheep with 'foolish investors' following the suit of their predecessors and this may assist in a more positive risk avoidance strategy for your next investment decision.



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