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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL      No. 21 of 1975

O N A P P E A L  
FROM THE FEDERAL COURT OF MALAYSIA

B E T W E E N :-

PHILIP HOALIM JR. and  
WEMBLEY ALEXANDRA GOH (M.W.)                      Appellants

- AND -

THE STATE COMMISSIONER PENANG                      Respondent

RECORD OF PROCEEDINGS

KINGSFORD DORMAN & CO.,  
13, Old Square,  
Lincoln's Inn,  
London, WC2A 3UA

Solicitors for the Appellants

STEPHENSON HARWOOD & TATHAM,  
Saddlers' Hall,  
Gutter Lane,  
Cheapside,  
London, EC2V 6BS.

Solicitors for the Respondent

(i)

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL No. 21 of 1975

O N A P P E A L  
FROM THE FEDERAL COURT OF MALAYSIA

B E T W E E N :-

PHILIP HOALIM JR. and  
WEMBLEY ALEXANDRA GOH (M.W. Appellants

- and -

THE STATE COMMISSIONER PENANG Respondent

RECORD OF PROCEEDINGS

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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

No.21 of 1975

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA

B E T W E E N :

PHILIP HOALIM Jr. and  
WEMBLEY ALEXANDRA GOH (M.W.)

Appellants

- and -

THE STATE COMMISSIONER PENANG

Respondent

RECORD OF PROCEEDINGS

10

No.1

In the High  
Court in  
Malaya

Notice of Motion

IN THE HIGH COURT IN MALAYA AT PENANG

ORIGINATING MOTION NO. 9 of 1970

No.1

Notice of Motion  
11th August 1970

Bayaran \$1/-  
di-bayar  
dengan  
praecipe

In the Matter of Holding  
No. 223(2) Town Sub-  
division 6, North East  
District, Penang

sd/-

And

20

Mahkamah  
Tinggi,  
Pulau Pinang

In the Matter of Indenture  
No. 18 of 1858/59, dated  
30th August, 1858

And

In the Matter of the  
Federation of Malaya  
Agreement, 1948

And

In the Matter of the  
Federation of Malaya  
Agreement, 1957

30

And

2.

In the High  
Court in  
Malaya

—  
No. 1

Notice of  
Motion  
11th August  
1970  
(continued)

In the Matter of the  
Constitution of the  
Federation of Malaya

And

In the Matter of the  
Constitution of the  
Federation of Malaysia

And

In the Matter of the  
National Land Code No:  
56 of 1965

10

And

In the Matter of the  
National Land Code  
(Penang and Malacca)  
Titles Act, No: 2 of 1963

And

In the Matter of the Rules  
of the Supreme Court, 1957

And

20

In the Matter of the  
National Land Code (Penang  
and Malacca) Order, 1965,  
LN 478/65

And

In the Matter of the  
National Land Code (Penang  
and Malacca) (Amendment)  
Order, 1969, P.U. (A)  
526/69

30

And

In the Matter of the  
National Land Code, Land  
Rules (Penang), 1965, LN  
43

And

3.

In the Matter of the  
National Land Code  
(Standard Rate Rent)  
Direction, 1969, Pg. P.U.  
39

In the High  
Court in  
Malaya

—  
No.1

And

In the Matter of the  
National Land Code  
Periodical Revision of  
Rent under Section 101, Pg.  
P.U. 4

Notice of  
Motion  
11th August  
1970  
(continued)

10

And

In the Matter of the  
National Land Code Land  
(Penang) (Amendment) Rules,  
1969, Pg. P.U. 38

And

In the Matter of the  
Emergency (Essential Powers)  
Ordinance No: 2 of 1969

20

And

In the Matter of the  
Emergency (Essential Powers)  
Ordinance No: 8 of 1969

Between:

Philip Hoalim Jr.,  
and  
Wembley Alexandra  
Goh (m.w.)

30

Applicants

And

The State Commissioner,  
Penang.

Respondent

NOTICE OF MOTION

TAKE NOTICE that this Honourable Court will



In the High  
Court in  
Malaya

be moved on FRIDAY the 4th day of September, 1970 at the hour of 9.30 o'clock in the forenoon or so soon thereafter as Counsel can be heard by Counsel for the abovenamed Applicants for the following:-

—  
No.1  
Notice of  
Motion  
11th August  
1970  
(continued)

1. A Declaration that the legislation attempting to impose quit rent on the land known as Holding 223(2), Town Subdivision 6, North East District, Penang (hereinafter referred to as "the said lands") is null and void and of no effect and is contrary to the Constitution. 10

2. A declaration that the following are ultra vires, null and void and of no effect:-

(a) The National Land Code (Penang and Malacca) Order, 1965 in L.N. 478/65 with respect to the imposition of quit rent on the said land,

(b) the National Land Code, Periodical Revision of Rent under Section 101 in Pg. P.U. 4 of 1969, 20

(c) the National Land Code (Standard Rate Rent) Direction, 1969 in Pg. P.U. 39/69,

(d) the National Land Code, Land Rules (Penang) 1965 in Pg. L.N. 43, with respect to the imposition of quit rent on the said land,

(e) the National Land Code, Land (Penang) (Amendment) Rules, 1969, in Pg. P.U. 38.

3. That the procedure of appeal against quit rent devised by the Collector of Land Revenue in respect of the said land and the notice for demand and forfeiture are ultra vires, null and void and of no effect. 30

4. An Order that the Collector of Land Revenue be restrained forthwith from making any demand for or collecting quit rent in respect of the said land.

5. Such consequential or other relief.

Dated at Penang this 11th day of August, 1970

In the High Court in Malaya

Sd/- Lim Kean Siew & Co.

Sd/- K.N. SEGERA

.....

.....

No.1

Solicitors for the Applicants

Senior Assistant Registrar, High Court, Penang.

Notice of Motion 11th August 1970 (continued)

This Notice of Motion was taken out by Messrs. Lim Kean Siew & Co., of No. 3 Union Street, Penang, Solicitors for the abovenamed Applicants.

10 To: The State Commissioner, Penang.

No.2

AFFIDAVIT OF PHILIP HOALIM Jr. AND WEMBLEY ALEXANDRA GOH. (M.W.)

IN THE HIGH COURT IN MALAYA AT PENANG

ORIGINATING MOTION NO: 9 OF 1970

No.2

Affidavit of Philip Hoalim Jr. and Wembley Alexandra Goh (m.w.) 6th August, 1970

In the Matter of Holding No: 223(2) Town Sub-division 6, North East District, Penang

And

Between

Philip Hoalim Jr., and Wembley Alexandra Goh (m.w.) Applicants

And

The State Commissioner, Penang. Respondent

20

30

We, Philip Hoalim Jr. and Wembley Alexandra Goh (m.w.) both of No: 3 Hargreaves Road, Penang, of full age jointly and severally hereby make oath

In the High  
Court in  
Malaya

—  
No.2

Affidavit of  
Philip Hoalim  
Jr. and  
Wembley  
Alexandra  
Goh (m.w.)  
6th August,  
1970  
(continued)

and say as follows:-

1. We are the registered proprietors of the lands and hereditaments known as Holding No: 223(2) Town Subdivision 6, North East District, Penang (hereinafter referred to as "the said land").

2. The said land was granted to our predecessor in title by the East India Company under Indenture No:18 of 1858/59 dated 30th August, 1858, which Indenture is the document of original title, subject to the provisions therein contained, vesting us with an estate in fee simple. A copy of the said Indenture is annexed hereto marked "A".

10

3. No quit rent has ever been payable in respect of the said land.

4. On the 1st of December 1969, the Yang di-Pertuan Agong exercising His powers under Section 439 of the National Land Code, made an order effective from the 15th of November, 1969, known as the National Land Code (Penang and Malacca) (Amendment) Order, 1969, amending the National Land Code (Penang and Malacca) Order, 1965 by deleting paragraph 9 thereof purporting thereby to make Sections 101 and 102 of the National Land Code (No: 56 of 1965) (hereinafter referred to as "the said Code") applicable to the State of Penang and to confer upon the Governor of Penang (hereinafter referred to as "the State Authority") the power to revise quit rents periodically in respect of those lands, the revision of quit rents of which had hitherto been governed by and subject to the Crown Lands Ordinance Cap.113 and the express provisions in the documents of original title and in respect of those lands for which no quit rents had hitherto been payable.

20

30

5. We have been advised and we verily believe that such an attempt to vest the State Authority with powers to revise the quit rent of the said land is unlawful, wrongful and contrary to the Constitution and because the said land in the State of Penang is not "alienated" land as defined in the said Code and also because this is contrary to the National Land Code (Penang and Malacca) Titles Act, 1963 which is still in force.

40

6. We have been further advised and we verily believe that it is not possible for the State

Government "to revise" the quit rent of the said land where no quit rent had ever been payable.

In the High  
Court in  
Malaya

7. The Chief Minister of the State of Penang on the 16th day of December, 1969, purporting to exercise the powers conferred by sub-section 1 of Section 101 of the said Code attempted to revise the quit rent of the said land by a legal notification effective from the 1st day of January, 1970 under Penang P.U. 4.

—  
No.2

Affidavit of  
Philip Hoalim  
Jr. and  
Wembley  
Alexandra  
Goh (m.w.)  
6th August,  
1970  
(continued)

10 8. The Chief Minister of the State of Penang purporting to exercise the powers conferred by Section 102 of the said Code under a legal notification, Pg. P.U. 39 made a direction entitled the National Land Code (Standard Rate Rent) Direction 1969, directing that the lands mentioned therein (the said land included) be subject to payment of rent at the prevailing standard rate as specified therein.

20 9. The State Government of Penang purported to effect such revision of quit rent by way of an increase of quit rent in respect of lands where quit rent was formerly payable and by way of an imposition of quit rent in respect of lands (the said land included) where quit rent had never been payable.

30 10. We have been advised and we verily believe that the legislation contained in the legal notifications mentioned above namely P.U. 4 and P.U. 39 being a purported exercise of powers conferred by Section 102 of the said Code by a State Authority through the Chief Minister of Penang is ultra vires and void and contrary to the Emergency (Essential Powers) Ordinance, No: 8 of 1969.

11. We have been advised and we verily believe that the legislation contained in Pg. P.U. 39, P.U. 4 and P.U. 38 is void as it is contrary to the said Code in that it does not conform to the classes of user of lands defined therein.

40 12. The State Authority after the 1st of January, 1970 purporting to exercise its powers of revision by virtue of the purported legislation abovementioned devised a form through the Collector of Land Revenue, Penang requesting the completion thereof by registered proprietors of lands in the State of Penang (ourselves included) which form was duly

In the High Court in Malaya

No.2

Affidavit of Philip Hoalim Jr. and Wembley Alexandra Goh (m.w.) 6th August, 1970 (continued)

completed by us and returned to the Collector of Land Revenue who thereupon made an assessment of quit rent on the said land amounting to \$123/-, which assessment was written on the said form and returned to us for payment. A copy of the said form is annexed hereto marked "B".

13. We refused to pay the quit rent as assessed and in this event we have been instructed by the Collector of Land Revenue to lodge a form of appeal, which form is also devised by the Collector of Land Revenue, which appeal we have lodged without prejudice to our rights against the imposition of quit rent but have been advised and verily believe that such appeal is unlawful and ultra vires the said Code. A copy of the said form of appeal is annexed hereto marked "C".

