

LITIGATION AND THE CONSEQUENCES OF THE VERDICT IN CONSUMER CASES

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Abstract

This research aims to study the history, meaning, concepts, theories, class-action principles and consumer protection. Study legal measures regarding litigation and the effect of verdicts in consumer cases. This allowed the study participants to gain an understanding of the history of class-action litigation. The purpose of class-action is to manage the case, increase the efficiency of the remedy, the verdict in the same way, and reduce the burden of expenses. And create legal measures to prevent acts that violate the rights of citizens, have an understanding of the model of class action by government agencies, private sectors and associations. The legal principles relating to class-action proceedings are the rule of law, the principle of litigation power, the principle of disputed rights, the principle of fairness, the principle of protection of the public interest, the principle of dignity of the judgment, the criteria for class-action, the introduction of the case to a class-action trial, as well as the outcome of the verdict and the remedy of the rights of members to prosecute in class action. Thailand's Judicial System in Relation to Consumer Cases The court will consider the consumer case at the Judiciary, Consumer Litigation Division. It's not a special court. There is a broad classification of consumer cases under Section 3 of the Consumer Procedure Act B.E. 2551, causing confusion for the public to take cases to court, defining the type of consumer case to be clear, or explaining the definition of consumer lawsuits to be more easily understood by the public, which can make it easier, more convenient and faster for consumers to exercise their right to prosecute consumers.

Keywords: Litigation / Outcome of Verdict / Consumer Lawsuit

INTRODUCTION

Consumer litigation is the right to sue: consumers under the Consumer Protection Act B.E. 2551 and litigation authority on behalf of consumers, includes: Consumer Protection Commission, Associations at the Consumer Protection Commission, and Foundations at the Consumer Protection Commission. Business operators can also sue for consumer protection. The problem is, once the agent has filed a protective lawsuit instead, the outcome of the verdict is bound only to those whom the agent has filed the lawsuit. It does not cover other consumers who have been damaged in the same case unless they ask to insert or request to be a partner in the case.

Bringing the case to court must comply with the provisions of the law. In cases where a large number of people have been damaged by acts of dispute, the dispute is filed against the same defendant, the same set of evidence, if these victims wish to prosecute. Each victim will have to file their case with the court. Each prosecution will take time and cost a lot of money. Even if the law requires consumers not to pay court fees, consumers will not have to pay court fees. In the event that he is a plaintiff sues. Most prosecutions require lawyers to assist and ad

wise consumers. Because most consumers lack of understanding of consumer rights, lack of legal knowledge, lack the ability to access information, documents to be used as evidence in a trial. And in some cases, the nature of the dispute is also complicated in bringing investigators to prove damage. Consumers may therefore have to rely on lawyers to take over their lawsuits and pay the values to lawyers. In addition, there are other expenses such as travel expenses, copy fees that consumers must bear, and although the law requires a case officer who is responsible for making indictments, assisting or providing advice, and assisting the court in seeking evidence in the case, the jurors do not have enough to thoroughly protect the interests of all consumers. So, in the event that the damage to the consumer is not very large. If a prosecution is required to be protected, it is not worth the money to lose, so consumers choose not to file a lawsuit in court.

If there is damage, each victim is unknown. Can't communicate with each other. In addition, the principles in Article 145 of the Civil Procedure Code establish that the judgment is bound only by the parties in the case. As a result, each victim has to file a lawsuit on a case-by-case basis, resulting in a lawsuit. Because the same or the same act is multiple cases at times of inequality, both cases have a common factual or legal issue because the damages are caused by the same cause. As a result, the courts will have to take a harder line on these hearings. The court has repeatedly considered the case on the issue. The evidence heard was the same or similar in each case, the difference in each case was only that the plaintiff was a different person.

As a result of this issue, there is an interest in studying legal issues regarding litigation and the consequences of verdicts in consumer cases. It adopts a class action approach to victims for consumer protection. It can also be used as a way to effectively amend the law and contribute to consumer efficiency.

