

LAW

ON

**PROVIDING FOREIGNERS WITH OWNERSHIP
RIGHTS
IN PRIVATE UNITS OF CO-OWNED BUILDINGS**

Promulgated : May 24, 2010

CHAPTER 1

GENERAL PROVISIONS

Article 1.

This law provides ownership rights in private units and rights to use and enjoy benefits in the common areas of a co-owned building.

Article 2.

This law aims to:

- determine general principles, rights and obligations of foreigners who have ownership rights in private units of co-owned buildings and other rights relating to the common areas, and procedures for registration of these rights.
- facilitate foreigners' investing in the Kingdom of Cambodia.
- facilitate investors' businesses in the field of construction as well as respond to the expansion of the land market in the Kingdom of Cambodia.

Article 3.

This law applies to foreigners and Khmer citizens who have ownership of private units in co-owned buildings in the Kingdom of Cambodia.

Article 4.

The key terms used with specific meaning under this law have the following definitions:

- **Foreigners** refers to foreign natural or legal persons having no Khmer nationality, without any discrimination regarding nationality, belief, religion or origin.
- **Legally qualified foreigners** refers to foreign nationals who enjoy legal capacity according to Cambodian laws and who have legally entered Cambodia.
- **Co-owned building** refers to a building or construction in which several owners reside. A co-owned building consists of some parts which are the exclusive ownership of each co-owner, called 'private units', and some other parts which are common spaces for common use of the co-owners, called 'common areas'.
- **Private units** refers to the parts of the co-owned buildings which are privately and exclusively occupied and used.
- **Co-owners of private units** refers to persons who have ownership rights in private units.

- **Common areas** refers to all parts of the co-owned building which are subject to the use or benefit of all co-owners such as the ground, the courtyard, the stairs, the roof, parks and gardens, access ways, joint walls, and areas for common service.
- **Special co-ownership** refers to the rights of several persons, who are foreigners and Khmer citizens, in a co-owned building in which they have ownership rights in private units and special undivided ownership rights over common areas of the co-owned building.
- **Special co-owners** refers to foreigners who enjoy special co-ownership rights.
- **Special undivided ownership** refers to the rights of several persons over common areas of the co-owned building in which foreigners have the right to use and enjoy benefits of the common areas, and Khmer citizens have undivided ownership rights over the common areas, as they all enjoy ownership of private units.
- **Lot** refers to a private unit that is attached to the common areas of a co-owned building. Each lot has a different value according to whether the private unit is large or small; a calculation of value shall be made according to each co-owner's private unit's surface.¹

CHAPTER 2

GENERAL PRINCIPLES

Article 5.

Legally qualified foreigners have ownership rights in private units of co-owned buildings and rights to use and enjoy benefits of the common areas, and they have obligations to comply with the provisions of this law and other related regulations in force.

Article 6.

Foreigners have ownership rights in private units of co-owned buildings only from the first (1st) floor up. The ground floors and underground floors cannot be owned by foreigners.

A Sub-decree shall determine the proportion and percentage of private units that can be owned by foreigners in a co-owned building..

¹ "Lot" as used here is a French word that means in this context exactly what is written here. Its use in this law is derived from 2001 Land Law articles 175, 181 and 184 on co-ownership. "Lot" as used here should not be confused with the English word "lot" which, when speaking of land, generally means "parcel of land".

This ownership right only provides private units of co-owned buildings for foreigners. As far as the common areas of co-owned buildings are concerned, they shall be kept for the common use of all co-owners of the co-owned buildings.

In any case, the land parcel where the co-owned building is located cannot be subject to the ownership of special co-owners.

Foreigners are not authorized to acquire ownership rights in private units of co-owned buildings located within 30 (thirty) kilometers of the land borders of Cambodia and in other areas determined by the Royal Government, except for the co-owned buildings located in Special Economic Zones, in important urban areas and in other areas determined by the Royal Government.

In case the co-owned buildings are constructed on land leased from a third party, foreigners enjoy *perpetual* lease rights in private units similar to how Khmer citizens do.

CHAPTER 3

ACQUISITION OF SPECIAL CO-OWNERSHIP

Article 7.

The creation, transfer and modification of special co-ownership can be done as follows:

- Through agreement among parties in accordance with the laws and regulations in force;
- Through succession.

Article 8.

A transfer of special co-ownership by agreement shall not be effective unless it has been registered in accordance with the legal provisions and regulations regarding registration.

Article 9.

When a Cambodian co-owner of a private unit has transferred ownership of a private unit to a foreigner, the special co-owner shall acquire an ownership right to the private unit and only the right to use and enjoy the common areas. In this case, the former Cambodian co-owner of the private unit shall lose his/her undivided ownership of the common areas.

In case the co-owner of the private unit is a foreigner and has transferred the private unit to a Cambodian, the Cambodian co-owner shall acquire an ownership right in the private unit and undivided ownership of the common areas.