10

14. In the circumstances we have been advised to institute the proceedings herein and to seek the relief prayed for herein.

Sworn by the said PHILIP HOALIM JR., and WEMBLEY ALEXANDRA GOH at Penang this 8th day of August, 1970.

Sd. Philip Hoalim (Jr.)

20

Sd. W.A. Goh

Before me,

Sd. Quah Chong Eng

.....

Commissioner for Oaths.

This Affidavit is filed on behalf of Philip Hoalim Jr. and Wembley Alexandra Goh (m.w.) by Messrs. Lim Kean Siew & Co., Advocates & Solicitors of No: 3 Union Street, Penang.

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\_\_\_\_\_

No.3  
ORDER

In the High  
Court in  
Malaya

IN THE HIGH COURT IN MALAYA AT PENANG

—  
No.3

ORIGINATING MOTION NO: 9 OF 1970

Order  
30th October  
1970 223(2)  
(sic)

In the Matter of Holding  
No: 233(2) Town Sub-  
division 6, North East  
District, Penang

And

Between

10

Philip Hoalim Jr. and  
Wembley Alexandra Goh  
(m.w.)

Applicants

And

The State Commissioner,  
Penang.

Respondent

BEFORE THE HON'BLE JUSTICE H.S. ONG

Dated the 30th day of October, 1970

20

IN CHAMBERS

30

This Summons-in-Chambers No: 307/70 dated 19th  
October, 1970 coming up for hearing this day the  
Court DOETH MAKE NO ORDER on the Summons-in-Chambers  
but DOETH ORDER that the whole motion hereby be  
referred to the Federal Court as the Court considers  
that constitutional matters are involved AND IT IS  
FURTHER ORDERED upon application by Counsel for this  
motion and by consent, that paragraphs 3 and 4 be  
amended by the substitution of the words "State  
Commissioner, Penang" for Collector of Land Revenue,  
Penang" therein appearing AND IT IS FURTHER ORDERED  
that there be no order as to costs or any other  
prayers in this Summons.

Dated at Penang this 30th day of October, 1970

By Order,

L.S. Sd/- K.N. Segara

\_\_\_\_\_  
Senior Assistant Registrar,  
High Court, Penang.

In the Federal Court of Malaysia

IN THE FEDERAL COURT OF MALAYSIA

(ORIGINAL JURISDICTION)

No.4

FEDERAL COURT SPECIAL CASE NO. 1 OF 1973

Special Case Statement by the High Court in Malaysia 29th June 1973

(Penang High Court Originating Motion No.9 of 1970)

Between

Philip Hoalim Jr., and  
Wembley Alexandra Goh  
(m.w.)

Applicants

And

The State Commissioner  
Penang.

Respondent

10

SPECIAL CASE TRANSMITTED UNDER  
SECTION 48(2) OF THE COURTS OF  
JUDICATURE ACT, 1964

CASE STATED

By the High Court, Penang in respect of the questions as set out below, being one as to the effect of the Federal Constitution which have arisen in Originating Motion No. 9 of 1970.

20

CASE

1. The Applicants are the registered proprietors of lands and hereditaments known as Holding No: 223(2), Town Subdivision 6, North East District, Penang (hereinafter referred to as "the said land") which land was granted to their predecessor in title by the East India Company on behalf of Her Majesty, Queen of the United Kingdom of Great Britain and Ireland, Her Heirs and Successors under Indenture No: 18 of 1858/59 dated 30th August, 1858, which Indenture is the document of original title subject to the provisions therein contained vested in the Applicants an estate in fee simple without quit rent being payable. A copy of the Indenture is attached hereto Marked "A".

30

2. On the 1st day of December, 1969, the Yang di-Pertuan Agong exercising His Powers under Section 439 of the National Land Code made an order effective from the 15th day of November, 1969, known as the National Land Code (Penang and Malacca) (Amendment) Order, 1969 amending the National Land Code (Penang and Malacca) Order, 1965, by deleting paragraph 9 thereof, the effect of which is that sections 101 and 102 of the National Land Code (No: 56 of 1965) (hereinafter referred to as "the said Code") are made applicable to the State of Penang. By virtue of the said sections 101 and 102 of the Code the State Authority for the State of Penang are empowered to revise quit rents periodically not only in respect of alienated lands within the State but also in respect of any class or description of lands alienated before the commencement of the Code notwithstanding the fact that such land is held rent free, or subject to any provisions in the document of title that the rent thereby reserved shall not be capable of revision.

3. By a Direction entitled the National Land Code (Standard Rate Rent) Direction, 1969, published in Pg. P.U. 39 of 1969 dated the 31st December, 1969 the State Authority in the exercise of its powers under section 102 of the Code directed that with effect from the 1st day of January, 1970 all lands specified in the First Column of the Schedule thereto shall be subject to the payments of rent at the prevailing standard rate as prescribed in the Second Column of the Schedule.

4. By a Direction published in Pg. P.U. 4 of 1970 dated the 16th day of December, 1969 the State Authority in the exercise of its powers under Section 101 of the Code prescribed in the Second Column of the Schedule thereto the revised rates which shall be payable in respect of alienated lands as prescribed in the First Column thereto with effect from the 1st January, 1970.

5. By Summons-in-Chambers No: 307/70 dated the 19th day of October, 1970 the Respondent applied to have the Originating Motion herein set aside for irregularity on the following grounds, namely :-

- (1) that the procedure adopted by way of Originating Motion for the declaration sought is wrong and should have been by way of writ of summons;
- (2) that the Prayer 4 of the Originating

In the Federal  
Court of  
Malaysia

\_\_\_\_\_  
No.4

Special Case  
Statement by  
the High Court  
in Malaysia  
29th June 1973  
(continued)



In the Federal Court of Malaysia

No.4  
Special Case Statement by the High Court in Malaysia  
29th June 1973  
(continued)

Motion asking for an injunction is misconceived;

- (3) that Prayers 3 and 4 of the Originating Motion therein purport to seek relief against the Collector of Land Revenue who is not a party to the proceeding; and
- (4) the Respondent is wrongly designated in Originating Motion.

6. When the said Summons-in-Chambers came up for hearing before Mr. Justice Tan Sri H.S. Ong (as he then was) on the 30th day of October, 1970, His Lordship made no order with regard to the said Summons-in-Chambers, and on his own Motion, ordered that the whole Motion herein be referred to the Federal Court under section 48 of the Courts of Judicature Act, 1964 on the ground that there had arisen in the proceeding a question as to the effect of the Federal Constitution.

10

QUESTIONS

The questions for the decision of the Federal Court are as follows:-

20

1. Whether as successor of Her Majesty's Government in respect of the Settlement of Penang, the Governor of the State of Penang is bound by reason of Article 167(2)(a) of the Constitution towards its subject in regard to rights, liabilities and obligations which formerly bound Her Majesty's Government towards them;

2. Whether the legislations, namely L.N. 478/65, P.U. (A) 526/69, Pg. P.U. 39/69 and Pg. P.U. 4/70 are not only contrary to the said Article 167(2)(a) but are also tantamount to deprivation of property under Article 13(1);

30

3. Whether the said land is "alienated land" for the purpose of the National Land Code; and

4. Whether it is within the competency of the State Authority for the State of Penang to enact laws, namely Pg. P.U. 39/69 and Pg. P.U. 4/70 affecting the rights previously enjoyed by its subjects and for the purpose of this motion, whether those rights are to be deemed "vested rights".

40

Dated at Penang this 29th day of June 1973.

.....

Judge,  
High Court, Penang.

No.5

JUDGMENT OF ALI, F.J.  
IN THE FEDERAL COURT OF MALAYSIA  
HOLDEN AT PENANG  
 (Original Jurisdiction)  
FEDERAL COURT SPECIAL CASE  
No. 1 of 1973

(Penang High Court Originating Motion No. 9 of 1970)

Between

Philip Hoalim Jr. and  
 Wembley Alexandra Goh  
 (m.w.) Applicants

And

The State Commissioner  
 Penang Respondent

(Special Case Transmitted under Section 48(2)  
 of the Courts of Judicature Act, 1964.)

Coram: Azmi, Lord President, Malaysia  
 Ali, Federal Judge, Malaysia  
 Raja Azlan Shah, Federal Judge,  
 Malaysia.

JUDGMENT OF ALI F.J.

By a Notice of Motion dated August 11, 1970 filed  
 in the High Court, Penang, Philip Hoalim Jr. and  
 Wembley Alexandra Goh (m.w.) asked that certain  
 orders made under the National Land Code Act No.56  
 of 1965, which I shall refer to as the Code, be  
 declared null and void. In their affidavit they  
 said that these orders are "unlawful, wrongful and  
 contrary to the Constitution". The reason for the  
 motion is that one of the orders, referred to in  
 the present proceedings as Pg. P.U. 39/69, appears  
 to have the effect of making the applicants' land  
 subject to rent. We were informed at the hearing  
 that several other owners of lands are similarly  
 affected and they, too, have instituted similar  
 proceedings in the High Court, Penang.

The instant case and another listed as Special  
 Case No.2 have come to this Court in this way. When  
 the motion was before him, H.S. Ong, J. (as he then  
 was) found it necessary to state a case for the  
 opinion of this Court under section 48 of the Courts  
 of Judicature Act, 1964, being of the view that a  
 question as to the effect of the Federal Constitution  
 has arisen. He did so although there was before him  
 a summons in chamber in which the State Commissioner  
 for Lands, the respondent, has asked that the motion  
 be struck out or dismissed on the procedural grounds.  
 On the assurance of counsel for the applicants that  
 this and Special Case No. 2 are in the nature of

No.5

In the Federal  
 Court of  
 Malaysia

Judgment of  
 Ali, F.J.  
 10th June, 1974

In the Federal  
Court of  
Malaysia

—  
No.5

Judgment of  
Ali, F.J.  
10th June,  
1974  
(continued)

test cases we agreed to hear arguments. We hope that our decision in both cases will be sufficient to dispose of the various questions that have arisen as a result of the order or orders made by the State Government.

The learned Judge framed four questions as follows:-

1. Whether as successor of Her Majesty's Government in respect of the Settlement of Penang, the Governor of the State of Penang is bound by reason of Article 167(2) (a) of the Constitution towards its subject in regard to rights, liabilities and obligations which formally bound Her Majesty's Government towards them; 10
2. Whether the legislations, namely L.N.478/65, P.U.(A) 526/69, Pg. P.U.39/69 and Pg. P.U.4/70 are not only contrary to the said Article 167 (2) (a) but are also tantamount to deprivation of property under Article 13(1);
3. Whether the said land is "alienated land" for the purpose of the National Land Code; and 20
4. Whether it is within the competency of the State Authority for the State of Penang to enact laws, namely Pg. P.U. 39/69 and Pg. P.U.4/70 affecting the rights previously enjoyed by its subjects and for the purpose of this motion, whether those rights are to be deemed 'vested rights'.

