

Constitutional Court Ruling No. 2/2026, Dated 21st January 2026

Re: Whether section 42 paragraph one of the Consumer Case Procedure Act, B.E. 2551 (2008), specifically stating “*the court shall have the power to order the business operator to pay punitive damages in addition to the actual damages as determined by the court as it deems appropriate,*” was contrary to or inconsistent with section 26 paragraph one, section 27 paragraphs one and three, and section 37 paragraph one of the Constitution.

Factual background

The Bangkok South Civil Court transmitted the statement of defense of the defendant in the civil cases bearing Black Case No. *Phor Bor* (พญ) 156–280/2562 and Red Case No. *Phor Bor* (พญ) 822–446/2562, requesting the Constitutional Court for a ruling under section 212 of the Constitution whether the defendant, as the housing estate developer of the project “Laddarom Pinklao,” failed to comply with the project’s site plan and the prescribed method of land allocation, which required that the land within the allocated plots must be improved by grading and leveling so that the finished ground level of the allocated land would be even and approximately thirty centimetres higher than the public road before sale to the public; it was alleged that the defendant did not carry out such improvements and thereby intentionally delivered property of inferior quality to that which had been agreed and not in accordance with the contract for the sale of land together with buildings, with the consequence that when a flood occurred the plaintiff’s house sustained damage.

During the proceedings before the Bangkok South Civil Court, the defendant challenged section 42 of the Consumer Case Procedure Act, B.E. 2551 (2008) insofar as it provided for punitive damages requiring a business operator to be liable for an amount exceeding the actual loss, arguing that such a provision was inconsistent with the established principle that compensation was intended to restore the injured parties to their pre-loss position. The provision also operated as a form of punishment imposed on business operators, subjecting them to double punishment for the same offence and increasing the severity of the penalties they must bear. Moreover, the statute provided the opportunity for courts to exercise discretion to award retrospective punitive compensation for facts that occurred before this Act came into force, effectively imposing sanctions with a criminal-like intent similar to criminal penalties whose purposes were punishment, deterrence, and protection of the public interest. The defendant further contended that section 42 was

contrary to the rule of law because of its disproportion to the offence, inequality before the law, and unfair discrimination by imposing heavier penalties on business operators compared with the general public. The defendant also argued that the provision of law relied on the economic status of business operators as a basis for imposing greater burdens, thereby increasing obligations and unduly restricting the property rights of business operators beyond reasonable necessity, and on these grounds asserted whether section 42 was contrary to or inconsistent with section 26, section 27 paragraph one and paragraph three, and section 37 of the Constitution.

Issue for the Constitutional Court Ruling

Whether section 42 paragraph one of the Consumer Case Procedure Act, B.E. 2551 (2008), specifically stating “the court shall have the power to order the business operator to pay punitive damages in addition to the actual damages as determined by the court as it deems appropriate,” was contrary to or inconsistent with section 26 paragraph one, section 27 paragraphs one and three, and section 37 paragraph one of the Constitution.

Ruling of the Constitutional Court

The Constitutional Court ruled that section 42 paragraph one of the Consumer Case Procedure Act, B.E. 2551 (2008), insofar as it provided that “the court shall have the power to order a business operator to pay damages as an increased punishment in addition to the amount of actual damages which the court may determine as it deems appropriate”, was not contrary to or inconsistent with section 26 paragraph one, section 27 paragraph one and paragraph three, and section 37 paragraph one of the Constitution.