

Preface

The primary purpose of this book is to illustrate and explain the elementary principles of Thai private law, in a simple and readable style that should appeal to a wide readership of students, academics, and practitioners. The text is organized around the major issues relating to private law and provides a concise and systematic overview of the norms regulating legal relationships between private persons. Although all topics have been previously treated in the Thai language, this book is one of the first and most complete works in the English language about Thai private law. The book covers not only the legal system, starting from the Civil and Commercial Code and emphasizing the substantial changes that have been introduced in the past decades, but also the deep influence of doctrine and case law. It is built up in several layers, starting from the general rule, to gradually examine the more specific ones. As it is common in civil law legal systems, the analysis of the specific cases follows the explanation of the general rule.

The 6 chapters are each designed to present a detailed analysis of a particular area of Thai private law and discuss the principal issues encountered in a legal practice without unnecessary detail. To some extent, each chapter is intended to address a specific topic which can be read independently of the rest of the book. Chapter 1 introduces the main concepts, rules, and institutions of the Thai legal system. It details the history of the codification of the Civil and Commercial Code and provides the reader with valuable information about the main principles which regulate private relations between citizens and business associations. Chapter 2 provides a full and systematic view of the fundamental principles which regulate the law of obligations in Thailand. It analyses the general rules relating to obligations (dealing with contractual agreements separately in so far as this is necessary) as well as the special rules which apply to particular kinds of obligations. It is also concerned with the mechanisms of prevention, compensation, and enforcement in case rights are violated. Chapter 3 is devoted to specific contracts. It provides an understanding of the sources of contract law in Thailand and analyses the normative regulation of nominate contracts under the Civil and Commercial Code. Topics covered include sale, gift, hire of property, hire of services, and hire of work, loan, deposit, suretyship, pledge, and mortgage. Chapter 4 deals mainly

with real rights, though it also incidentally contains rules referring to obligatory relations arising in connexion with the ownership and possession of things. It provides an introduction to the fundamental rules which regulate property law in the Thai legal system and includes a detailed discussion of the concepts of ownership and possession. It also reviews some of the principal characteristics of the main real rights over immovables other than ownership including the right of servitude, superficies, habitation, and usufruct. The most important legal aspects of family law are summarized in Chap. 5. After outlining the Thai rules as to the celebration of marriages and its validity, the effects of marriage are explained in detail. The effects of marriage are treated under two heads: the general effects being distinguished from the effects described under matrimonial regime of the spouses. This chapter also analyses the legal relationships of individuals who are connected to each other as family members, such as children, parents, wives, and husbands. Chapter 6 concluding the book deals with all issues arising from death and transmission of the estate of a person after his death, the statutory rights of inheritance, the succession by will, and the administration and devolution of an estate of deceased persons.

Much of the material presented in this book has been inspired and greatly informed by the studies of Prof. Ernest Joseph Schuster. His fundamental work ‘The principles of German civil law’ has exercised an immense influence on the drafters of the Thai Civil and Commercial Code and still represent today an essential reference for a large number of researchers and scholars dealing with the Thai legal system. This work has also benefited greatly from the continual assistance of a very large number of friends, colleagues and students. These include, in particular, Alexei Blanc, Parisa Mahakantha, Pariya Patchimnan, Phatcharaporn Chokbunsuwan, Somkit Keskowit, and Suppaluk Jakkrod. The author is especially grateful to Prof. Giuseppe Mario Saccone, Dr. Santichai Srisawet, and Dr. Sumalee Yang who meticulously reviewed the entire manuscript and made many pertinent suggestions. Additional thanks go to Phansa Manokatitham for her valuable assistance with particular topics in the text and Thitiwat Ongsangakoon for his work on the project.

All of these persons and institutions must be exonerated, however, from responsibility for any inaccuracies, errors, or omissions within the work, the author alone assuming full responsibility. To the best of the author’s knowledge, the law as stated in this work is current as of May 31, 2016.

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