All these questions are to be considered in the context of the applicants' claim that their land which is land held under a replacement title issued pursuant to the provisions of the National Land Code (Penang and Malacca Titles) Act No.2 of 1963, which I shall refer to as the 1963 Act, is not "alienated land" for the purpose of an order under Section 101 (1) of the National Land Code Act No. 56 of 1965, the Code, or is not "land alienated before the commencement of the Code" for the purpose of a direction under section 102(1) of the Code. Suffice it for me to say that lands held under replacement or final replacement titles are in fact lands originally granted by the East India Company or by the British High Commissioner on behalf of the British Crown during the period when Penang was a British possession. 30 40

Documents of original title to such lands such as Indentures or Statutory Land Grants, as the case

may be, have by reason of the 1963 Act been replaced by new titles, i.e. replacement titles which ultimately would become final replacement titles. The said Act came into force on the same day as the Code i.e. January 1, 1966. Sections 101 (1) and 102 (1) of the Code are in these terms :

In the Federal  
Court of  
Malaysia

—  
No.5

Judgment of  
Ali, F.J.  
10th June, 1974  
(continued)

10 "101 (1) Subject to the provisions of sub-section (5), the State Authority may from time to time revise in accordance with the following provisions of this section the rents payable in respect of alienated lands within the State."

and section 102 (1) provides :

20 "102 (1) The State Authority may at any time before it first revises any rents in the State under section 101, direct with respect to any class or description of lands alienated before the commencement of this Act that, as from the beginning of such calendar year as may be specified in the direction, rent shall become payable at the standard rate in the case of all such lands other than any which are already subject to a higher rate."

In view of the applicants' claim it is necessary to ascertain the meaning of "alienated land" in section 101 (1) and of "land alienated before the commencement of the Code" in section 102 (1) referred to above. In section 5 of the Code "alienated land" is defined thus :

30 "any land (including any parcel of a subdivided building) in respect of which a registered title for the time being subsists, whether final or qualified, whether in perpetuity or for a term of years, and whether granted by the State Authority under this Act or in the exercise of powers conferred by any previous land law, but does not include mining land."

40 Does this include land granted by the British Crown before the commencement of the Code, that is to say, land now held under replacement title? In my view it does not because the words "and whether granted by the State Authority under this Act or in the exercise of powers conferred by any previous land law" properly construed would refer only to land granted by the State Authority which as defined in the Code means the Ruler or Governor of a State, as

In the Federal  
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Malaysia

the case may be. So the answer to the third question in this case is No.

—  
No.5  
Judgment of  
Ali, F.J.  
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(continued)

If the applicants' land is not alienated land for the reasons stated above, does it then fall within the expression "land alienated before the commencement of the Code" for the purpose of section 102 (1) of the Code? The said expression is not defined but the word "alienated" in the present tense is defined as follows:

" 'alienate' means to dispose of State land in perpetuity or for a term of years, in consideration of the payment of rent, and otherwise in accordance with the provisions of section 76 or, when used in relation to the period before the commencement of this Act, to dispose of State land in perpetuity or for a term of years under a previous land law (not being a law relating to mining)." 10

Simply stated, "alienate" means to dispose of State land or to dispose of land in the State. See definition of "State land" in section 5 of the Code. The applicants' argument that the word "alienated" cannot be used in respect of land granted or disposed of before Penang became a State is therefore devoid of any merit. On this view of the word "alienated" the applicants' land clearly comes within the expression "land alienated before the commencement of the Code" for the purpose of Section 102 (1) of the Code. As such it is affected by Pg. P.U. 39/69. The fact that it was not previously subject to rent is of no consequence for in subsection (3) of section 102 it is clearly provided that a direction under subsection (1) shall apply to any land notwithstanding that it is held rent free or subject to any express provision in the document of title that rent thereby reserved shall not be capable of revision. 20 30

In the course of arguments our attention was drawn to paragraph 2 (a) of the Schedule to L.N. 478/65 which is in these terms: 40

"2. Subject to this Schedule and where the context does not otherwise require -

(a) land held under interim title or final replacement title shall be deemed to be land alienated before the commencement of

the Code, and references to alienated land shall be construed accordingly."

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Court of  
Malaysia

—  
No.5

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Ali, F.J.  
10th June, 1974  
(continued)

On page 13 of his written submission counsel for the applicants said that this presumption is an attempt by subsidiary legislation to redefine "alienated land", that is to say, an attempt to amend the National Land Code. L.N. 478/65 was made under Section 439 of the Code which does not give the power to amend the Code. But as may be noticed  
10 the words used in the said paragraph are not "alienated land" but "land alienated before the commencement of the Code" which expression as I have just construed above must include land alienated by the British Crown, i.e. land held under replacement or interim title or final replacement title. Whatever may be its purpose the presumption in paragraph 2 (a) of the Schedule is certainly not outside the scope of the power conferred by section 439 of the Code. Accordingly,  
20 the argument that it is an attempt to amend the Code is without merit or substance. The second question refers also to P.U. (A) 526/69 which is merely an order to amend L.N. 478/65 and, therefore, does not require further consideration. As for Pg. P.U. 4/70 which is also referred to, this can be disposed of in a few words. The order was made under Section 101 (1) of the Code for the purpose of revising rents payable in respect of alienated lands. Its remarkable  
30 feature is that it refers to lands and prescribes rents which are identically the same as those referred to or prescribed in the Schedule to Pg. P.U. 39/69. Whether or not Pg. P.U. 4/70 was intended to effect a revision of the standard rents prescribed in Pg. P.U. 39/69 is not at all clear. What must be clear is that it does not or cannot apply to lands other than alienated lands. In other words, it does not apply to the applicants'  
40 land. If not, I see no reason why Pg. P.U. 4/70 should be declared null and void.

Having disposed of the applicants' arguments against L.N. 478/65, P.U. (A) 526/69, Pg. P.U. 39/69 and also Pg. P.U. 4/70 as mentioned in the second question posed by the learned Judge I shall now turn to the arguments in relation to Article 167 (2)(a) of the Constitution as mentioned in the first question and in relation to Article 13 (1) as mentioned in the second question

Article 167 (2) (a) was in these terms:

"167 (2) Subject to the provisions of this Article, all rights, liabilities and

In the Federal  
Court of  
Malaysia

obligations of -

(a) Her Majesty in respect of the  
government of Malacca or the  
government of Penang,

—  
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Ali, F.J.  
10th June, 1974  
(continued)

shall on and after Merdeka Day be the rights,  
liabilities and obligations of the respective  
States. "

It was repealed in 1963 and, as contended by the  
learned Legal Adviser, Penang, has no application  
to the present dispute. The applicants, on the  
other hand, maintained that they have a vested  
right notwithstanding the repeal. By this was  
apparently meant that their right to hold the  
land rent free continues to be protected by the  
said provision of the Constitution even though it  
is no longer in force. Article 167 (2) (a), as  
I understand it, was concerned with the legal  
or constitutional position of Her Majesty and  
the Government of the State of Penang or Malacca,  
as the case may be, on or after Merdeka Day as  
regards rights to sue, liabilities to be sued or  
obligations arising from contract or otherwise.  
In terms so provided it is difficult to conceive  
how this provision can have anything to do with  
the applicants' right to their land. It was,  
I think, argued in somewhat general terms that  
the Indenture granted by the East India Company  
on behalf of the British Crown was binding on Her  
Majesty and on the Penang State Government. The  
Suggestion was that the Indenture was a contract  
and that Her Majesty was under an implied  
obligation to ensure that the land shall not be  
subject to rent. Indian cases have been cited  
for the view that Crown grants are not binding on  
State legislatures. I do not find it necessary to  
consider those authorities as I am of the view that  
the Indenture in this case was not a contract for  
the purpose of Article 167 (2) (a) of the  
Constitution. Suffice it for me to say that  
Parliament has wide powers to make laws which are  
not inconsistent with the Constitution.. It has  
not been suggested that section 102 of the Code to  
the extent that it affects lands granted by the  
British Crown in the matter of rents is beyond the  
powers of Parliament to enact or inconsistent with  
Article 167 (2) (a). The learned Legal Adviser  
was perfectly right in saying that the said  
provision has no application whatsoever. I feel  
bound to say with respects to the learned Judge who

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framed the first question that no question as to the effect of Article 167 (2) (a) of the Constitution has arisen for the consideration of this Court. The answer to this question, as it must be, is No.

In the Federal  
Court of  
Malaysia

—  
No.5

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Ali, F.J.  
10th June, 1974  
(continued)

10 Likewise I must say that no question as to the effect of Article 13 (1) of the Constitution has arisen for the consideration of this Court. The said Article clearly does not restrict legislative powers but merely declares unconstitutional or prohibits any illegal executive acts of depriving property. See commentary on this provision by Sheridan and Groves in "The Constitution of Malaysia" on page 44. The four orders named in the second question, particularly Pg. P.U. 39/69, do not have the effect of depriving any person of his property. Pg. P.U. 39/69, for instance, does  
20 no more than what is permitted to be done by section 102 (1) of the Code. If the applicants' right is affected by any of the said orders it is because Parliament has provided that it can be so affected. Article 13 (1) of the Constitution does not restrict the legislative powers of Parliament.

The first three questions must, therefore, be answered in the negative and the fourth in the affirmative.

30 Accordingly, I would send this case back to the High Court with a direction that the motion be dismissed with costs. The applicants shall also pay the costs of the proceedings in this Court.

40 As regards the procedure followed in this case it is sufficient to say that the Rules of the Supreme Court, 1957 govern all civil proceedings in the High Court. Order 1 rule 1 provides that all proceedings of a civil nature in the High Court shall be by way of action unless otherwise provided in the Rules or in any other written law. In terms of Order 72, the English practice could only be resorted to if there is no provision in our Rules or in any written law in force in the country to govern the present proceedings. I fail to see why the applicants should not have proceeded by way of action as was done in the case of Oriental Holdings v. Government of the State of Penang &



In the Federal  
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Government of Malaysia (1)

—  
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Ali, F.J.  
10th June, 1974  
(continued)

SD/- TAN SRI DATO JUSTICE ALI  
BIN HASSAN  
(ALI BIN HASSAN)

Judge,

Federal Court, Malaysia

Delivered at Penang  
on June 10, 1974.

Azmi, L.P. and Raja Azland Shah, F.J.  
concurred.

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(1) (1972) 2 M.L.J. 248

Counsel -

Encik Lim Kean Siew, with Encik I.K. Cheah,  
Encik Philip Hoalim, Jr., Cik W.A. Goh and  
Cik Pamela Ong

for applicants

Solicitors: M/s Lim Kean Siew & Co.

Encik Abu Talib bin Othman,  
State Legal Adviser, Penang

for respondent.

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Salinan yang, di-akul benar.

Sd/- Illegible

Setia-usaha Hakim 26.2.1975

Kuala Lumpur

—————

No. 6

ORDER

In the Federal  
Court of  
Malaysia

IN THE FEDERAL COURT OF MALAYSIA

HOLDEN AT PENANG

(Original Jurisdiction)

FEDERAL COURT SPECIAL CASE

NO: 1 OF 1973

—  
No.6

Order  
10th June 1974

(Penang High Court Originating Motion No: 9 of 1970)

Between

Philip Hoalim Jr.,  
and  
Wembley Alexandra  
Goh (m.w.)

