



LICADHO FACT SHEET

Illegal Sale of Land and Transfer of Title in Kompong Chhnang

In 1980, two families settled on plots of residential and farming land in Deum Popel village, Thmo Eth Commune, Kompong Tralach district, Kompong Chhnang province. Both families have lived and farmed continuously on the plots since that time as legally required for the right to land ownership in Cambodia. The families are now facing a criminal complaint for use of violence against another party who has also claimed ownership of the same land.

The trial was originally set for Monday July 9, 2:00 PM at the Kompong Chhnang provincial court. However, due to the absence of a key local official who was to testify for the prosecution that day, the trial was postponed to July 23rd, 7:30 AM. LICADHO's senior lawyer, Mr. Ham Sunrith, is representing the interests of the two families.

In 1985, an individual named Cheit Chein offered to purchase the two farming plots from the families, but they declined to sell the land. Then in 1994, Cheit Chein contacted another villager, Ke Oute, who sold him the farming plots for 160,000 Riel. Ke Oute did not hold any title of ownership to the land.

After the sale, Cheit Chein obtained a title of ownership from the District Cadastral Office. At the same time, another individual named Di Thunvuth also obtained a title of ownership adjacent to Cheit Chein's. These titles were granted while the families were still farming on the land. It is not clear if Di Thunvuth paid for the land or how he was able to obtain a title of ownership.

The dispute involves two different sets of titles of ownership to the same land. One set, held by the two original families, was granted by the District Cadastral Office in October 1993. Although classified as a title of ownership for residential land, the dimensions of the land in the title cover ownership of *both* the residential and farming plots. Cheit Chein's and Di Thunvuth's titles, meanwhile, were granted by the Cadastral office in September 1994 and describe ownership of the farming plots only.



In September 2005, an individual named Sok Bunthoeun visited the plots with two uniformed policemen armed with AK-47s. Sok is chief of the Kompong Tralach District Planning Office and son-in-law of Cheit Chein. He threatened the two families and told them to stop farming on his father-in-law's land.

In September 2005, Sok Bunthoeun filed a criminal complaint on behalf of Cheit Chein against the families pursuant to Article 253 of the 2001 Land Law. According article 253, any person who uses violence against a possessor in good faith of an immovable property, whether or not title has been established or is disputed, will be fined up to 25 million Riel and/or imprisoned from six months to two years.

The families were unaware of the illegal sale of their land prior to this series of events. Cadastral Administration officials refused to acknowledge and/or confirm that the families had been in continuous possession of the land.

In June 2006, a court ordered a reinvestigation of the joint title of ownership. The investigating judge ruled that the boundaries described in both sets of titles were unclear, and the titles were to be sent back to the District Cadastral Office for clarification. In addition, the judge stated that the families could continue to work on their land.

The Cadastral office redrew the families' property lines. Cheit Chein and Di Thunvuth were granted one parcel of land, and one more parcel was granted to each family. The Cadastral office, however, failed to confirm the competing claims of ownership with the families and other relevant individuals in the village in person as required by law.



The legal basis for Cheit Chein's and Di Thunvuth's claim of ownership and the filing of the criminal complaint are weak as the following analysis shows.

First, according to Article 30 of the Land Law, any person who has "enjoyed peaceful, uncontested possession of immovable property that can lawfully be privately possessed" for a minimum of five years prior to 2001 has the right to ownership of the land. The families' continuous occupation and use of the land since 1980 grants them this right.

Second, the grounds for a criminal complaint under Article 253 of the Land Law are unfounded. The dispute is civil, not criminal. The villagers did not use violence at any time against Cheit Chein or Di Thunvuth. Furthermore, Article 253 requires that in order to file a complaint, the possessor of the property must be in good faith. The above facts indicate that Cheit Chein and Di Thunvuth knew the land had been continuously possessed by the two families prior to acquiring their titles. They could not have been good-faith possessors of the property.

This case is part of a larger pattern of illegal land grabs by local authorities in Kompong Chhnang province. Between January 2005 and June 2007, LICADHO investigated 21 such incidents affecting more than 500 people living in Kompong Chhnang province.

For more information, please contact:

Dr. Kek Galabru, President of LICADHO, 012 940 645