

**EXPANDING THE SCOPE OF PARATE
RIGHTS: INTERESTS OF THE CREDITOR
AND THE DEBTOR**



by
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ABSTRACT**EXPANDING THE SCOPE OF PARATE
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Problems in recovery of debts have an invariable adverse impact on the stability of the financial system of the country. The Act was adopted to empower the creditor to sell or take possession of the mortgaged property with the authority of a resolution passed by the Board of Directors without recourse to the normal long-drawn-out process of a mortgage action. However not all the lenders are given this extra judicial power. Besides there are allegations leveled against parate execution that this power is a clear departure from the Common Law of the country, the exercise of judicial power, the equal protection of law and the principle of natural justice. Nevertheless, a bill titled Recovery of Loans by Banks (Special Provisions) (amendment) (hereinafter referred to as the Amendment Bill) tried to expand the parate powers to specialized banks, finance companies and housing and development finance corporation. The strong oppositions raised against this Amendment Bill did not allow it to make into law. Therefore, it is significant to examine the genuine necessity of other credit institutions for speedy recovery process and the possibility of expanding parate powers to those institutions.

This research examines the legislative measures and attempts aimed at furthering the parate rights, the impact of such attempts and the judicial approach towards them. The study adopts both historical and comparative analysis focusing on legislation, common law approach, and case laws. My comparative study will be based on the debt recovery laws of United Kingdom, South Africa, India and Malaysia. I would suggest recommendations to expedite the debt recovery process in the finance business sector while safe guarding the interests of both the creditor and the debtor.

KEY WORDS - Recovery of Loans by Banks (Special Provisions) Act 1990,
Mortgage, debtors