RESEARCH OBJECTIVES

1. To study the history, meaning, concepts, theories, principles of class action and consumer protection.
2. To study the legal measures regarding litigation and the consequences of the verdict in consumer cases.

RESEARCH METHODOLOGY

The independent study is a documentary research study that was researched and compiled from issues with the Consumer Protection Act B.E. 2522 (1979) in relation to litigation and the outcome of verdicts in consumer cases. As well as other laws. It analyzes from legal chapters, academic textbooks, research, dissertations, journal articles, electronic media, and presents descriptive information, as well as studying the general principles of Thailand and abroad related. To provide information to analyze and suggest solutions to issues related to litigation and the consequences of class-action verdicts and in consumer cases.

SUMMARY OF FINDINGS

Summary of the findings, according to Objective 1

The Consumer Procedure Act B.E. 2551 (2008) has been in force since August 23, 2008. There is a reason for enacting the law, from which consumer cases are cases that affect a large number of citizens, and most consumers have an economic position that is inferior to entrepreneurship, this causes a lack of leverage. In addition, when a dispute arises. The process of claiming damages takes a long time and creates difficulties for consumers to prove facts that are not in their own knowledge; it also costs a high level of prosecution. Consumers, therefore, fall into such a disadvantage that they sometimes lead to the use of radical methods and trigger confrontations between business operators and unfair consumer groups; this affects the overall economic system of the country. Therefore, in order for consumers to be protected and to heal their damage quickly, economically, and efficiently, this is to encourage business operators to focus on improving the quality of products and services. Therefore, it is necessary to enact the Consumer Procedure Act, especially as in the consideration of any matter that is not specifically enshrined in the Consumer Procedure Act, and the Civil Procedure Code shall be enforced. Here's a summary:

Thailand's Judicial System in Relation to Consumer Cases, the court will consider the consumer case at the Judiciary, Consumer Litigation Division. It's not a special court. There is a broad classification of consumer cases under Section 3 of the Consumer Procedure Act 2008, causing confusion for the public to take the case to court or not know if the case is considered a consumer case. Which is one of the reasons why the number of court consumer cases is growing? In 2009, a lawsuit filed by a consumer as a plaintiff against an entrepreneur as a defendant in a case involving the standards of goods or services was a very small number. So, defining the type of consumer case to be clear or explaining the definition of consumer lawsuits to the public is easier to understand, it can make it easier and faster for consumers to exercise their right to prosecute consumers. This is due to a lack of understanding of consumer litigation that the law continues to provide protection to consumers. Even if the consumer is already a defendant in the consumer case, it is better to educate the consumer to come to the fight even if they are the defendant. Especially in the mediation class, the court may mediate the operator, who is the creditor, to reduce the waiver in the payment of debtors. Therefore, when all parties involved act together, whether it is a court that acts to enforce the law appropriately and correctly, and consumers must uphold their rights to be healed for damages caused by the consumption of goods or services, it will be enforced. The Consumer Procedure Act B.E. 2551 is effective and truly in the best interests of consumers.

Prosecuting consumers whose individuals are arguing for the rights from the same case is large, prosecuting business operators who cause damage must comply with the Consumer Procedure Act and the Civil Procedure Code. Consumers have to prosecute on a case-by-case basis, and consumers have to file their lawsuits in the courts in order to be protected by law, resulting in problems related to the exercise of their right to prosecute. Because court proceedings take a long time and cost a lot of money, consumers who receive minor damages may not prosecute, seeing that the consequences of a lawsuit are not worth the costs they have to pay. It also causes problems with court proceedings because in cases where different consumers sue, there will be

a lot of cases in court, thereby delaying trials and redundant trials, and by examining each consumer's witness in each case with different cases, the judgments of the courts in each case can be different. This will also affect business operators as debtors in accordance with the judgments in which different judgments must be followed.