Applicants

And

The State Commissioner  
Penang

Respondent

(In the matter of Originating Motion No.9 of 1970  
in the High Court in Malaya at Penang)

Between

Philip Hoalim Jr.  
and  
Wembley Alexandra  
Goh (m.w.)

Applicants

And

The State Commissioner,  
Penang

Respondent

(Special Case Transmitted under Section 48(2) of the  
Courts of Judicature Act 1964)

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In the Federal  
Court of  
Malaysia

CORAM: AZMI, LORD PRESIDENT, FEDERAL COURT OF  
MALAYSIA;

ALI, JUDGE, FEDERAL COURT OF MALAYSIA;

RAJA AZLIAN SHAH, JUDGE, FEDERAL COURT  
OF MALAYSIA

IN OPEN COURT

THIS 10TH DAY OF JUNE, 1974

No.6

Order  
10th June 1974  
(continued)

ORDER

UPON this Special Case transmitted under Section 48(a) of the Courts of Judicature Act 1964 coming on for hearing on the 17th, 18th, 19th and 20th days of December, 1973 in the presence of Encik Lim Kean Siew (Encik I.K. Cheah, Encik Philip Hoalim, Jr., Cik Wembley Alexandra Goh and Cik Pamela Ong with him) of Counsel for the Applicants and Encik Abu Talib bin Othman, State Legal Adviser, Penang, appearing for and on behalf of the Respondent AND UPON READING the case stated filed herein AND UPON HEARING Counsel for the Applicants and the State Legal Adviser, Penang as aforesaid IT WAS ORDERED that this case do stand adjourned for Judgment AND the same coming on for judgment this day in the presence of Encik I.K. Cheah (Cik W.A. Goh with him) of Counsel for the Applicants and Encik Abu Talib bin Othman, Legal Adviser, Penang for the Respondent THIS COURT DOTH ORDER FIRST that the Governor of the State of Penang as successors of Her Majesty's Government in respect of the Settlement of Penang is not bound by reason of Article 167(2)(a) of the Constitution towards his subjects in regard to the rights, liabilities and obligations which formally bound Her Majesty's Government towards them, SECONDLY that the legislations, namely Federal L.N. 478/65, P.U.(A) 526/69, Penang P.U. 39/69 and Penang P.U. 4/70 are not contrary to Article 167(2)(a) of the Constitution and are not tantamount to deprivation of property under Article 13(1) of the Constitution, THIRDLY that the said land is not "alienated land" for the purpose of the National Land Code, FOURTHLY that it is within the competency of the State Authority for the State of Penang to enact laws, namely Penang P.U. 39/69 and Penang P.U. 4/70 affecting the rights previously enjoyed by its subjects and that those rights are

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to be deemed 'vested rights'

AND IT IS FURTHER ORDERED that this case be sent back to the High Court for the Motion to be dismissed with costs.

AND IT IS LASTLY ORDERED that the costs of the proceedings in this Court be paid by the applicants to the Respondent.

Given under my hand and the seal of the Court this 10th day of June, 1974.

In the Federal Court of Malaysia

—  
No.6

Order  
10th June 1974  
(continued)

10 (L.S.)

Sd/- E.E. Sim  
Chief Registrar

—  
No.7

AFFIDAVIT OF PHILIP HOALIM JR.  
AND WEMBLEY ALEXANDRA GOH (m.w.)

IN THE FEDERAL COURT OF MALAYSIA

HOLDEN AT KUALA LUMPUR

(APPELLATE JURISDICTION)

FEDERAL COURT SPECIAL CASE

NO. 1 OF 1973

Between

Philip Hoalim Jr. and  
Wembley Alexandra Goh  
(m.w.)

Applicants

And

The State Commissioner,  
Penang

Respondent

No.7

Affidavit of  
Philip Hoalim  
Jr. and  
Wembley  
Alexandra Goh  
(m.w.)  
17th July 1974

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(In the matter of Federal Court Special Case No. 1 of 1973 (Penang High Court Originating Motion No. 9 of 1970))

In the Federal  
Court of  
Malaysia

Between

Philip Hoalim Jr. and  
Wembley Alexandra Goh  
(m.w.)

Applicants

—  
No.7

And

The State Commissioner,  
Penang

Respondent

Affidavit of  
Philip Hoalim  
Jr. and  
Wembley  
Alexandra Goh  
(m.w.)  
17th July 1974  
(continued)

(Special Case Transmitted under Section 48(2) of  
the Courts of Judicature 1964)

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We, PHILIP HOALIM JR. (I.C. No. 0959536) and  
WEMBLEY ALEXANDRA GOH (m.w.) (I.C. No. 1140215)  
both of No. 3 Hargreaves Road, Penang, of full age  
jointly and severally hereby make oath and say as  
follows:-

1. We are the Applicants abovenamed, and are  
the registered proprietors of the land and heredi-  
taments known as Holding No. 223(2) Town Sub-  
division 6, North East District, Penang (herein-  
after referred to as "the said land"). A photo-  
stat copy of an Indenture dated the 4th day of  
August 1964 is annexed herewith and marked  
"PHJ & WAG 1".

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2. By a Notice of Motion dated August 11, 1970  
filed in the High Court, Penang we prayed that  
certain orders made under the National Land Code  
Act No. 56 of 1965 (hereinafter referred to as  
"the Code") be declared null and void as they were  
unlawful, wrongful and contrary to the Constitution.  
We refer in particular to one of the orders, that  
is to say, Pg. P.U. 39/69 which has the effect of  
making our said land subject to quit rent.

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3. When the aforementioned motion came up for  
hearing before His Lordship, H.S. Ong, J (as he  
then was) His Lordship found it necessary to state  
a case for the opinion of this Honourable Court  
under Section 48 of the Courts of Judicature Act  
(Act 91 of 1964) being of the view that a question  
as to the effect of the Federal Constitution had  
arisen. His Lordship framed four questions for  
consideration of this Honourable Court as follows:-

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- (i) Whether as successor of Her Majesty's  
Government in respect of the Settlement

of Penang, the Governor of the State of Penang is bound by reason of Article 167 (2) (a) of the Constitution towards its subject in regard to rights, liabilities and obligations which formally bound Her Majesty's Government towards them;

In the Federal  
Court of  
Malaysia

—  
No.7

Affidavit of  
Philip Hoalim  
Jr. and  
Wembley  
Alexandra Goh  
(m.w.)  
17th July 1974  
(continued)

- 10 (ii) Whether the legislations, namely L.N. 478/65. P.U. (A) 526/69, Pg. P.U. 39/69 and Pg. P.U. 4/70 are not only contrary to the said Article 167(2) (a) but are also tantamount to deprivation of property under Article 13(1);
- (iii) Whether the said land is "alienated land" for the purpose of the National Land Code; and
- 20 (iv) Whether it is within the competency of the State Authority for the State of Penang to enact laws, namely Pg. P.U. 39/69 and Pg. P.U. 4/70 affecting the rights previously enjoyed by its subject and for the purpose of this motion, whether those rights are to be deemed "vested rights."

4. This Honourable Court delivered its decision on the 10th day of June, 1974 in Penang and answered the first three questions abovementioned in the negative and the fourth in the affirmative.

30 5. In the result this Honourable Court accordingly directed that the case be sent back to the High Court with a direction that the motion be dismissed with costs.

6. We are dissatisfied with the said Order of this Honourable Court and are desirous of appealing to His Majesty the Yang di-Pertuan Agung against the said Order which is a final order in a civil matter.

7. The appeal involves, directly or indirectly, a question to or respecting property whose value is upwards of twenty-five thousand dollars.

40 8. We are advised and we verily believe that the case is also from its nature a fit one for appeal. The case stated by the High Court, Penang for consideration by this Honourable Court concerned,

In the Federal Court of Malaysia

No.7

Affidavit of Philip Hoalim Jr. and Wembley Alexandra Goh (m.w.) 17th July 1974 (continued)

inter-alia, the effect of certain provisions of the Constitution. We believe that our case was also in the nature of a test case and the decision of this Honourable Court as pronounced by it in Penang as aforementioned on the 10th day of June 1974 will consequently affect the customs of similar proceedings instituted by other owners of lands who are similarly affected and which proceedings we verily believe are pending in the High Court, Penang..

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9. We are willing to enter into good and sufficient security for the due Prosecution of the appeal to His Majesty the Yang di-Pertuan Agung.

10. We accordingly pray that this Honourable Court will be pleased to grant us leave to appeal to His Majesty the Yang di-Pertuan Agung.

Sworn by the said PHILIP HOALIM JR. and WEMBLEY ALEXANDRA GOH at Penang on this 17th day of July 1974

Sd. PHILIP HOALIM JR. Sd. WEMBLEY ALEXANDRA GOH

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Before me,

Sd...Gurcharan.Singh....

Commissioner for Oaths, High Court, Penang.

\_\_\_\_\_

No.8

In the Federal  
Court of  
Malaysia

NOTICE OF MOTION

IN THE FEDERAL COURT OF MALAYA

HOLDEN AT KUALA LUMPUR

(APPELLATE JURISDICTION)

FEDERAL COURT SPECIAL CASE NO. 1 of 1973

\_\_\_\_\_  
No.8

Notice of  
Motion  
6th September  
1974

Between

Philip Hoalim Jr. and  
Wembley Alexandra Goh  
(m.w.)

Applicants

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And

The State Commissioner,  
Penang

Respondent

(In the Matter of Federal Court Special Case No. 1  
of 1973 (Penang High Court Originating Motion No. 9  
of 1970))

Between

Philip Hoalim Jr. and  
Wembley Alexandra Goh  
(m.w.)

Applicants

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And

The State Commissioner,  
Penang

Respondent

(Special Case Transmitted under Section 48(2) of the  
Courts of Judicature 1964)

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Take Notice that on Monday the 23rd day of  
September 1974 at 9.30 o'clock in the forenoon, or  
as soon thereafter as he can be heard Mr. Lim Kean  
Siew of Counsel for the above named Applicants will  
move the Court for an order that :



In the Federal Court of Malaysia

—  
No.8

Notice of Motion  
6th September 1974  
(continued)

1. Conditional leave be granted to the Applicants to appeal to His Majesty, The Yang di-Pertuan Agung against the decision of this Honourable Court given on the 10th day of June 1974 at Penang on such terms and conditions as this Honourable Court deems fit.
2. The costs of and incidental to this application be costs in the cause.

Sd/- Lim Kean Siew & Co.  
 .....  
 Solicitors for the Applicants abovenamed

Dated this 6th day of September, 1974.

Sd/- E.E. Sim  
 .....  
 Chief Registrar,  
 Federal Court, Malaysia,  
 Kuala Lumpur.

This Notice of Motion was taken out by Messrs. Lim Kean Siew & Co. of Room 53, 5th Floor, Bangunan Bank Negara Malaysia, Penang, Solicitors for the abovenamed Applicants.

To: The State Commissioner,  
Penang.

Filed this 18th day of July,  
1974

Sd/- E.E. Sim  
 Chief Registrar  
 Federal Court, Malaysia  
 Kuala Lumpur.

\_\_\_\_\_

In the High  
Court in  
Malaya

No. 9

ORDER

            
No.9

IN THE HIGH COURT IN MALAYA AT PENANG  
ORIGINATING MOTION NO. 9 OF 1970

Order  
1st October 1974

Between

Philip Hoalim Jr. and  
Wembley Alexandra Goh  
(m.w.)

