

CASE STUDY: THAILAND'S TITLES PROJECT SEEN FROM THE PERSPECTIVE OF ECONOMIC DEVELOPMENT

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INTRODUCTION

Property rights are a most important fundamental requirement for capitalism. Incomplete property rights system and ineffective enforcement of property rights laws may cause slow economic growth with a high incidence of poverty.

This article aims to evaluate the completeness of the property rights system in Thailand and the impact of an incomplete property rights system. The framework of this article uses four components of efficient property rights structure, including universality,¹ exclusivity,² transferability,³ and enforceability.⁴

THE FORMS OF LAND OWNERSHIP IN THAILAND

There are two main forms of land ownership in Thailand, which are public and private land ownership. Many kinds of public land ownership refer to: natural resources (such as, National Forest Reserves, Conservation Areas, etc.), public areas (for example, grassland, cemeteries, brook, and river bank areas), government property, and other land (such as, Crown Property, Privy Purse property, Religious Property, etc.). There are many types of private land ownership in Thailand. These are divided into four main categories according to specific land title documentation including; Preemptive Certificate (NS-2),⁵ Certificate of Utilization (NS-3, NS-3K),⁶ Land Title Deed (NS-4),⁷ and SPK 4-01⁸

Thailand has a total area of around 513,115.02 square kilometers. Of this, 48.63 percent is owned by the public sector, and another 51.37 percent is private property. For public land, most is Forest Area, with 68.76 percent of all public land or around 33.44 percent of the total country area. For privately documented land title deeds, land ownership counts as 62.04 percent of the total private ownership or about 31.87 percent of the total land in the country. The continuous growth of completed private sector land ownership is observable with more land title deeds in use, compared to fewer types of other land title documents.

THE COMPLETENESS OF THAILAND'S LAND PROPERTY RIGHTS

An analysis of each type of land title found that private land provides more complete property rights than public land does (see table below).

¹ This is widely accepted in society where property is clearly identified by its owner and the boundary of ownership is clearly stated.

² An owner has absolute inviolable rights over the property. The beneficial gains from an owner's property ownership are for the owner only.

³ Property rights can be transferred to different owners, either voluntarily or legally.

⁴ The right to protect and prevent other people from gaining certain property benefits and to protect the use of property by others.

⁵ The condition for gaining benefits from the land is that the person who receives a preemptive certificate needs to work on the land and begin to earn benefit from it within six months. This must be done within a three year period and requires that at least 75 percent of the land be used.

⁶ This type of ownership guarantees only an owner's right of possession, not right of ownership, this being their right to use, sell, and rent. If a land owner leaves his or her land without any beneficial use, and will instead allow other persons to possess the land openly and with intention to own it for more than one year continuously, the owner will have no right to sue and reclaim their right of possession to that land.

⁷ The title deed has been issued by using GPS to set the area and boundaries of the land, which is a very accurate method. The owner who owns a Land Title Deed document earns the completeness of land ownership.

⁸ SPK 4-01 limits the benefits to only agriculturists who do not own their own land, and to anyone who wants to be an agriculturist. Land will be allocated to them at no more than 50 rai (or 0.08 square kilometers) per family.

The completeness of each type of land ownership

Type of Land	Universality	Exclusivity	Transferability	Enforceability
1. Public Property				
National Forest Reserve	Many areas are not accepted	No	No	Ineffective
Public Areas	Most places have clear boundaries	To make social benefit	No	Ineffective
Government Property	Most places have unclear boundaries	To make government benefits	No	Ineffective in some places
Others	Yes	To make a specified benefit	Some places can transfer to private sector	Yes
2. Private Property				
Preemptive Certificate (NS 2)	Yes	There is limitation on the period of land use	Can be inherited. Can ask for land title deed or certificate of utilization	Yes
NS – 3	The boundary of ownership is unclear	Yes. But cannot be mortgage collateral	Yes	Ineffective to prevent others from benefiting from the owner's property
NS – 3K	Yes	Yes	Yes	Yes, can have adverse possession within one year
Title Deed (NS 4)	Yes	Yes	Yes	Yes, can have adverse possession within ten years
SPK 4-01	Yes	For agricultural purposes only	Only as an inheritance	Yes

The incomplete property rights for both public and private land causes impacts on Thailand's economic development including, poverty problems among agriculturists, uneven land distribution, land under-utilization, and the problem of trespass.

SUGGESTION

According to problems with the incompleteness of property rights, some suggestions are proposed such as, integrating land management system of the country, changing all land title documents to be the same type, reforming land taxation to distribute land, establishing a National Land Bank for the poor, and etc.

The completeness of land property rights is the most effective system in reducing the conflict due to the ownership over the certain land, causing the highest land utilization, highest benefit earning for possessor, and making the owner free to earn their livings and using the land.