In addition, several lawsuits against the same business operator will inequality in the enforcement of limited amounts of business operators' assets, because any consumer who prosecutes first has the opportunity to enforce a lawsuit from the business operator's assets before the consumer who subsequently sues the case. As a result, those who file a lawsuit at a later date may not receive damages because the business operator may not have any other assets to enforce, as such, a class action should be brought to the benefit of the consumer and be utterly fair.

In summary, the pros and cons of class-action proceedings are as follows: class action has the advantage of being cost-effective, especially for those who do not have sufficient capital to pursue their own lawsuits. Because it is a one-time operation for all victims, it also makes prosecutions on the same issue the same effect and makes justice more effective. It is also very good at cracking down on those who are thinking of breaking the law, because if convicted they will have to pay a lot of damage.

A class action can also have drawbacks. In other words, plaintiffs may use class-action as leverage to force defendants to pay debts without the intention of protecting the interests of other group members. Group membership is automatic. If the victim is unaware of the notice and does not request to leave the group, it is implicitly considered a member of the group which loses the right to file a lawsuit against the defendant and prosecute him. In addition, group members have almost no role in the proceedings.

Summary of the findings, according to objective 2

1. The problem with any case is a consumer case. The definition of "Consumer Lawsuit" Section 3 (1) defines "consumer lawsuits". This means that civil lawsuits between consumers or authorized persons to file lawsuits on behalf of consumers under Section 19 or under other laws against business operators who dispute legal rights or duties due to the consumption of goods or services. From this definition, it is evident that, which cases are consumer cases or not, whether the law upholds the status or relationship between the parties as a priority. Such problems the main characteristics that can be considered as consumer cases are: Damages must be caused due to the consumption of goods or services, but the consumption of goods or services does not mean only if the consumer has used the goods or received the service and has been damaged.

The fact that the business operator has not delivered goods or services or delivered them to consumers is completely incorrect. Therefore, the consumer sues to request that the goods or services be delivered correctly, or that the consumer purchases the allotted land from the business operator, has paid for the purchase of some land, but has not yet taken over the land. The business operator broke the contract; the consumer terminated the contract and sued for a refund, which is considered a dispute due to the consumption of goods or services in a

consumer lawsuit. The decision of the President of the Court of Appeal is ultimately to speed up litigation, but that does not necessarily mean that all consumer cases are finally in the court of appeal. Some cases may go to the Supreme Court by virtue of Section 51 to obtain permission for the Supreme Court to issue factual issues in cases where the disputed capital in the Supreme Court exceeds 200,000 Baht or in legal issues within one month from the date of reading the verdict or order of the Court of Appeal in the Consumer Litigation Department or the Consumer Court of Appeals. If the Supreme Court disagrees with the President's decision on whether the case is a consumer case, the Supreme Court cannot change the decision of the President of the Court of Appeal. Because the law requires the decision of the President of the Court of Appeal to be final. Will the President of the Court of Appeal decide the issue of which case is a consumer case, it is important to have the president of the Court of Appeal decide the problem of which case is a consumer case? Inevitably, it is a disqualification of consumers.

Therefore, the study authors suggested that the definition of consumer cases should be clearly defined, and that the law should be amended on the part of the diagnostic powers regarding the legal issue of which cases are consumer cases. The Supreme Court shall have the highest authority to make decisions, to be the same norm and for the people to accept the Supreme Court's decision. And to verify the validity of the lower courts and the courts of appeal.

2. The problem with the right to litigate, the prosecution agreement is the consumer or the person who has the power to file a lawsuit on behalf of the consumer.

