

Legal Update

After the Court Order: Transferring Estate Assets in Thailand

A. Why is a court order only the beginning of the process

When a person dies leaving assets in Thailand, obtaining a court order appointing an estate administrator is often only the first step in the estate administration process. Although an appointment order authorises the estate administrator to act on behalf of the deceased's estate, it does not mean that the deceased's assets can immediately be transferred to the appointed heirs. For the administration of an estate belonging to a non-Thai national residing in Thailand, estate administration is generally more complex.

Although Thai law provides that an estate devolves upon the heirs immediately upon the death of the deceased, the transfer of estate assets in practice still requires compliance with applicable legal requirements in Thailand, as well as the procedures and documentary requirements of the relevant authorities and institutions. Financial institutions, the Department of Lands and other relevant bodies each maintain their own internal requirements before recognising an estate administrator's authority or processing the transfer of assets.

As a result, obtaining a court order appointing an estate administrator should be regarded as an important milestone rather than the final step in the estate administration process. Estate administrators must still collect the necessary documents, comply with the requirements of the relevant authorities and complete a number of administrative procedures before the transfer of estate assets can be finalised in Thailand.

This article examines the legal role of an estate administrator under Thai law and highlights the practical issues that commonly arise when transferring estate assets following the appointment of an estate administrator in Thailand.

B. What an estate administrator must do

Under the *Thailand Civil and Commercial Code* (the “**CCC**”), an estate administrator is appointed by a court to administer the estate of the deceased. Upon their appointment, the estate administrator is vested with the authority to carry out acts necessary for the

administration of the estate, subject to the provisions of the CCC and the terms of the court's order.

In particular, section 1719 of the CCC provides that the estate administrator has the rights and duties to manage the estate and to perform all acts necessary for the settlement and administration of the estate in accordance with the law. Such duties generally include identifying and collecting estate assets, preserving and managing the estate, settling the deceased's outstanding debts and liabilities and distributing the remaining assets to the lawful heirs or beneficiaries.

In exercising these powers, the estate administrator acts in a fiduciary capacity and is expected to administer the estate honestly, prudently and in the best interests of the estate and all persons entitled to it.

However, while the appointment order granted by the court authorises the estate administrator to act on behalf of the estate, it does not, by itself, transfer ownership of the deceased's assets to the heirs. Rather, the court order serves as the legal basis upon which the estate administrator may approach the relevant authorities and institutions to complete the transfer of each category of estate asset in accordance with the applicable laws, regulations and administrative procedures.

C. From court order to asset transfer

In practice, once the court order appointing the estate administrator has become final, the estate administrator will generally need to obtain a Certificate of Finality from the court for use in dealing with the relevant authorities and institutions. The court order appointing the estate administrator and the Certificate of Finality are generally the principal documents required by most authorities when considering an application relating to the transfer of estate assets.

However, each authority may require additional documents, such as the death certificate, documents evidencing heirship, identification documents, a power of attorney, or documents specific to the particular asset concerned.

Where a relevant person or document is located overseas, the estate administrator should also confirm whether the receiving authority requires original documents, certified copies, certified Thai translations, notarisation, authentication or legalisation, or a particular form of power of attorney. These requirements should ideally be confirmed before documents are signed or certified abroad, as documents prepared in an incorrect form may need to be re-executed, re-certified or resubmitted.

The applicable procedures may also vary depending on the type of asset, including bank deposits, immovable property, shares, securities, or other rights and claims. Estate

administrators should therefore verify the requirements of each relevant authority before commencing the transfer process in order to avoid delays or incomplete submissions.

D. Where delays commonly arise

There are a few procedural challenges that may arise when transferring estate assets in Thailand, particularly where multiple institutions or foreign documents are involved.

In many cases, delays in the transfer of estate assets do not arise from legal disputes, but rather from incomplete documentation or a lack of familiarity with the specific requirements of the relevant authorities. This is particularly common where the estate comprises several categories of assets or where the assets are held by multiple authorities or institutions. As each authority may have its own documentary requirements, internal review procedures and processing timelines, documents accepted by one institution may not necessarily satisfy the requirements of another. In such circumstances, the estate administrator may need to prepare several certified copies of the court order, together with any additional supporting documents required by each relevant authority.

Further considerations may arise where the estate administrator or the heirs are foreign nationals, or where documents issued by foreign authorities are to be used in Thailand. In such cases, the documents may need to undergo the following:

- Applicable authentication or legalisation procedures, such as notarisation by a notary public;
- Certification by the relevant authority in the country of origin; and
- Authentication by a Royal Thai Embassy or Consulate, before they can be accepted for use in Thailand.

Where these requirements are overlooked, documents may need to be re-executed, re-certified or resubmitted, resulting in additional time and expense.

To illustrate this in practice a foreign national residing in Thailand may pass away leaving a condominium and bank accounts in Thailand, and the Thai court may appoint another foreign national who does not reside in Thailand as the estate administrator. To transfer the assets, the estate administrator may need to travel to Thailand to sign documents in person before the relevant officials within a limited period and prepare any foreign-issued documents for authentication in accordance with the requirements of the relevant authority. In some cases, however, the authority may accept the same duly authenticated documents previously submitted to the Thai court, as foreign-issued documents submitted to the Thai court must already have undergone the relevant authentication process. Confirming the requirements and preparing the necessary documents in advance can therefore help ensure that the transfer is completed during the administrator's stay in Thailand and reduce the cost of additional travel.

Accordingly, preparing the necessary documents and verifying the requirements of each relevant authority at an early stage can help facilitate an efficient transfer of estate assets, minimise delays and reduce the risk of having to amend documents or resubmit applications at a later stage.

E. Key takeaways

The appointment of an estate administrator is an important milestone in the administration of an estate. However, it should not be regarded as the final step in the succession process.

In practice, the successful transfer of estate assets in Thailand depends on compliance with the applicable legal requirements and the administrative procedures imposed by the relevant authorities. By understanding these requirements and preparing the necessary documents in advance, estate administrators can facilitate the efficient administration of the estate, minimise delays and reduce the risk of unnecessary complications.

Further information

Should you have any questions on the transfer of estate assets in Thailand, please reach out to the team at PDLegal.

Papon (Paul) Charoenpao

Managing Partner, Thailand
paponc@pdlegal.com.sg

Ravipat (Chai) Mullijarupongs

Partner, Thailand
ravipatm@pdlegal.com.sg

Wisansaya (Fondao) Supasit

Associate, Thailand
wisansayas@pdlegal.com.sg

© PDLegal Thailand

This article is intended to provide general information only and does not constitute legal advice. It should not be used as a substitute for professional legal consultation. We recommend seeking legal advice before making any decisions based on the information available in this article. PDLegal fully disclaims responsibility for any loss or damage which may result from relying on this article.