

ABSTRACT

This dissertation reviews the law relating to parate execution in Sri Lanka, the manner in which it has evolved over the last few decades after the enactment of the Recovery of Loans by Banks (Special Provisions) Act No.04 of 1990 and concerns of the debtors and the bankers about the very existence of the law and its implementation.

Though the said Act was enacted to promote economic development of the country, the scope and the application of the law relating to parate execution has undergone some drastic changes due to judicial pronouncements and the amendments made to the principal Act. Irrespective of restrictions made by judicial pronouncements and amendments made to the Act, debtors are demanding further restrictions on the law relating to parate execution on the basis that the said Act is oppressive and unreasonable. The Bankers, on the other hand, have lamented the loss of effectiveness of the entire parate execution process due to various restrictions and other reasons.

This dissertation discusses the historical background of parate execution, the manner in which the said law has ingrained into the legal system of Sri Lanka and the present scenario with regard to the implementation of the said Act No.04 of 1990. In addition, the writer explores the correctness of the conflicting claims by the debtors and the bankers.

The writer attempts to examine the manner in which the law has evolved by reviewing the writing of scholars, legislative enactments, reports of law commission and judicial pronouncements. In

order to have a better understanding, the conflicting claims of the debtors and the banks are examined by reviewing the case records of various courts, summary interviews and discussions.

The purpose of this dissertation is to examine the said conflicting claims of the debtors and the bankers in detail, the effect of judicial pronouncements and the amendments made to principle Act on the entire parate execution process and find answers to strike a right balance, with the focus is on economic development.

It is hoped that this dissertation will answer the question as to how competing concerns of the debtors and the bankers with regard to the parate execution could be addressed, while focusing on the economic development of the country.

Key words- Parate execution, Mortgage, Banking Transaction