Article 10:

Successors of special co-owners shall receive the rights and obligations of the deceased in accordance with the laws and regulations in effect.

In case the inheritance is unoccupied because there is no successor or the successor abandons it, or if the inheritance is not designated to any person in accordance with the legal provisions, such inheritance shall become the property of the State.

Article 11:

In the event that, after this law becomes effective, any foreigner receives the transfer of or purchases any private unit of a co-owned building in violation of Article 6 of this law, the transaction shall be null and void and the parties to the transaction shall make a restitution.

CHAPTER 4
RIGHTS AND OBLIGATIONS OF SPECIAL CO-OWNERS

Part 1.
Rights and obligations of special co-owners
concerning private units

Article 12

Special co-owners of private units shall have the right to freely use, enjoy, and dispose of the ownership of their private units to the extent determined by law.

Article 13.

Special co-owners of private units cannot use their private units to hurt, infringe, or hinder the use, or to disturb the livelihood, of the other co-owners of private units.

Special co-owners of private units shall not take any action that could harm the maintenance of the co-owned building or take any other action against the common interests of the co-owners of private units in relation to the management or use of the co-owned building.

Article 14.

Special co-owners of private units of co-owned buildings shall have the same obligations and burdens as Cambodian co-owners. Special co-owners shall comply with all obligations and/or burdens stipulated in the internal rules of the co-owned building and/or the laws in effect.

Part 2.

Rights and obligations of special co-owners concerning common areas

Article 15.

Common areas shall be under the regime of special undivided ownership of all co-owners of private units.

Special co-owners shall have only the right to use and enjoy the common areas.

Article 16.

Special undivided ownership and other marginal rights recognized by law shall not be subject to division, disposal, and forced sale separate from the private unit.

Article 17.

Special co-owners shall participate in the maintenance of the common areas. The burdens of such maintenance shall be divided in proportion to the value of each lot except as otherwise agreed to or as stipulated to the contrary by the internal rules.

Article 18.

The right to use and enjoy the common areas, including the land on which the co-owned building is situated or the land developed as courtyard that has been determined as a common area, shall not cease although the building or the private unit ceases to exist.

In the event that a co-owned building becomes dilapidated, impossible to reside in, or destroyed in any way including by a forced measure by the competent authorities to dismantle it for the safety of the residents, all co-owners may agree on repairing or reconstructing by taking charge of the expenses according to the proportion of the value of each lot or according to a previously-made agreement or the internal rules. The repair or reconstruction shall be undertaken in compliance with the effective legal procedures regarding construction permits and shall maintain the original structure of the building unless there is an agreement to the contrary or provided otherwise by the internal rules of the co-owned building.

In the event that a co-owned building gets totally destroyed by a human act or by *force majeure* and the Cambodian co-owners agree to sell the land on which the co-owned building is situated, special co-owners shall be entitled to receive sale proceeds based on their right to use and enjoy the common areas according to the proportion of the surface area of their private units or according to a previously-made agreement or the internal rules.

CHAPTER 5

PROCEDURE FOR REGISTRATION AND ISSUANCE OF CERTIFICATE

Article 19.

The legal provisions and other regulations relevant to procedural mechanisms of registration and issuance of certificates shall likewise apply to the procedure for registration and issuance of certificates for special co-ownership of co-owned buildings.

A sample of the certificate of ownership of a private unit of a special co-owner, with wording regarding rights, shall be determined by *Prakas* of the Minister of Land Management, Urban Planning, and Construction.

CHAPTER 6

PENALTIES

Article 20.

Special co-owners who infringe on the common areas of a building or the land by altering it for private use or for sale shall be forced to make restitution. Such co-owners shall be penalized as stated in Article 257 of the Land Law.

Special co-owners who refuse to participate in taking charge of the maintenance of the common areas or fail to comply with the requirements of public order shall be penalized as stated in Article 258 of the Land Law.

Article 21.

A violation committed by the cadastral authority against the provisions of this law concerning registration or issuance to a special co-owner of a certificate of ownership of a private unit of a co-owned building, shall be penalized as stated in Article 264 of the Land Law.

CHAPTER 7

TRANSITIONAL PROVISIONS

Article 22.

Any foreigner who purchased or received the transfer of a private unit of a co-owned building before this law came into effect and in conflict with the

provisions of Article 6 of this law, shall be allowed to rectify himself and obey this law within a period of 2 (two) years.

In case of failure to comply with the first paragraph, the competent authority shall file a complaint to the competent court in order to force-sell the private unit of the co-owned building.

CHAPTER 8

FINAL PROVISIONS

Article 23.

Any provisions that are contrary to this law shall be null and void.

Article 24.

This law shall be declared urgent.

*Royal Palace, Phnom Penh, May 24,
2010*

(royal signature and seal)

NORODOM SIHAMONI