



TMI Eyes No. 28: Lease Agreements and Relating Promises

In the course of business, operators often lease real estate, frequently constructing buildings or making substantial investments on the leased land. To ensure business continuity and recover these investments, they typically seek long-term security—lease of more than 30 years, exceeding the maximum lease term permitted under the Thai Civil and Commercial Code (“CCC”).

This article provides an overview of lease agreements under the CCC and highlights key legal considerations regarding limitations on lease term and lease renewals.

Lease Under the Thai Civil and Commercial Code

Under the CCC, a lease of immovable property must be made in writing to be enforceable by action. If the lease term exceeds three (3) years or is for the lifetime of the lessor or lessee, it must also be registered with the competent authority to be enforceable for the full term. Without such registration, the lease will only be legally enforceable for a maximum period of three (3) years.

The CCC further limits each lease term to a maximum of 30 years. While lease renewals are permitted, each renewal term is also restricted to no more than 30 years.

Is Automatic Renewal, or A Lessor’s Promise to Renew Lawfully Enforceable?

At times, operators attempt to secure lease terms extending beyond the 30-year limit prescribed under the CCC. This is sometimes done by including automatic renewal clauses in lease agreements, to provide long-term security and safeguard investment.

As the maximum lease term allowed under the CCC is 30 years, automatic renewal provisions that result in a cumulative lease term exceeding 30 years are not legally enforceable. Thai courts generally do not recognize automatic or perpetual renewal clauses that circumvent the limit permitted under the CCC.

In practice, parties alternatively attempt to achieve similar results through utilizing “promise to renew”, whereby the lessor promises to lease the land to the lessee on the terms stipulated therein. Promises contain terms relating to rent, duration, and other conditions which oftentimes substantially mirror those of the original lease. The renewal can be triggered unilaterally by the lessee, typically through written notice, without requiring further negotiation.

While “promise to renew” are recognized by the Thai court and may be enforceable in principle, they can be void if construed as effectively creating a lease term exceeding the 30-year limit, having the intention

to circumvent legal prohibition. Accordingly, operators should exercise caution and seek legal advice when structuring long-term lease arrangements under Thai law.

In Supreme Court Decision No. 4655/2566 (2023), the Thai Supreme Court held that a lease agreement containing a promise to renew for two additional 30-year terms (90 years in total) was void, as it contravened the 30-year lease term limit under the CCC. The Court found that the parties intended to circumvent the legal restriction as (i) the lessor promised to renew the lease for years 31–60 and 61–90; (ii) the lessee exercised the promise on the same date as the initial lease, and (iii) the lessee prepaid for both renewal periods shortly after initial lease term commenced.

The Court concluded this arrangement was effectively intended to create a 90-year lease, which is expressly prohibited by law. The Court viewed that the 30-year limit (with possibility to renew) reflects the need to account for changing land values and economic conditions over time. Long-term lease commitments may lead to unfairness and are therefore restricted to protect both parties. Any attempt to contract around this limit—even via a promise to renew—is unenforceable under Thai law.

TMI's Notes

Operators must note that under the CCC, each lease term is limited to 30 years. Accordingly, it is crucial that operators carefully structure their lease agreements to ensure that any renewal provisions are legally enforceable and do not risk being deemed void due to attempts to circumvent this legal limit.

Where longer-term use rights are required, operators may consider alternative legal structures—such as leasehold company models, usufruct arrangements, or hybrid contractual frameworks. Each of these structures has distinct legal, regulatory, and tax implications and should be evaluated on a case-by-case basis with appropriate professional advice.

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