Applicants

And

The State Commissioner  
Penang

Respondent

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ORDER

BEFORE THE HONOURABLE MR. JUSTICE CHANG MIN TAT

THIS 1ST DAY OF OCTOBER, 1974.

IN OPEN COURT

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This Motion having come on for hearing by way of case stated before the Federal Court of Malaysia holden at Penang on the 17th, 18th, 19th and 20th days of December, 1973, and the Federal Court having ordered on the 10th day of June, 1974 that this case be sent back to High Court Penang with a direction that the Motion be dismissed with costs AND UPON this Motion coming on for hearing this date in the presence of Encik P.R. Manecksha of Counsel for the Applicants and Encik Abu Talib bin Othman, Senior Federal Counsel, for and on behalf of the Respondent AND UPON Counsel for the Applicants abandoning prayer 3 thereof AND UPON HEARING Counsel as aforesaid for the parties THIS COURT DOETH ORDER that this Motion be dismissed with costs.

Dated at Penang this 1st day of October, 1974.

By the Court,

(L.S.)

Sd/- Tengke Baharudin Shah  
Senior Assistant Registrar,  
High Court, Penang.

In the Federal  
Court of  
Malaysia

No.10

ORDER

            
No.10  
Order  
9th December  
1974

IN THE FEDERAL COURT OF MALAYSIA

HOLDEN AT PENANG

(APPELLATE JURISDICTION)

FEDERAL COURT SPECIAL CASE NO: 1 of 1973

(Penang High Court Originating Motion) No.9 of 1970)

Between

Philip Hoalim Jr. and  
Wembley Alexandra Goh  
(m.w.)

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Applicants

And

The State Commissioner,  
Penang

Respondent

(In the matter of Originating Motion No.9 of 1970  
In the High Court in Malaya at Penang)

Between

Philip Hoalim Jr. and  
Wembley Alexandra Goh  
(m.w.)

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Applicants

And

The State Commissioner,  
Penang

Respondent)

(Special Case Transmitted under Section 48(2) of  
the Courts of Judicature Act 1964)

CORAM: GILL, CHIEF JUSTICE, HIGH COURT IN MALAYA  
ONG, JUDGE, FEDERAL COURT OF MALAYSIA WAN  
SULEIMAN, JUDGE, FEDERAL COURT OF MALAYSIA

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IN OPEN COURT  
THIS 9th DAY OF DECEMBER, 1974.

ORDER

In the Federal  
Court of  
Malaysia

No. 10

Order  
9th December  
1974  
(continued)

10 UPON MOTION made unto Court the 23rd day of  
September, 1974 by Encik P.R. Manecksha of Counsel  
for the Applicants abovenamed in the presence of  
Encik Lim Beng Choon, Senior Federal Counsel  
appearing for and on behalf of the Respondent  
abovenamed AND UPON the motion being adjourned to  
the 9th day of December, 1974 for the case to be  
sent back to the High Court for the Originating  
Motion to be dismissed with costs AND UPON the  
20 Motion coming on for hearing on the 9th day of  
December, 1974 in the presence of Encik P.R.  
Manecksha of Counsel for the applicants and Encik  
Abu Talib bin Othman, Senior Federal Counsel  
appearing for and on behalf of the Respondent AND  
UPON READING the Notice of Motion dated the 6th  
day of September, 1974 and the joint affidavit of  
Philip Hoalim Jr. and Wembley Alexandra Goh (m.w.)  
30 affirmed on the 17th day of July, 1974 and filed  
herein AND UPON HEARING Counsel as aforesaid IT IS  
ORDERED that leave be and is hereby granted to the  
Applicants abovenamed to appeal to His Majesty  
The Yang di-Pertuan Agong against the decision of  
this Honourable Court given on the 10th day of  
June, 1974 upon the following conditions:-

- 30 a) that the Applicants abovenamed do within  
three (3) months from the date hereof enter  
into a good and sufficient security to the  
satisfaction of the Chief Registrar, Federal  
Court, Malaysia, in the sum of \$5,000/-  
(Dollars Five Thousand Only) for the due  
prosecution of the Appeal, and the payment of  
all such costs as may become payable to the  
Respondent abovenamed in the event of the  
Applicants not obtaining an order granting  
them final leave to Appeal, or of the Appeal  
being dismissed for non-prosecution, or of  
40 His Majesty The Yang di-Pertuan Agong ordering  
the Applicants to pay the Respondent's costs  
of the Appeal, as the case may be, and
- b) that the Applicants abovenamed do within  
three (3) months from date hereof take the  
necessary steps for the purpose of procuring  
the preparation of the Record and despatch  
thereof to England.

AND IT IS LASTLY ORDERED that the costs of

In the Federal Court of Malaysia

and incidental to this application be costs in the cause.

No.10

Given under my hand and the seal of the Court this 9th day of December, 1974.

Order 9th December 1974 (continued)

Sd. E.E. Sim

L.S.

.....

CHIEF REGISTRAR

This Order is filed by Messrs. Lim Kean Siew and Company, Advocates & Solicitors, for and on behalf of the Applicants herein, and whose address for service is at 5th Floor, Bangunan Bank, Negara, Light Street, Penang.

10

No.11

No.11

Order granting final leave to appeal to His Majesty the Yang di-Pertuan Agong 14th April 1975

ORDER GRANTING FINAL LEAVE TO APPEAL TO HIS MAJESTY THE YANG DI-PERTUAN AGONG

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT KUALA LUMPUR

(APPELLATE JURISDICTION)

FEDERAL COURT SPECIAL CASE NO: 1 of 1973

(Penang High Court Originating Motion No. 9 of 1970)

20

Between

Philip Hoalim Jr. and Wembley Alexandra Goh (m.w.)

Applicants

And

The State Commissioner Penang

Respondent

(In the matter of Originating Motion No. 9 of 1970 in the High Court in Malaya at Penang)

30



In the Federal  
Court of  
Malaysia

---

No.11

Order granting  
final leave to  
appeal to His  
Majesty the  
Yang di-  
Pertuan Agong  
14th April  
1975  
(continued)

This Order is filed by Messrs.Lim Kean Siew  
& Co., Advocates & Solicitors, for and on behalf  
of the Applicants herein, and whose address for  
service is at 5th Floor, Bangunan Bank Negara,  
Light Street, Penang.

---

EXHIBITS

"A"

Annexed to Affidavit of Philip  
Hoalim Jr. and Wembley Alexandra  
Goh (m.w.)

Sheet 1158 & 118 Parts of Lots Nos: 3081 & 3082

10 Cancelling parts of Grant No: 1141 and Bills of  
Sale Registered Nos: 2864, 5021, 1755, 3171, 550  
and 551 of illegible parts of Grant No: 1203 and  
Bills of Sale Registered Nos: 1902, 3436, 3439,  
1996, 5769, 5764, 2336, 1858 and 186 of No: 77 of  
1848/49, No: 315 of 1851/52 and 292 of 1856/57  
Grant No: 1856 and Bill of Sale Registered NO: 548  
part No: 1826 and Bills of Sale Registered Nos:  
5726, 5986, 2529, 1307, 3058, 2205 and 549 of 1857/  
58 Grant and Bills of Sale Registered Nos: 2472, 1278  
and 2822.

No: 18 of 1858/59

20 This Indenture made the Thirtieth day of  
August in the year of Christ One thousand Eight  
Hundred and Fifty Eight Between the East India  
Company on behalf of Her Majesty, Queen of the  
United Kingdom of Great Britain and Ireland, her  
Heirs and Successors of the first part, and John  
Arthur Harcourt Caunter of Prince of Wales' Island  
of the second part.

30 WITNESSETH, that the said East India Company  
for and in consideration of the sum of Company's  
Rupees Four hundred and twenty three, Annas Nine  
and illegible which has been paid to them by the  
said John Arthur Harcourt Caunter and also in  
consideration of the covenants, provisoes and  
conditions do in pursuance of Act IX of 1842,  
in virtue of all and every right, title, interest,  
powers and authority whatsoever now vested in the  
East India Company, grant, bargain, sell and release  
unto the said John Arthur Harcourt Caunter his  
Executors, Administrators and Assigns, all that  
40 piece of land situated in the District of Tulloh  
Julotong in Prince of Wales' Island aforesaid,  
bounded and measuring as follows, East by a Hedge  
separating his ground from that of Mr. Currier,  
Cheah Kooy illegible Chee Moon, Bawa Sap, and the  
Trustees of Mr. Caunter's marriage settlement Nine  
thousand two hundred and eighteen Feet West by a

Exhibits

"A"

annexed to  
Affidavit of  
Philip Hoalim  
Jr. and  
Wembley  
Alexandra Goh  
(m.w.) dated  
8th August  
1970



Exhibits

"A"  
annexed to  
Affidavit of  
Philip Hoalim  
Jr. and  
Wembley  
Alexandra Goh  
(m.w.) dated  
8th August  
1970

Road in a crooked direction Six thousand one hundred and nineteen Feet North by a Road Stream, Grant No: 1474 and Mr. Caunter's land Three thousand and four hundred and ninety two Feet South by a Stream and Hedge separating this ground from that of Siamese Temple and Khor Seng Poe's in a crooked direction One thousand five hundred and Sixty eight Feet Estimated to contain Two hundred and forty four square acres and fifteen square illegible /244 sq. a and 15 sq. P) Equivalent to one hundred and eighty four orlongs, two hundred and thirty square jumbas and fifty one feet/ 184sq. or 238 sq.) and 51sq. feet together with the appurtenances agreeably to the Plan endorsed herein certified under the hand of I. Moniot Surveyor General of the Straits.

10

To Have and To Hold the same unto the said John Arthur Harcourt Caunter his Executors, Administrators and Assigns for ever, subject nevertheless to the proviso and condition hereinafter contained. Provided always and these Presents are upon this express condition that the said John Arthur Harcourt Caunter his Heirs, Executors, Administrators, and assigns, do and shall within the period of five years from the date hereof, clear and cultivate one fourth part at least of the said land, and that if he or they shall fail to do so these Presents on the expiration of the said period shall be void, and it shall then and thenceforth be lawful to, and for the East India Company on behalf of the Crown, to enter into the said piece of Land and the same to have, hold and enjoy again as their former Estate and in the same manner to all intents and purposes, as if these Presents had not been executed.

20

30

IN WITNESS whereof, the Chief Executive Office in charge of Prince of Wales' Island, by authority of the Governor General of India in Council, has affixed the Common Seal of the East India Company, and subscribed his Signature, and the said John Arthur Harcourt Caunter has signed his name and affixed his Seal hereto the day and year aforesaid.

40

Signed Sealed Executed and  
Delivered in the presence of: } SEAL  
Sd. Illegible } Sd. Illegible  
Sd. Illegible } Resident Councillor  
Sd. Illegible } Sd. John A.H.  
Caunter } L.S.

Originating Motion No: 9 of 1970  
This is the Exhibit marked "A" referred to in the Affidavit of Philip Hoalim Jr. and Another sworn on the 8th day of August, 1970.

Sd. Quah Chong Eng Commissioner for Oaths.



