



**IN THE NAME OF THE KING**  
**The Constitutional Court**

**Ruling No. 8/2541\***

**Dated 13<sup>th</sup> August B.E. 2541 (1998)**

**Re : Satun Provincial Court referred the application of Mr. Sorasak Woranantakul to the Constitutional Court for a ruling.**

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The Permanent Secretary of the Ministry of Justice submitted an application, dated 14<sup>th</sup> July B.E. 2541 (1998) to the Constitutional Court for a ruling in the case where Satun Provincial Court referred the application of Mr. Sorasak Woranantakul to the Constitutional Court requesting for a ruling on whether the performance of duties of the Satun Provincial Court in Civil Case Judgment No. 110/2539, Case No. 162/2541, in which the applicant was sued by Bangkok Bank Limited, the plaintiff, in tort claims, constituted an unconstitutional act under section 70 paragraph three of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) and restricted the rights and liberties of a person under section 4, section 5, section 6, section 26, section 27, section 28 and section 30 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) and prohibited by section 6 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). Such opinion was therefore referred to the Constitutional Court for a ruling under section 264 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). The Constitutional Court considered the defendant's application documents and Order of Satun Provincial Court in this case and discovered the following facts.

(1) According to the application dated 29<sup>th</sup> April B.E. 2541 (1998), the applicant claimed that the performance of duties of a judge of the Satun Provincial Court was subject to section 6 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). The applicant claimed that there was an effect on the rights and liberties protected under section 29 in conjunction with section 4, section 5, section 6, section 26, section 27, section 28, section 30 and section 70 paragraph three of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). The following issues were raised:

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\* Published in the Government Gazette, Vol. 115, Part 69a, dated 5<sup>th</sup> October B.E. 2541 (1998)

(1.1) whether or not the Court Order dismissing the applicant's application in the preliminary, on a legal issue of whether or not the plaintiff had standing to sue, was prohibited under section 6 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997);

(1.2) whether or not the Court's arrival at a judgment without hearing the objections of the defendant, in exercising the rights to object under section 264 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) by virtue of the powers in section 28 in conjunction with section 27, section 48 and section 70 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) that the case was unlawful (the plaintiff did not have standing), was prohibited by section 6 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997);

(1.3) whether or not the Court's judgment, that the applicant was tortuously liable to the plaintiff even though some of the facts claimed by the plaintiff were not settled, was prohibited under section 6 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997);

(1.4) whether or not the Court's non-consideration of the applicant's claims that the plaintiff did not have standing to sue was unconstitutional under section 70 paragraph three of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) and prohibited under section 6 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

(2) According to the application dated 12<sup>th</sup> May B.E. 2541 (1998), the applicant claimed that the Court Order directing the applicant to send a copy of the application dated 29<sup>th</sup> April B.E. 2541 (1998) as stated in (1) above to the plaintiff and granting the plaintiff the right to submit an opinion objecting the rights of the applicant was a matter of a judicial official not complying with duties under section 70 paragraph three of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) and an Order inconsistent with section 6 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) and a restriction of rights and liberties of a person under section 29 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

The Constitutional Court analysed the content of the application under (1) above and held that the case was one where the defendant in the case submitted that the performance of duties by Satun Provincial Court under the Civil Procedure Code was inconsistent with the provisions of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) because the Court failed to proceed under the application of the defendant requesting for a preliminary ruling on a legal issue on whether or not the plaintiff had standing to sue and because the Court failed to rule that the plaintiff did not have the standing to sue. On the contrary, according to the Case Judgment No. 110/2539, Case No. 162/2541 of Satun Provincial Court, on the issue of the plaintiff's standing to sue, the Court held that the plaintiff did not have standing to make claims for the revocation of documentary rights in a certification of utilisation, but the defendant did not have the right to construct a fence on the disputed land and the act of the defendant made him liable in tort to the plaintiff. As regards

the defendant's application for a preliminary ruling, the Court stayed its trial until judgment was made. However, when judgment was passed, there was no more use for a preliminary ruling. The defendant's objection that Satun Provincial Court performed duties inconsistent with the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) was therefore contrary to the facts and did not contain any substance deserving consideration.

As for was the request for a ruling that judicial officials acting for Satun Provincial Court performed duties inconsistently with section 70 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), section 70 paragraph three of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) conferred rights on the interested person to request such an official or the superior of such official to state reasons and request for compliance of the law. Therefore this was not a case for requesting the Constitutional Court to consider.

By virtue of the reasons stated above and the powers of the Constitutional Court under section 264 paragraph two, the Constitutional Court did not accept the matter for consideration.

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