Consumers or those who have been damaged by goods, people as consumers or those who have been damaged by dangerous goods, can exercise their right to sue the consumer litigation department that is stationed in the District Court. All provincial and civil courts. The consumer judicial system facilitates the use of consumer rights in a convenient, fast, just manner and encourages entrepreneurs to focus on improving the quality of products and services. You can file a verbal or written lawsuit, sue yourself or compose a lawyer, or ask the Consumer Protection Commission or association approved by the Consumer Protection Commission. Proceed with a lawsuit instead of without paying customary fees. Consumers' lack of knowledge, lack of information in evidence related to entrepreneurial production processes. Therefore, in the case, consumers require that the burden of proof is the duty of the operator. Therefore, it saves a lot of money and time in litigation for consumers.

However, this is the person who is entitled to the prosecution will be exempt from all customs fees, but not including liability for the most customary fees. Consumers or those who have been damaged by goods or who have the power to sue on behalf of consumers under the lawful representatives, such as the Consumer Protection Commission, associations or foundations, approved by the Consumer Protection Commission, associations or foundations, are litigated on behalf of the Consumer Protection Act B.E. 2522 as amended by the Consumer Protection Act (No. 3) B.E. 2553 (2013). As follows: associations or foundations with the purpose of consumer protection or against trade unfair competition and the regulations of such associations or foundations in respect of the Board of Directors, members and procedures of the Association. And the Foundation meets the conditions set out in the Ministerial Regulations, the Association and that Foundation may submit an application to the Board of

Accreditation for the Association and that Foundation. Have the right and authority to sue under Section 41. Associations or foundations accredited by the Board of Directors, litigation of consumer rights violations, give associations or foundations accredited by the Board of Directors under Section 40 the right to file civil lawsuits, criminal cases, and to pursue any proceedings in the case to protect consumers that benefit consumers as a whole in accordance with the nature or type of case. And have the power to sue for property and damages on behalf of consumers. If there is a letter of assignment to retrieve property and damages instead of the consumer. In addition to complying with the provisions in the Civil and Commercial Code and other laws, associations and foundations, approved by the Board of Directors under Section 40 must comply with the regulations prescribed by the Board of Directors. When it appears that any association or foundation accredited by the Board of Directors under Section 40 has failed to comply with the regulations accredited by the Board of Directors, or has the circumstances appearing to have conducted a dishonest prosecution, the Board shall have the power to revoke the association or foundation's accreditation.

Therefore, the study authors recommend that the board of directors of the association must appoint a person with a bachelor's degree in law to investigate the case, acting to comment on the legal consequences of litigation, such as having a direct effect on consumers. Because the association is already difficult to establish, and finding a case investigator is quite difficult. This makes it difficult for consumers to access justice if they want the association to sue instead, this is a major consumer problem. It assigns, directors of financial and banking experts together with general goods and services experts to do so, or can be designated as litigants on behalf of consumers and there should be a resolution regarding the right to prosecute to have a judicial system that is conducive to exercising consumer claims as a protection of consumer rights and encourage business operators to focus on improving the quality of products and services. The criteria of the person who has the right to prosecute should be clearly defined, the qualifications of the person who will use the prosecution powers instead to avoid confusion in the application for judicial rights.

3. Problems with how to file lawsuits and litigation, For the victim to file a lawsuit in court, Section 17 of the Consumer Procedure Act 2008, in cases where a business operator can sue a consumer as a case against a consumer, and the business operator has the right to present an indictment to a court where the consumer is domiciled in the court or to another court. Allow business operators to present indictments to courts where consumers are domiciled in one court zone. But if it is a typical civil case, the plaintiff must file a lawsuit against the defendant in a court where the defendant is domiciled in the courthouse or to the court where the case originated. For Thailand, consumer cases are mediated. Before mediating under the Consumer Prosecution Procedure Act, the Consumer Proceedings Must Go Through the Mediation Process of the Consumer Protection Commission, the Court has a mediation system whereby the parties agree, if they can agree on both parties to a mutual settlement or the court uses a trial methodology system whereby the court can gather witnesses, evidence and question witnesses, unlike a typical civil trial that uses an alleged system in which the plaintiffs must seek witnesses, all the evidence is self-inflicted.