Exhibits

"B"  
annexed to  
Affidavit of  
Philip Hoalim  
Jr. and  
Wembley  
Alexandra Goh  
(m.w.) dated  
8th August  
1970

L.A. No. 4/123

**PENGAKUAN DI ATAS KEGUNAAN TANAH**Saya PHILIP HOALIM (JR) KIP 0959530

yang tinggal di.

luar tanah/wakil tuan tanah Pegangan Bil. 223(2) Luas 2.1.09.9PP. B./Mukim 6 dengan ini menyatakan bahawa tanah yang (12,224 k.p.)

tersebut ada-lah di-gunakan bagaimana berikut:-

| Kegunaan   | Keluasan            |
|--|---------------------|
| (1) Perniagaan   | = kaki persegi      |
| (2) Perusahaan   | =                   |
| (3) Kediaman <u>3 MARGREAVE ROAD</u>   | = kaki persegi      |
| (4) Pertanian:   |                     |
| (i) getah atau kelapa sawit  | = ekar              |
| (ii) kelapa, pokok buah2an, kopi, teh, cocoa atau pokok pala                                     | = ekar              |
| (iii) tebu, nanas, ubi kayu, ragi, kacang tanah, jagong, tembakau, lada hitam, sayor atau gambir | = ekar              |
| (iv) padi, sagu atau nipah   | = ekar              |
| (v) pembiakan atau pemeliharaan binatang ternakan  | = ekar              |
| (5) Penggunaan selain daripada yang di atas  | = ekar              |
| (6) Kosong   | = kaki persegi/ekar |

Saya mengaku kenyataan ini ada-lah benar dan sedar di atas maksud seksyen 422 Kanun Tanah Negara yang telah di-rojokkan kepada saya.

.....  
(Saksi kepada Tanda Tangan)

Philip Hoalim (JR)  
(Tuan Tanah/Wakil Tuan Tanah)

Nama: msrK/P: 114.0.215Tarikh: 12-5-70

Exhibits

"B"  
 annexed to  
 Affidavit of  
 Philip Hoalim  
 Jr. and  
 Wembley  
 Alexandra Goh  
 (m.w.) dated  
 8th August  
 1970  
 (continued)

INGATAN:

- (1) Sekshen 422(a) Kanun Tanah Negara menentukan kesalahan di-atas sesiapa yang memberi kenyataan yang palsu mengenai sebarang perkara yang berbangkit dari Kanun Tanah Negara dan mereka yang bersalah akan didenda sebanyak tidak lebeh daripada dua ribu ringgit atau di-penjarakan selama tempoh tidak lebeh daripada tiga tahun atau kedua2-nya sekali.
- (2) Borang Pengakuan ini hendak-lah di-kembalikan kepada Pemungut Hasil Tanah di-dalam masa sa-bulan dari tarikh penerimaan-nya.
- (3) Jika Borang Pengakuan ini tidak di-kembalikan sebagaimana di-kehendaki maka Pemungut Hasil Tanah akan menentukan sewa yang kena di-bayar mengikut kadar yang telah di-tetapkan.



URUSAN KERAJAAN

*Philip Hoalim Wembley Alexandra Goh*  
 3, Hargreaves Road,  
 Penang.

Exhibits

"C"  
 annexed to  
 Affidavit of  
 Philip Hoalim  
 Jr. and  
 Wembley  
 Alexandra Goh  
 (m.w.) dated  
 8th August  
 1970

BORANG PAVUAN DI-ATAS SEWA TANAH

Agut Hasil Tanah,  
 ...*Penang*.....

Dengan hormat-saya saya...PHILIP HOALIM JR.....  
 ..0959536...) merayukan supaya sewa tanah di-atas  
 saya di-haoue/kurangkan.

tanah2 lanjut ada-lah saya nyatakan di-bawah ini:

- (a) Bil. Pegangan Tanah:.....223 (2).....
- (b) P.B./No. ....6 NED Penang.....
- (c) Keluasan:.....12, 224, 58, ft.....

Kegunaan Tanah ada-lah sebagaimana berikut:

| <u>Kegunaan</u>  | <u>Keluasan</u>                         |
|--|---|
| Perniagaan   | = / kaki persegi                        |
| Perusahaan   | = / kaki persegi                        |
| Kediaman. <u>3 Hargreaves Rd.</u><br><u>(Private Dwelling)</u>   | = <u>6112</u> kaki persegi approx.      |
| Pertanian:   |   |
| (i) getah atau kelapa sawit  | = / ekar                                |
| (ii) kelapa (ayor), pokok<br>buah2an, kopei, teh, cocoa<br>atau pokok pala                                 | " / ekar                                |
| (iii) toba, pisang, ubi kayu,<br>rapi, kacang tanah,<br>jagung, tembakau, lada<br>hitam, sayur atau gambir | = / ekar                                |
| (iv) padi, jagu atau nyah  | = / ekar                                |
| (v) pembiakan atau pemeli-<br>haraan binatang ternakan   | = / ekar                                |
| Pergunaan selain daripada yang<br>di-atas  | = / kaki persegi/ekar                   |
| Kosong   | = <u>6112</u> kaki persegi/ekar approx. |

Pendapatan daripada tanah ini setahun: \$.....

Jika tanaman getah/kelapa sawit nyatakan:

- (a) bilangan di-tanami.....
- (b) bilangan di-tanam semula.....

Exhibits  
 "C"  
 annexed to  
 Affidavit of  
 Philip Hoalim  
 Jr. and  
 Wembley  
 Alexandra Goh  
 (m.w.) dated  
 8th August  
 1970  
 (continued)

- (c) Luas tanah di-tanam semula:.....akar.....R.....P.  
 1. Ada-kah tanah ini terta'lok kepada "Land Conservation  
 Act 1960"7 .....  
 2. Nyatakan rumah2 yang terta'lok kepada "Rent Control  
 Act 1957" di-atas tanah ini:

|     | <u>Bilangan Rumah</u> | <u>Keluasan Tanah</u><br>(Kaki Persegi) | <u>Sewa Satahun</u> |
|-----|-----------------------|---|---------------------|
| (a) |                       |   | \$                  |
| (b) |                       |   | \$                  |
| (c) |                       |   | \$                  |

Jika tanah ini di-kenakan bayaran hasil pokok oleh  
 mana2 Majlis Daerah nyatakan jumlah bayaran di-bayar  
 satahun: \$.....

Jika tanah ini telah di-luluskan pechahan sempadan  
 nyatakan:

- (a) Keluasan tanah di-ketepikan untok jalani:.....  
 (b) Keluasan tanah di-ketepikan untok tanah lapang:  
 .....  
 (c) Keluasan tanah di-ketepikan untok tangki najis:  
 .....  
 (d) Keluasan tanah di-ketepikan untok kegunaan am:  
 (Umpama-nya: Sekolah, Pasar atau Dewan Orang  
 Ramai)  
 .....  
 (e) Fail Pejabat Tanah dan tarikh kelulusan:.....  
 .....

9. Jika tanah kosong nyatakan:

- (a) Mengapa tanah ini tidak boleh di-majukan:.....  
 .....  
 .....  
 .....  
 (b) Bila-kah tanah ini akan di-majukan:.....  
 (c) Tujuan apa tanah ini akan di-majukan:.....  
 .....

10. Nyatakan lain2 sebab untok di-pertimbangkan:

(a) *Principle*

Exhibits

"C"  
annexed to  
Affidavit of  
Philip Hoalim  
Jr. and  
Wembley  
Alexandra Goh  
(m.w.) dated  
8th August  
1970  
(continued)

- 3 -

(b) *Ms. Queen Tunj. Harshis*

(c) *Obst. to payment until constitutionality and  
legality of the recent legislation is decided*

Pengakuan *by a Court of Law*

Saya mengaku kenyataan2 yang tersebut di-atas ada-lah  
benar dan faham di-atas maksud sekshen 422, Kanun Tanah Negara.

*msfl*  
.....

(Tanda Tangan Saksi)

Nama:  
K/P:  
Alamat:



*Sh. Chandraho*  
.....

(Tanda Tangan Tuan  
Tanah)

Nama:  
K/P:  
Alamat:

INGATAN

(1) Sekshen 422(a) Kanun Tanah Negara menentukan  
kesalahan di-atas sesiapa yang memberi kenyataan yang palsu  
mengenai sebarang perkara yang berbangkit dari Kanun Tanah  
Negara dan mereka yang bersalah akan di-dendakan sebanyak  
tidak lebih daripada dua ribu ringgit atau di-penjarakan  
selama tempoh tidak lebih daripada tiga tahun atau kedua-  
nya sekali.

(2) Jika ruangan yang di-untukkan tidak mencukupi,  
boleh-lah gunakan kertas sambongan.

L.N. 477-478.

638

Exhibits

"A"

National Land  
Code No. L.N.

478

18th December,  
1965Ordinance or ActAmendment

3. In section 3 (1), the words "the land law" and "the Registration of Deeds Ordinance, or the Mutations in Titles to Land Ordinance" shall be deleted.

4. In section 3 (1) (a) the words "States of Malaya" shall be substituted for the word "Federation".

5. In section 3 (1) (b), the words "State of Sabah" shall be substituted for the words "Colony of North Borneo".

6. In section 3 (1) (c), the words "State of Sarawak" shall be substituted for the words "Colony of Sarawak".

7. In Part II of the Second Schedule delete--

|                        |  |   |
|------------------------|--|---|
| "Malacca<br>and Penang | The Registration of Deeds<br>Ordinance, S.S. Cap 121 | Section 13,<br>sub-sections<br>(5) and (6)" |
|------------------------|--|---|

Dated this 18th day of December, 1965.

[K.F.G. (Sulit) 74/4, AG. 3309-S.F. 2]

By Command,

DATO' ABDUL JAMIL BIN ABDUL RAIS,  
*Secretary to the Cabinet*

✓ L.N. 478.

**NATIONAL LAND CODE**

**NATIONAL LAND CODE (PENANG AND MALACCA) ORDER, 1965**

*1 of 1965* In exercise of the powers conferred by section 439 of the National Land Code, the Yang di-Pertuan Agong with the concurrence of the Governors of the States of Penang and Malacca hereby makes the following Order:

*1 of 1965* 1. This Order may be cited as the **National Land Code (Penang and Malacca) Order, 1965**.

*1 of 1965* 2. The National Land Code (hereinafter referred to as the Code) shall in its application in the States of Penang and Malacca be subject to the modifications set forth in the Schedule.

**SCHEDULE**

1. In this Schedule--

"1963 Act" means the National Land Code (Penang and Malacca Titles) Act, 1963;

"Commissioner" has the same meaning as in the 1963 Act;

"final replacement title" means title evidenced by a final document of title issued under section 93 of the 1963 Act;

"Interim Register" has the same meaning as in the 1963 Act;

"interim title" means title evidenced by an entry in the Interim Register;

"Mukim indication" has the same meaning as in the 1963 Act.

2. Subject to this Schedule and where the context does not otherwise require--

(a) land held under interim title or final replacement title shall be deemed to be land alienated before the commencement of the Code; and references to alienated land shall be construed accordingly.

(b) references to grants shall be deemed to include references to grants (first grade) and grants under the 1963 Act.



