

Constitutional Court Ruling No. 8/2561 (2018)

Court of Appeal

Applicant

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Respondent

Constitution, section 26;

Anti-Money Laundering Act, B.E. 2542 (1999), section 50, section 51 paragraph three, section 52 paragraph one and section 53.

Section 51 paragraph three of the Anti-Money Laundering Act, B.E. 2542 (1999) was a civil presumption which provided an opportunity to a claimant to be an owner or transferee or beneficiary of a property to submit evidence to challenge or rebut. The provision shifted the burden of proof with legitimate reasons as regards the prerequisite facts to establish the presumption and facts to prove prior to the Civil Court order to forfeit the properties associated with the commission of an offence to the state. There were legal measures to protect a person who was the owner of such property obtained in good faith and for consideration, and who was able to prove the legitimate acquisition of such property under section 50. The Civil Court could order the protection of rights of a beneficiary under section 52 paragraph one or return the property before or after the forfeiture of property under section 53, as the case may be, to protect public interests as well as the rights to property of a person following the use of measures to forfeit properties to the state. The provisions were not inconsistent with the rule of law. The restriction of a person's rights to property was reasonable, in accordance with necessity, and balanced between public interests and the restriction of personal rights. There was no unreasonably excessive increase of burden or restriction of right, no prejudice on human dignity, had general applicability, and was not intended to apply to any particular instance. Hence, the provisions were neither contrary to nor inconsistent with section 26 of the Constitution.