

High Court: Banks Cannot Seize Debtors' Pay

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BODY:

IF SOMEONE is in debt to a bank, credit card company or finance firm, these institutions cannot use the courts to order that his salary be seized - or garnished - to settle his debts.

The High Court said as much yesterday when it dismissed separate appeals by the American Express, Standard Chartered and United Overseas banks for garnishee orders to stand.

In so doing, Justice Lai Kew Chai affirmed the decisions of a district judge and the deputy registrar of the Subordinate Courts who had rejected these applications in April and May.

Since then, applications for garnishee orders have dwindled to barely a handful from about 80 a week.

Justice Lai ruled that Section 13 of the Supreme Court of Judicature Act does not allow creditors to use the courts to garnish debtors' wages and salaries.

He rejected the banks' argument that because there was already alternative legislation - including the Central Provident Fund and Pensions Acts - to protect wages from being garnished, it was redundant for Section 13 to prescribe the same.

The downside of this ruling, said lawyer **Vijai Parwani**, is that the cost of loans may go up as banks can no longer use this avenue to recover debts.

Lawyer John Abraham welcomed the decision. Any decision that protects a man's ability to support his basic family needs should not be attacked, he said.

'If a man's salary were seized in debt repayment, it could lead to illegal acts on his part to meet his daily needs. Banks, on the other hand, are big enough to absorb bad debts,' he said.

While applications for garnishee orders have dwindled, writs of seizure and sale, the other method of recovering a debt, have risen by about 25 per cent to 40 or so a day. This allows a debtor's valuables to be seized and sold. But this is more cumbersome than seizing his pay.

The High Court's decision may be further appealed.