Considering the nature of disputes in consumer cases, it is evident that consumer cases are civil cases between consumers and business operators resulting from the consumption of goods or services, in which both parties have unequal bargaining powers, that is, consumers are general citizens who have no knowledge of the production process, the quality of goods or services, marketing techniques, and the consumer has an inferior socioeconomic status than the business operator. So, in order to obtain goods and services between business operators and consumers, it is in such a way that business operators have greater bargaining power than consumers. This is evident in the current situation that business operators have adopted ready-made contracts with unfair contracts and greatly favourable to business operators to contract with consumers. Consumers cannot argue that such a clause places too much of a burden on them. And if the state does not intervene in the legal relationship between business operators and consumers, then it will lead to more consumer exploitation from business operators.

The 2008 Consumer Prosecution Act gives consumers greater rights and the ability to address the exploitation of not knowing technical laws, but there are still problems with the burden of proof and hearing witnesses as to whether they are trustworthy. The way consumers are considering is different from conventional civil cases because the process of making testimony, mediation, pointing two places and witness examinations is scheduled separately and has a fairly disposable period of time. However, the consumer case under Section 24 shall be scheduled by the court on the same day, which is that on that day there will be both mediations, if it fails, it will have to be made a plea and a trial, which is similar to the manoeuvre case, which is a case that is a quick case to end the case sooner. But considering whether class action should be allowed, at this stage, it is not yet a hearing on the content of the case; the court only considers the nature of the plaintiff's indictment along with the relevant evidence that the plaintiff's case meets the criteria required by law to be able to prosecute in a class action. Abroad, the result of allowing class-action proceedings will cause a small number of parties to decide to compromise instead. Because the risks posed by the outcome of a class action lawsuit can be enormous.

Therefore, the study authors recommended an amendment even though the Civil Procedure Code enacts class-action litigation, but because the Civil Procedure Code is a judicial process, the allegation system sets out the rules for how to compel the rights of private sectors together on the basis of equality of the parties and is a matter of private equality in fighting lawsuits. But consumer cases are based on a large number of the same grounds, and trials are systematic, should separate consumer trials from general civil cases to provide clarity. And it doesn't overlap, and it's also a reduction in the amount of case to the court.

4. Problems with the outcome of the verdict and the jurisdiction of the courts to punish, the law requires that a judgment or an injunction decide a case, at least to show the facts indictable. Summary and ruling on the issue of the case are ready for the reasons of that ruling, required in the case that the consumer or the litigation authority on behalf of the consumer is the plaintiff if it appears to the court that the amount of damages claimed by the plaintiff is incorrect or the method of enforcement on request and require that cases where damage is caused to the body, health or hygiene, and at the time of judgment, it is clear to know the damages, the Court may

say in a judgment or order that it reserves the right to amend that judgment or order within the period specified by the Court. However, this must not exceed 10 years from the date of the court's decision or order. The Court has the power to require business operators to replace products for consumers instead of fixing repairs to defective goods. In cases where the consumer or the authority to prosecute on behalf of the consumer is the plaintiff, the plaintiff asks the business operator to be liable for the defect of the goods, if the court believes that such defects existed at the time of delivery of the goods and cannot be corrected to restore normal usability or even if they are corrected, if used for consumption, it may harm the body, health or health of the consumer who used the goods, taking into account the nature of the product that may be replaceable, the conduct of the business operator as well as the good faith of the consumer consists of, and if the fact appears that the consumer has benefited from the use of the goods or caused damage to the goods, the court shall order the consumer to reimburse the consumer for the use of property or damages as the case may be. Assign damages for sentencing cases, if the prosecution's actions are caused by the business operator acting with the intention of unfairly exploiting the consumer or intentionally giving the consumer, suffering serious damage or negligence, not bringing damage to the consumer or acting in violation of responsibility as a professional or business persons inevitably in the consumer case. When the court decides to dismiss the case or dispose of the case of the document. If the fact appears to the court that there are still products that have already been sold or remain on the market, they may endanger the lives, bodies, health or health of consumers as a whole and other preventive method may not be used.

