

NEWSLETTER

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Losing Party's Access to the Supreme Court in Civil Case**
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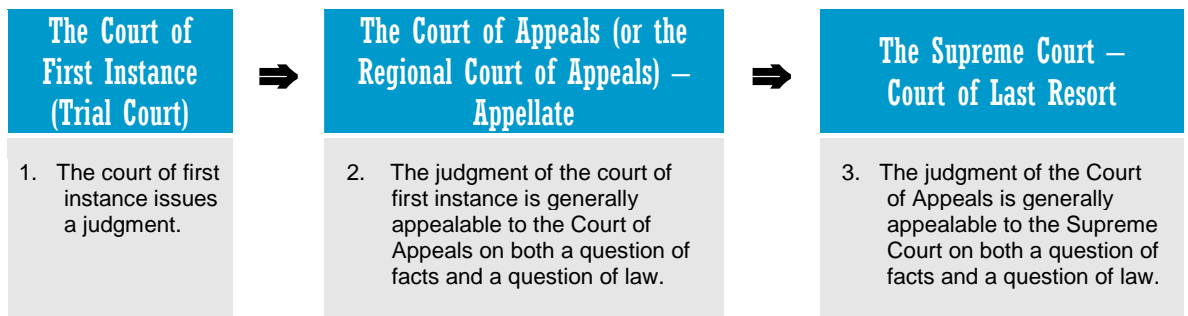
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LEGAL UPDATE

1. The Amendment to the Civil Procedural Code Limits Losing Party's Access to the Supreme Court in Civil Case

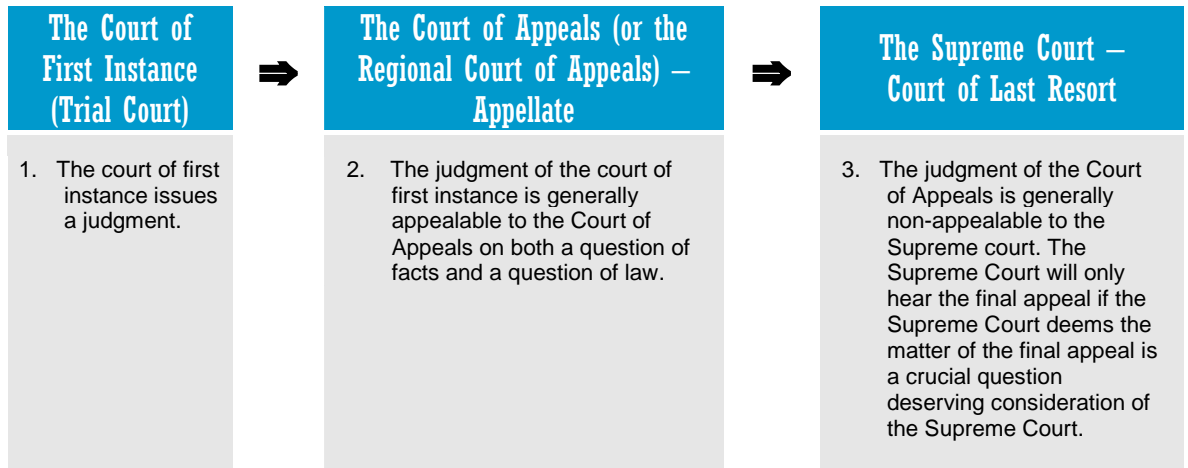
The National Legislative Assembly acting as Parliament under the Interim Constitution just passes the Bill Amending the Civil Procedural Code (the "Bill") to make a judgment of the Court of Appeals in a civil case non-appealable in most circumstances in an effort to shorten a lead time in the civil case.

Existing Court System in Civil Case



The existing system affords a losing party the right to appeal any unfavorable judgment all the way to the Supreme Court. Making an appeal to the Court of Appeals and making the final appeal to the Supreme Court is a matter of right of a losing party under the existing system. If any losing party exhausts all the appeal options by making a non-meritorious appeal, technically a civil case can be dragged on appeal and final appeal for years.

New Court System in Civil Case



Making an appeal to the Court of Appeals is a matter of right of a losing party. But an appeal (final appeal) from this level is normally at the discretion of the Supreme Court. Under the Bill, the Supreme Court will only hear the final appeal if the matter under the final appeal is a crucial question deserves its consideration. The following matters are the crucial matters:

- (i) a question related to the public or a public order;
- (ii) a case where the Court of Appeals issues a judgment or an order that construes a crucial question of law contrary to or inconsistent with a precedent laid down by a judgment or an order of the Supreme Court;
- (iii) a judgment or an order of the Court of Appeals addresses a crucial question of law that does not have any precedent in a judgment or an order of the Supreme Court;
- (iv) a judgment or an order of the Court of Appeals is contrary to or inconsistent with a judgment or an order of another court of last resort;
- (v) to develop the interpretation of law;
- (vi) any other crucial question in accordance with the instructions of the President of the Supreme Court.

This development is most likely to significantly reduce the lead time civil litigation. There is a bottleneck at the Supreme Court since the existing system affords a losing party the right to appeal any unfavorable judgment all the way to the Supreme Court. By limiting the access to the Supreme Court only to the cases with crucial matters, in many cases the judgment of the Court of Appeals will become final under the new system and a winning party can enforce a winning judgment more quickly than the existing system affords.

For more information, please contact our lawyers for consultation.

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