Exhibits

"A"

National Land  
Code No. L.N.

478

18th December

1965

(continued)

639

L.N. 478.

- (c) references to land held under Registry title shall be deemed to include references to land held under interim title without a Mukim indication;
- (d) references to land held under Land Office title shall be deemed to include references to land held under interim title with a Mukim indication.
- (e) references to express conditions shall be deemed to include references to covenants, conditions or restrictions endorsed on the Interim Register or final documents of title under section 45 or 93 of the 1963 Act.
3. Dealings in land held under interim title shall be registered in the same way as dealings in any other alienated land, except that Part VI and sub-section (2) of section 92 of the 1963 Act shall—
- (a) apply where they are relevant; and
- (b) prevail over the Code where there is any inconsistency.
4. In relation to land held under interim title—
- (a) references to the register document of title shall be construed as references to the relevant folio of the Interim Register;
- (b) references to the issue document of title shall be disregarded;
- (c) references to the Register and a register of title shall be construed as references to the Commissioner and the Interim Register; and
- (d) references to the Registry or Land Office shall be construed as references to the place or places where the Interim Register is kept.
5. In their application to land which becomes town, village or country land at the commencement of the Code by virtue of a declaration under section 11 thereof—
- (a) sub-section (2) of section 53 of the Code shall have effect as if for the words "is at the commencement" there were substituted the words "becomes at the commencement"; and
- (b) sub-section (2) of section 55 of the Code shall have effect as if for the words "is at that commencement" there were substituted the words "at that commencement becomes".
6. In the State of Penang sections 53 and 54 of the Code shall not apply in relation to grants (first grade) under the 1963 Act or final replacement title issued in respect of such grants.
7. Where land has been approved before the commencement of the Code for alienation in fee simple but has not in fact been so alienated—
- (a) sections 55 and 56 of the Code shall not apply; and
- (b) the land shall be regarded as having been approved for alienation on the title corresponding under section 93 of the 1963 Act to a grant (first grade), and sub-section (4) of section 80 of the Code shall be construed accordingly:
- Provided that the proviso to that sub-section shall not apply in relation to land in the State of Penang.
8. On the alienation of any land of the kind mentioned in paragraph 7—
- (a) there shall be endorsed on the document of title the words "First Grade"; and
- (b) that endorsement shall have the same effect as the endorsement of those words under section 93 of the 1963 Act on a final document of title.

Exhibits

"A"

National Land

Code No. L.N.

478

18th December

1965

(continued)

L.N. 478.

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9. In the State of Penang sections 101 and 102 shall not apply in relation to—

- (a) grants (first grade) under the 1963 Act or final replacement title issued in respect of such grants; or
- (b) alienated land which before alienation was land of the kind mentioned in paragraph 7.

10. In relation to land held under interim title or final replacement title—

- (a) covenants, conditions or restrictions endorsed on the Interim Register or the final document of title under section 45 or 93 of the 1963 Act shall be deemed for the purposes of paragraph (a) of section 110 of the Code to be express conditions or restrictions in interest endorsed on the document of title immediately before the commencement of the Code; and
- (b) the implied condition set out in sub-section (1) of section 45 of the 1963 Act shall be deemed to be an implied condition applicable to the land under paragraph (d) of section 110 of the Code.

11. Chapters 2, 3 and 4 of Part Nine of the Code shall not apply in relation to land held under interim title.

12. Part Eleven of the Code shall not apply in relation to land held under interim title.

13. Paragraph (b) of sub-section (1) of section 195 and sections 200 to 204 of the Code shall not apply in relation to land held under interim title.

14. Chapters 3 and 4 of Part Sixteen of the Code shall not apply in relation to replacement mortgages or replacement charges, within the meaning of the 1963 Act:

Provided that this paragraph shall not prevent the use for the purposes of the 1963 Act of forms prescribed by that Part of the Code.

15. Paragraph (c) of sub-section (1) of section 343 of the Code shall not apply in respect of co-proprietors who have been registered in pursuance of paragraph (c) of sub-section (1) of section 47 of the Act as co-proprietors "with a right of survivorship".

16. Section 353 of the Code shall not apply in relation to land held under interim title or final replacement title.

17. Sections 384 and 385 of the Code shall not apply in relation to land held under interim title where the title has not yet become indefeasible.

18. The reference in section 386 of the Code to any certificate of search shall be deemed to include a reference to any certificate issued under section 210 of the 1963 Act.

19. The repeal of the Lands Ordinance of the Straits Settlements shall not affect the Straits Settlement Mining Rules, 1923, which shall remain in force.

Dated this 18th day of December, 1965.

[K.T.G. (Sulit) 74/1; AG. 3309-S.F. 2.]

By Command,

DATO' ABDUL JAMIL BIN ABDUL RAIS,  
Secretary to the Cabinet

Exhibits

"B"  
National Land  
Code No. P.U.  
(A) 526  
1st December  
1969

1357

P.U. (A) 526-527.

P.U. (A) 526.

## NATIONAL LAND CODE

NATIONAL LAND CODE (PENANG AND MALACCA) (AMENDMENT)  
ORDER, 1969

IN exercise of the powers conferred by section 439 of the National Land Code, the Yang di-Pertuan Agong with the concurrence of the Governors of the States of Penang and Malacca hereby makes the following Order:

1. This Order may be cited as the National Land Code (Penang and Malacca) (Amendment) Order, 1969, and shall be deemed to have come into force on the 15th day of November, 1969. Citation and commencement.

2. The National Land Code (Penang and Malacca) Order, 1965 is hereby amended by deleting paragraph 9 thereof. Amendment to L.N. 478/65

Dated this 1st day of December, 1969.  
[K.T.G. (Sulit) 74/1; AG. 3309 SF. 2.]

By Command.

ANDUL GHAFAR BIN BARA,  
Minister of Lands and Mines

P.U. (A) 527.

## ACT KASTAM, 1967

(No. 62 tahun 1967)

PADA menjalankan kuasa yang di-beri oleh seksyen 12 Act Kastam, 1967, Menteri Kewangan dengan ini membuat Perintah yang berikut:

1. Perintah ini boleh-lah di-namakan Perintah Kastam (Nilai) (Getah, dsb.) (No. 52), 1969, dan hendak-lah mula berkuatkuasa pada 25 haribulan Disember, 1969.

2. Bagi maksud pemungutan dan pembayaran Duti Kastam, menurut peruntukan Perintah Duti Kastam, 1968, nilai bagi tiap satu barang berduti yang di-nyatakan dalam ruang pertama Jadual bersama ini, mengikut yunit-nya yang tersebut dalam ruang kedua Jadual tersebut, ia-lah sa-banyak yang di-nyatakan dalam ruang ketiga Jadual tersebut. P.U. 527/68

3. Perintah Kastam (Nilai) (Getah, dsb.) (No. 51), 1969, ada-lah dengan ini di-batalkan. P.A. (A) 516/69

## JADUAL

| (1)<br>Barang       | (2)<br>Yunit | (3)<br>Nilai |
|---------------------|--------------|--------------|
| Getah               | Satu paun    | \$ 0.64 3/4  |
| Kelapa Kering       | Satu tan     | 590.00       |
| Minyak Kelapa Sawit | Satu tan     | 466.00       |
| Isi Kelapa Sawit    | Satu tan     | 336.50       |

Di-perbuat pada 19hb Disember, 1969.

[PKN/TAK, 138A/78; Perh. (8.20) 116/1-4; P.N. 250/54-244E (50).]

Dengan arahan Menteri Kewangan.

SETLEHUDDIN BIN MOHD.,  
Setiausaha Rendah (Chukai),  
Perbendaharaan

| <i>Ruangah Pertama</i>  | <i>Ruangah Kedua</i> |
|---|----------------------|
|   | \$ c.                |
| (v) Pembiakan atau pemeliharaan binatang ternakan                               | 2 00 sa-ekar         |
| (e) Tanah <sup>2</sup> yang di-gunakan bagi tujuan selain daripada yang di-atas | 2 00 sa-ekar         |

## JADUAL KEDUA

- (i) Tanah<sup>2</sup> bagi tujuan Persekutuan yang di-pegang oleh Pesuruhjaya Tanah Persekutuan;
- (ii) Tanah<sup>2</sup> yang di-gunakan bagi maksud Ugama sahaja;
- (iii) Tanah<sup>2</sup> yang di-gunakan bagi maksud Pendermaan (charitable purpose) sahaja;
- (iv) Tanah<sup>2</sup> yang di-gunakan bagi maksud permainan sahaja;
- (v) Tanah<sup>2</sup> yang di-gunakan bagi maksud perkuboran sahaja;
- (vi) Tanah<sup>2</sup> yang di-gunakan bagi perusahaan dalam Kawasan Perusahaan Negeri;
- (vii) Tanah<sup>2</sup> yang telah di-bayar sewa yang di-pinda sebagaimana di-dalam Jadual Pertama atau lebih tinggi.

Bertarikh pada 16hb Disember, 1969.  
[PSUK/PP/15144.]

DR LIM CHONG EU,  
Ketua Menteri, Pulau Pinang

## NATIONAL LAND CODE

## PERIODICAL REVISION OF RENT UNDER SECTION 101

In exercise of the powers conferred by sub-section (1) of section 101 of the National Land Code the State Authority with the approval of the National Land Council hereby prescribed the revised rents as laid down in the Second Column of the First Schedule hereto as the rents payable in respect of alienated lands mentioned in the First Column therewith with effect from 1st of January, 1970 other than alienated lands described in the Second Schedule thereto.

