



## How to acquire land in Cambodia as a foreigner

It is known that foreigners cannot own land in Cambodia as it is simply unconstitutional. Indeed, under Article 44 of the Cambodian Constitution, *“only natural persons or legal entities of Khmer nationality shall have the right to land ownership.”*

However, this Article can be a bit misleading. Cambodia is a frontier market that offers many great investment opportunities, including lands for residential, commercial, or agricultural projects. As there are several completely legal pathways to acquire land in Cambodia as a foreigner, a question remains unclear for certain investors. How can I achieve this?

Here are the legal pathways to land ownership in Cambodia as a foreigner.

### Leasing a land under a long-term lease (also known as leasehold)

A lease agreement allows foreign nationals (both individuals and entities) to acquire control over a land in Cambodia. Those procedures are some of the most common ways for foreigners to have rights over land in the Kingdom since such leases grant the owner certain privileges.

There are two kinds of leases in Cambodia: short term leases and long term leases (also called a perpetual lease). For a lease to be considered a perpetual lease, the term has to be 15 years or more. Under Cambodia Civil Code, the maximum duration of a lease is 50 years and it can be renewed once. A perpetual lease, includes a provision that certifies that the land would not be sold to anyone else without the lessee’s consent. This mechanism grants the foreigner control over the land.

It is important to note that if a foreign national holds a perpetual lease and leases a land (which is subject to a Hard Title), that individual can register his/her encumbrance on the certificate of title and receive a certificate of long term lease from the relevant Land Office. This procedure is not a condition of lease validity, however, a certificate of long term lease grants all the necessary rights to lessee to develop the land. That procedure is even more important to consider for industrial, commercial, and agricultural users who wish to lease a land for more than 50 years.

## **Establishing a land holding company (LHC) and becoming a minority shareholder**

The basic structure for a foreign national to own land in Cambodia comprises at least two entities; a company of Cambodian nationality (meaning that at least 51% of the shareholders of that company are of Cambodian citizens) or Cambodian citizen, and a foreign party which can either be an individual or a company. It is important to note that the Cambodian party does not have to be only one company or one individual. Multiple parties can enter into the agreement.

The two (or more) parties then establish a land holding company (LHC) where 51% of the stake is owned by the Cambodian shareholder(s) and 49% is owned by the foreign party. A LHC company is a limited liability company incorporated under Cambodian Law that would own the land on behalf of the foreigner. The parties involved in the land acquisition cannot buy the land until the LHC is structured since the LHC is the vehicle that is legally able to purchase land in Cambodia.

Obviously, once the LHC is established, there are mechanisms that protect the interests of the minority shareholder. In order to do so, the parties involved in the land acquisition enter into a package of agreements often called land security documents. In the vast majority of cases, the minority shareholder is the one paying for the land and its development so a shareholder agreement is drafted which specifies how the LHC is operated. This agreement can be structured in such a way that the foreign shareholder holds and exercises the control and the management of the company.

Another option to protect the minority shareholder is to set up a separate company that carries out a project on the land. For example, it is possible to establish a garment factory on the land that can be 100% foreign-owned. The factory can then lease the land from the LHC under a long term lease (assuming that the land is registered under a Hard Title) and receive a certificate of lease.

The LHC is really the vehicle that serves as a basement to acquire land. It is totally possible to build upon it to develop a structure that protects the interests of the minority shareholder that is paying for the land.

## **Purchasing a land through a Cambodian nominee**

Purchasing land in Cambodia through a nominee ownership has gained popularity over the past years as it is the most cost effective and less time consuming way.

Under a nominee structure, a foreign national has to “nominate” a Cambodian citizen to act as the legal owner of the land being acquired. The two parties then proceed to sign a trust agreement that grants full right of purchase and control to the foreign national. However, this is a risky mechanism since it all depends on whether or not the foreign national is engaging with a trusted nominee. Furthermore, a nominee structure is often interpreted as a way to circumvent

the Cambodian Constitution. Due to those two major flaws, Belaws does not recommend purchasing land through a Cambodian nominee.

## Investing in land through concessions

In Cambodia, a land concession is an agreement between the government and another party (which can be a legal entity or an individual) that grants this party rights to occupy and exploit a land for a maximum term of 50 years. The concession does not grant full ownership of the land as it remains the property of the State. However, the concessionaire is able to operate and manage the land. Economic Land Concessions (ELCs) are probably the most coveted concessions as they are allocated to concessionaires who wish to undergo agricultural projects such as plantations. ELCs are granted a given emphasis as developing the agricultural sector to accelerate economic growth and reduce poverty remains the priority.

However, investing in a land concession is not recommended to foreign nationals. Indeed, concessionaires are exposed to risks such as cadastral conflicts and evictions due to the lack of land titles and poor registration processes. The line between the property rights of concessionaires and that of authorities remains blurred.

## Marrying a Cambodian citizen

When a foreign national is married to a Cambodian citizen, they are allowed to buy land as long as the property title is under the Cambodian spouse name. However, even if the foreign national has invested in the land, he/she is not recognised as a land owner by law. To protect the interests of the foreign national, a 'block sale notice' can be registered through the Land Department. This notice prevents the sale of the land without the foreign national's consent.

## Acquiring Cambodian Citizenship

As the Cambodian Constitution mentions, only Cambodian citizens have the right to own land in the country. Therefore, acquiring Cambodian citizenship earns a foreign national the right to fully own a land without having to partner with a majority Cambodian shareholder. Being granted Cambodian citizenship is very limited for foreigners. You can learn more about it [here](#).

*Mechanisms to acquire land in Cambodia are available to foreigners even though the processes can be complex. Please get in touch with Belaws if you wish to learn more about the possibilities to acquire land in Cambodia.*