

# Summary of the Constitutional Court Ruling No. 8/2543

Dated 2<sup>nd</sup> March B.E. 2543 (2000) \*

**Re : The Songkhla Provincial Court referred the objection of the defendant (Mr. Anan Jantararat and others) to the Constitutional Court for a ruling under section 264 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).**

.....

## 1. Background and summarized facts

Krungthai Bank Public Company Limited, as plaintiff, filed a plaint against Mr. Anan Jantararat as first defendant, Mrs. Lamjuan Jantararat as second defendant and Command Sergeant Major Somnit Jantararat as third defendant in the Civil Pending Case No.1748/2542 in a dispute arising out of the breach of contract, current account, overdraft loan, enforcement of mortgage and suretyship. Under the plaint, the plaintiff requested all three defendants to pay a debt in the amounts of Baht 4,665,010.76 plus interest at the rate of 18 per cent per year for the capital of the amounts of Baht 3,338,033.36 and interest at the rate of 7.5 per cent per year for the capital of the amounts of Baht 1,657 computed as from the day following the date that the lawsuit had been brought until such debt was completely paid to the plaintiff.

The applicants, as consumers, objected that the interest rate claimed by the plaintiff under the plaint exceeded the rate prescribed by law and had to be void. The Court (Songkhla Provincial Court) could not force him to pay such interest to the plaintiff.

## 2. Preliminary issue

The applicants applied to the Songkhla Provincial Court for staying its trial and adjudication of the case and referring his objection to the Constitutional Court for a ruling under section 264 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997).

## 3. The issues considered by the Constitutional Court

Were the applicants consumers under section 57 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) ?

---

\* Published in the Government Gazette, Vol. 117, Part 70a, dated 26<sup>th</sup> July B.E. 2543 (2000)

The Constitutional Court held the following opinion:

Section 57 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997) was a provision laying down a general principle on the protection of the right of a person as a consumer. Whether and how a person was a consumer and was protected under such the provision was under rules and procedures as provided by law. The application in question was not the objection that the provision of law which was applied to the case by the Court was contrary to or inconsistent with the Constitution under section 264 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997). The application was merely a request for the Constitutional Court to interpret the provision of section 57 of the Constitution of the Kingdom of Thailand, B.E. 2540 (1997), which the applicants were not entitled to submit an application to the Constitutional Court for a ruling.

#### **4. Ruling of the Constitutional Court**

The Constitutional Court dismissed the application.

---