

From: Consumer Policy

From: On Behalf Of Paul King
Sent: Wednesday, 27 June 2018 1:20 p.m.
To: Consumer Policy
Subject: I'm having my say about making consumer credit laws better

Our Credit Contracts and Consumer Finance Act was designed in the UK and then amended in Australia.

The famous case in the House of Lords, Wilson v First County Trust was determined by the Law Lords

https://en.wikipedia.org/wiki/Wilson_v_Secretary_of_State_for_Trade_and_Industry

in it the Law Lords decided:

House of Lords

Lord Nicholls (with whom Lords Hobhouse, Hope, Rodger and Scott delivered concurred) held that the Consumer Credit Act 1974 s 127(3) was not incompatible with the ECHR. On art 6 ECHR he emphasised that the right to a fair trial is a procedural right, not a substantive right, and that because the pawn brokers were not denied access to court, but only precluded in their substantive right of having a binding agreement, art 6 was not engaged. On prot 1, art 1 ECHR, he held that the right was not violated, because s 127(3) was intended by Parliament to make any unfair contract unenforceable, so that one might not even get the amount back (possibly even in a mildly penal approach). At 71 he remarked,

Something more drastic was needed in order to focus attention on the need for lenders to comply strictly with these particular obligations.

In New Zealand our CCCF Act made a loan "prohibited enforcement" where disclosure had not been given and high fees etc added.

This was the best way of dealing with the whole matter.

In the fishing industry when a fisherman steals fish or takes too much ie poaches from a wildlife sanctuary etc the Government seizes the tool of the crime which in this case is the fishing boat and sometimes diving equipment, deep freezers etc. With financial crime it should be no different. The CCCF Act was originally written so that the tool of the crime ie the money (principle) was forfeited to the borrower who is the person who is least able to mount an expensive Court case against a predatory lender who's criminal intent is to look for weak people to prey on and steal their homes and cars and property. The system then becomes self policing. This is the lowest cost way of running a system designed to protect the consumer as is required by the purpose of the CCCF Act. The system is automatically paid for by the criminal in the situation. Our Courts are unintentionally working for the lender as they have the money to buy lawyers and the time to spare. Borrowers don't.

Wilson v First County Trust gave us the answer for all Commonwealth countries with a similar law. We usually respect House of Lords decisions.

The answer is simple .. if the lender doesn't follow the law then the loan is unenforceable and they cannot go to Court and cannot get their money back.

This saves society a lot of money and also removes the problem from the Court system and removes the tool of the crime so that further victims are not created by the same lender.

In King v Norfolk . The lender should have lost the principle due to the decision in Ingram and Patcroft (Supreme Court), Re Ingram.

Instead the and the loan sharks were able to amend the law to use for their own nefarious purposes. We see from the Royal Commission into banking that even the of the Australasian banking system have been seriously stealing and defrauding their borrowers over a long number of years.

It is easy to fix. No or incorrect disclosure, or not following the letter of the law = loss of principle and any interest claimed on that tool of the crime.

Loan sharks would soon disappear and big banks would be especially careful to get their documents correct. Anyone who can't get the documents correct should not be a lender of money.

Any other changes to the CCCF Act would mean that banks and loan sharks can make intentional "mistakes" and then get away with illegal gains.

The High Court in King v Norfolk overruled the Court of Appeal decision in the same matter which shows that

We have the case at present where the lending parties are spending huge amounts of time and money lobbying the Government to avoid the outcome that they were lending illegally and using a complicated system of . My easy solution would solve the problem, the loan sharks would lose the money lent and everybody goes away with the knowledge that you can't use a fancy structure to steal from poor people.

I am happy to discuss this matter with anyone at any time. I am the King from King v Norfolk and . Note that , a lawyer and senior partner of was only given a warning letter even though he had been caught predatory lending the year before by the Commerce Commission red handed.
See

This proves that our current system does not catch serial offenders who loan shark and that the more profit they make the harder it is to catch them.

has now changed it's name to

and continues with it's predatory lending as described by

in an article here:

and here

as we have seen in the Royal Commission into Banking in Australia the regulators (ASIC) were being told how honest the bankers were and how the borrowers were at fault etc when in fact there was criminal intent to make as much illegal profit as possible from illegal schemes and illegal foreclosures for the bank.

We need a Royal Commission into Lending in New Zealand and a Royal Commission into Insurance, EQC and Southern Response.

White collar crime and corruption is rife in New Zealand. 2% of the worlds population now owns 98% of the wealth.

I am happy to discuss this matter with anyone at any time. I wish to personally appear at any meetings or hearings.

I am happy to talk to any newspaper reporters who are willing to expose corporate greed.

Paul King