The Consumer Procedure Act gives courts special powers to make judgments or judicial orders rather than conventional civil cases, such as an over - judgment in cases where the consumer is a plaintiff, reserves the right to amend a judgment or order within 10 years. In the event that the actual damages cannot be realized, the business operator can be convicted of replacing the goods and assigning damages for punishment, ordering the business operator to declare the goods back, and being able to convict the shareholder partners to be liable, as opposed to a general civil case. In practice, no widespread use of class-action litigation has negatively affected consumers, the Civil Procedure Code is currently amended in respect of class-action litigation, but in the Amended Civil Procedure Code it does not require the court to reserve the right to amend judgments. If the damages appear to increase after the court's verdict or after the case has been enforced, the victim will not be able to claim the additional damages. It does not impose on the issue of granting group members the right to appeal judgments or court orders, but group members have the right to appeal only on issues related to their right to seek repayment It is against the principle of appeal in civil cases that stipulates that those who are affected by the outcome of the court's judgment have the right to appeal. In addition, the criteria for appeals that must be appealed to the Supreme Court constitute distillation and unfairness to plaintiffs, group members and defendants, since class-action cases will have a large number of victims and are highly capitalized cases and the result of the court's judgment will affect the rights of many groups of individuals.

Therefore, the study authors therefore suggest that the court should have the power to reserve the right to amend the verdict in a class action because cases of physical and mental damage,

the ultimate damage may not be evident. If the court gives the court the power to reserve the right to amend the judgment, it will be consistent and favourable to the victim and in respect of the punitive damage configuration under the Consumer Protection Act. This requires a rate of no more than twice the actual damages, which is too low for penalties, and should be amended to increase penalties for punitive damages to be fearful of operators and incentivize operators not to commit crimes against consumers.

Suggestion

By studying legal issues regarding litigation and the consequences of verdicts in consumer cases, to be able to find ways to effectively amend the law. And to be productive for consumers to be fair. As follows

The problem relates to whether the case has a problem in which case is a consumer case.

The definition of consumer cases should be clearly defined, and the law should be amended on the part of the decisive diagnostic powers regarding the legal issue of which is the consumer case. The Supreme Court shall have the highest authority to make decisions in order to be the same norm and for the public to accept the decisions of the Supreme Court and to verify the validity of the lower courts and the courts of appeal.

Problems with litigation rights

There should be a resolution regarding the right to prosecution to have a judicial system that facilitates the exercise of consumers' claims as a protection of consumers' rights and encourages business operators to focus on improving the quality of goods and services. The criteria of the person who has the right to prosecute should be clearly defined, the qualifications of the person who will use the prosecution powers instead to avoid confusion in the application for judicial rights.

Problems with how to file lawsuits and litigation

The Civil Procedure Code enacts class-action proceedings, but because the Civil Procedure Code is a judicial process, the allegation system sets out the rules for how compel the rights of the private sector together on the basis of equality of the parties and is a matter of private equality in the fight of the case. But consumer cases are based on a large number of the same grounds, and trials are systematic, should separate consumer trials from general civil cases to provide clarity. And it doesn't overlap, and it's also a reduction in the amount of case to the court.

Problems with the outcome of the verdict and the jurisdiction of the courts to punish

It should be given that the court shall have the power to reserve the right to amend the verdict in a class action, because cases of physical and mental damage, the ultimate damage, may not be evident. If the court gives the court the power to reserve the right to amend the judgment, it will be consistent and favourable to the victim and in respect of the punitive damage configuration under the Consumer Protection Act. This requires a rate of no more than twice the actual damages which are too low for penalties, as this should be amended to increase

penalties for punitive damages to ensure fear for operators and incentivize operators not to commit crimes against consumers.

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