

Thesis Title	Legal Measures for Compulsory Performance of the National Village and Urban Community Fund
Keyword	Village and Urban Community Fund
Author	Mr. Waransak Suparattanachote
Thesis Advisor	Assoc. Prof. Dr. Poom Chokmoh
Thesis Co-advisor	Assoc. Prof. Sopon Athaphisalsophon
Level of Study	Master of Laws
Major	Business Law
Faculty	Graduate School, Sripatum University, Chonburi Campus
Academic Year	2006

ABSTRACT

This thesis aims to study legal measures for the compulsory performance of the National Village and Urban Community Fund. The study includes the importance of the juristic act forms on the compulsory performance, the compulsory performance of money in the fund's account, the interest charge for the loans by the members of the fund, the prescriptions of the compulsory performance, and the execution. The guidance to redress the poverty problems can be done through the establishment of Village and Urban Community Fund with an aim at being a source of working capital in a village and community. This also can be used in the economic and social development to create the sustainable self-reliance for each community. This can activate the national fundamental economy.

From the study, it is found that the legal measures of compulsory performance for the National Village and Urban Community Fund will be the effective and everlasting means to maintain the capital. However, the applicable forms of the juristic act of the National Village and Urban Community Fund have not been particularly created. In this regard, the general principles of Civil and Commercial Code are applied in each fund. The said principles are not appropriate for the compulsory performance because according to Section 653, it is prescribed that a loan is not enforceable by action unless there be some written evidence of the loan signed by the borrower. With regard to the fund, however, the agreement should be made

with the signatures of both the lender and borrower and their spouses should also give the consents by signing in the agreement because it is advantageous for the compulsory performance. Moreover, the members of the fund should not be permitted to enter into the loan agreement on behalf of one another. This prohibition will help prevent signature forgery. With regard to the execution of loan agreement which has to be complied with the form and loan surety agreement, it is found that according to the Regulations of the National Village and Urban Community Fund's Committee on the Establishment and Management of the National Village and Urban Community Fund or the Rule (Gor Thor Bor.) No. 33, the word "may" is used. This indicates that it relies on the discretion of the Fund Committee whether or not the collateral will be required, or whether it will be required for only a part of loans. It is risky for the compulsory performance without the collateral. With regard to the compulsory performance for the money in the account of the fund, however, there is an uncertainty pertaining to the money owner in the fund. This affects to the power to sue and prescription of the compulsory performance. In addition, there were interest charges for loans at a rate higher than the one prescribed by law, and when the debtors default, they were charged the unlawful compound interests. With regard to the execution, moreover, the general legal proceedings are employed for the enforcement. This is contrary to the concept in establishing the Village and Urban Community Fund, which helps create sustainability of the self-reliance for the grassroots population because for the case proceedings with the process in which there are certain expenses, the attorney-at-law must be hired. A public prosecutor cannot represent the fund in the court since the fund is not regarded as a government section or state enterprise according to Section 14 of the National Village and Urban Community Fund Act, B.E. 2547 (2004).

From the aforementioned reasons, it is recommended that the identical standard forms of any juristic acts be created by the Committee of the National Village and Urban Community Fund in order that they will be employed by each fund. Moreover, the Regulations of National Village and Urban Community Fund's Committee on the Establishment and Management of the National Village and Urban Community Fund Act, B.E. 2544 (2001) with its amendment for its existing flaws should be amended in order to enable each fund to manage and redress the problems of failure to settle loan debts as well as to organize and manage the money in the fund. This can create the country's potential in strengthening the economic and social stability in the future.