## FIRST SCHEDULE

| <i>First Column</i>                           | <i>Second Column</i>                                |
|---|---|
| (1) TOWN LANDS                                |   |
| (a) George Town:                              |   |
| (i) Lands used for Commercial purpose         | 5 cents per sq. ft                                  |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                  |
| (iii) Lands used for Residential purpose      | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (b) Jelutong:                                 |   |
| (i) Lands used for Commercial purpose         | 5 cents per sq. ft                                  |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                  |
| (iii) Lands used for Residential purpose      | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | 1 cent per sq. ft with a minimum of \$10.00 per lot |

Exhibits

"C"  
National Land  
Code No. P.U.4.  
16th December  
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(continued)

| <i>First Column</i>                           | <i>Second Column</i>                                |
|---|---|
| (c) Ayer Itam:                                |   |
| (i) Lands used for Commercial purpose         | 5 cents per sq. ft                                  |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                  |
| (iii) Lands used for Residential purpose      | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (d) Glugor:                                   |   |
| (i) Lands used for Commercial purpose         | 5 cents per sq. ft                                  |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                  |
| (iii) Lands used for Residential purpose      | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (e) Penang Hill:                              |   |
| (i) Lands used for Commercial purpose         | 5 cents per sq. ft                                  |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                  |
| (iii) Lands used for Residential purpose      | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (f) Butterworth:                              |   |
| (i) Lands used for Commercial purpose         | 5 cents per sq. ft                                  |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                  |
| (iii) Lands used for Residential purpose      | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (g) Prai:                                     |   |
| (i) Lands used for Commercial purpose         | 5 cents per sq. ft                                  |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                  |
| (iii) Lands used for Residential purpose      | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | 1 cent per sq. ft with a minimum of \$10.00 per lot |
| (h) Tanjong Tokong:                           |   |
| (i) Lands used for Commercial purpose         | 3 cents per sq. ft                                  |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                  |

| <i>First Column</i>                           | <i>Second Column</i>                                 |
|---|--|
| (iii) Lands used for Residential purpose      | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| <i>(i) Tanjong Bungah:</i>                    |  |
| (i) Lands used for Commercial purpose         | 3 cents per sq. ft                                   |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                   |
| (iii) Lands used for Residential purpose      | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| <i>(j) Batu Ferringgi:</i>                    |  |
| (i) Lands used for Commercial purpose         | 3 cents per sq. ft                                   |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                   |
| (iii) Lands used for Residential purpose      | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| <i>(k) Balik Pulau:</i>                       |  |
| (i) Lands used for Commercial purpose         | 3 cents per sq. ft                                   |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                   |
| (iii) Lands used for Residential purpose      | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| <i>(l) Bayan Lepas:</i>                       |  |
| (i) Lands used for Commercial purpose         | 3 cents per sq. ft                                   |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                   |
| (iii) Lands used for Residential purpose      | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| <i>(m) Bukit Mertajam:</i>                    |  |
| (i) Lands used for Commercial purpose         | 3 cents per sq. ft                                   |
| (ii) Lands used for Industrial purpose        | 2 cents per sq. ft                                   |
| (iii) Lands used for Residential purpose      | .5 cent per sq. ft with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than above | .5 cent per sq. ft with a minimum of \$10.00 per lot |

Exhibits

"C"  
National Land  
Code No. P.U.4.  
16th December,  
1969  
(continued)

Exhibits

"C"

National Land  
Code No. P.U.4.  
16th December  
1969  
(continued)

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Pg. P.U. 4.

| <i>First Column</i>  | <i>Second Column</i>                                  |
|--|---|
| <i>(n) Nibong Tebal:</i>   |   |
| (i) Lands used for Commercial purpose  | 3 cents per sq. ft                                    |
| (ii) Lands used for Industrial purpose   | 2 cents per sq. ft                                    |
| (iii) Lands used for Residential purpose   | .5 cent per sq. ft with a minimum of \$10.00 per lot  |
| (iv) Lands used for purposes other than above  | .5 cent per sq. ft with a minimum of \$10.00 per lot  |
| <i>(o) Kepala Batas:</i>   |   |
| (i) Lands used for Commercial purpose  | 3 cents per sq. ft                                    |
| (ii) Lands used for Industrial purpose   | 2 cents per sq. ft                                    |
| (iii) Lands used for Residential purpose   | .5 cent per sq. ft with a minimum of \$10.00 per lot  |
| (iv) Lands used for purposes other than above  | .5 cent per sq. ft with a minimum of \$10.00 per lot  |
| <i>(p) Sungei Bakap:</i>   |   |
| (i) Lands used for Commercial purpose  | 3 cents per sq. ft                                    |
| (ii) Lands used for Industrial purpose   | 2 cents per sq. ft                                    |
| (iii) Lands used for Residential purpose   | .5 cent per sq. ft with a minimum of \$10.00 per lot  |
| (iv) Lands used for purposes other than above  | .5 cent per sq. ft with a minimum of \$10.00 per lot  |
| <b>(2) COUNTRY LANDS</b>   |   |
| (a) Lands used for Commercial purpose  | 1.25 cents per sq. ft                                 |
| (b) Lands used for Industrial purpose  | 1 cent per sq. ft                                     |
| (c) Lands used for Residential purpose   | .25 cent per sq. ft with a minimum of \$10.00 per lot |
| (d) Lands used for Agricultural purposes:  | \$ c.   |
| (i) Under rubber or oil palm cultivation   | 10 00 per acre  |
| (ii) Under coconuts, fruit trees, coffee, tea, cocoa or nutmeg cultivation   | 6 00 per acre   |
| (iii) Under sugar cane, pineapple, tapioca, ragi, groundnuts, maize, tobacco, pepper, vegetables or gambir cultivation | 4 00 per acre   |
| (iv) Under padi, sago or nipah cultivation   | 2 00 per acre   |
| (v) Breeding or keeping of livestock   | 2 00 per acre   |
| (e) Lands used for purposes other than above   | 2 00 per acre   |

Pg. P.U. 4-6.

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## SECOND SCHEDULE

- (i) Lands used for Federal purposes held in the name of the Federal Land Commissioner;
- (ii) Lands used only for religious purposes;
- (iii) Lands used only for charitable purposes;
- (iv) Lands used only for recreational purposes;
- (v) Lands used only for burial grounds;
- (vi) Lands used for industry within the State Industrial Estates;
- (vii) Lands already paying the revised rents as in the First Schedule or higher.

Dated this 16th day of December, 1969.  
[PSUK/PP/15144.]

DR LIM CHONG EU,  
*Chief Minister, State of Penang*

Exhibits

"C"  
National Land  
Code  
No. P.U.4  
16th December  
1969  
(continued)

Pg. P.U. 5.

## KANUN TANAH NEGARA

PERATORAN<sup>2</sup> TANAH (PULAU PINANG) (PINDAAN), 1969

## PEMBETULAN

Pg. P.U. 38 yang telah diisytiharkan di-dalam Tambahan Perundangan Bil. 13 *Warta* Kerajaan Negeri Pulau Pinang bertarikh 18hb Disember, 1969 dengan ini di-betulkan dengan menambah perkataan<sup>2</sup> "sa-kaki persegi" selepas perkataan "sen<sup>2</sup>" yang tertara di-barisan pertama dan kedua dan memasok perkataan<sup>2</sup> "sa-kaki persegi" di-antara perkataan "sen" dan perkataan "dengan" yang tertara di-barisan ketiga di-bawah perkara "(b) TANAH<sup>2</sup> DESA:"

[PSUK/PP/12591/Bah. 1.]

## NATIONAL LAND CODE

LAND (PENANG) (AMENDMENT) RULES, 1969

## CORRIGENDUM

Pg. P.U. 38 published in Legislative Supplement No. 13 Government of Penang *Gazette* of 18th December, 1969 is hereby corrected by adding the words "per sq. ft" after "cents" and "cent" appearing respectively in lines one and two and by inserting the words "per sq. ft" between the words "cent" and "with" appearing in line three under heading "(b) COUNTRY LANDS:" thereof.

[PSUK/PP/12591/Bah. 1.]

Pg. P.U. 6.

## KANUN TANAH NEGARA

(Bil. 56 tahun 1965)

## PEMBETULAN

Pg. P.U. 39 di-dalam Bahasa Kebangsaan yang telah di-siarkan di-dalam Tambahan Perundangan No. 14 *Warta* Kerajaan Negeri Pulau Pinang bertarikh 31hb Disember, 1969 dengan ini di-betulkan dengan memotong tahun "1969" yang tertara di-barisan ketiga di-perenggan 1 dan mengganti-nya dengan tahun "1970"

[PSUK/PP/15144.]



Exhibits

"D"  
National Land  
Code No.P.U.39  
31st December  
1969

"D"

Pg. P.U. 39.

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 NATIONAL LAND CODE

(No. 56 of 1965)

Act 30  
of 1965

In exercise of the powers conferred by section 102 of the National Land Code, the State Authority hereby makes the following Direction.

1. This Direction may be cited as the National Land Code (Standard Rate Rent) Direction, 1969 and shall come into force on the 1st day of January, 1970.

10

Payment  
of rent  
at the  
Standard  
Rate

2. As from the 1st day of January, 1970 subject to any order made under section 439 of the National Land Code all lands alienated before the commencement of the National Land Code as classified or described in the First Column of the Schedule hereto shall be subject to payment of rent at the prevailing standard rate specified in the Second Column of the said Schedule.

20

3. Where land is used for multi-purposes the rent payable shall be the total sum of rent calculated according to the various uses of such land

4. In this Direction

(a) "agricultural purposes" shall include such other purposes as implied under sub-section (4) of section 115 of the National Land Code for lands subject to category "agriculture"

30

(b) "industrial purposes" shall include such other purposes as implied under sub-section (1) (a) of section 117 of the National Land Code for lands subject to category "industry"

(c) "commercial purposes" shall

40

include such other purposes as follows -

Exhibits

"D"  
National Land  
Code No.P.U.39  
31st December  
1969  
(continued)

- (i) administrative;
- (ii) passenger transport;
- (iii) exhibiting, selling by retail, repairing or otherwise dealing in any goods or commodities;
- (iv) providing any services;
- (v) entertainment or refreshment;

10

(d) "residential purposes" shall include such other purposes for the benefit or enjoyment of residents or occupier of any land

(e) "multi-purposes" mean the combination of two or more of the following -

- (i) agricultural purpose;
- (ii) commercial purpose;
- (iii) industrial purpose;
- (iv) residential purpose;

20

5. This Direction shall not apply to the following lands -

- (a) Lands used for burial grounds;
- (b) Lands used for places of worship;
- (c) Lands used for charitable purposes;
- (d) Lands used for educational institutions other than those for profit making;
- (e) Lands used for playing grounds maintained from public funds.

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Exhibits

## SCHEDULE

"D"  
National Land  
Code No.P.U.39  
31st December  
1969  
(continued)

| FIRST COLUMN   | SECOND COLUMN  |    |
|--|--|----|
| Class or Description   | Standard Rate  |    |
| (1) TOWN LANDS   |  |    |
| (a) George Town  |  |    |
| (i) Lands used for Commercial purpose                            | 5 cents per sq. ft.                                  |    |
| (ii) Lands used for Industrial purposes                          | 2 cents per sq. ft.                                  | 10 |
| (iii) Lands used for Residential purposes                        | 1 cent per sq. ft. with a minimum of \$10.00 per lot |    |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 1 cent per sq. ft. with a minimum of \$10.00 per lot |    |
| (b) Jelutong:  |  |    |
| (i) Lands used for Commercial purpose                            | 5 cents per sq. ft.                                  | 20 |
| (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                  |    |
| (iii) Lands used for Residential purpose                         | 1 cent per sq. ft. with a minimum of \$10.00 per lot |    |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 1 cent per sq. ft. with a minimum of \$10.00 per lot | 30 |
| (c) Ayer Itam;   |  |    |
| (i) Lands used for Commercial purposes                           | 5 cents per sq. ft.                                  |    |

|    | FIRST COLUMN   | SECOND COLUMN  |
|----|--|--|
|    | Class or Description   | Standard Rate  |
|    | (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                  |
|    | (iii) Lands used for Residential purpose                         | 1 cent per sq. ft. with a minimum of \$10.00 per lot |
| 10 | (iv) Lands used for purposes other than (i), (ii) or (iii) above | 1 cent per sq. ft. with a minimum of \$10.00 per lot |
|    | (d) Glugom;  |  |
|    | (i) Lands used for Commercial purpose                            | 5 cents per sq. ft.                                  |
| 20 | (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                  |
|    | (iii) Lands used for Residential purpose                         | 1 cent per sq. ft. with a minimum of \$10.00 per lot |
|    | (iv) Lands used for purposes other than (i), (ii) or (iii) above | 1 cent per sq. ft. with a minimum of \$10.00 per lot |
|    | (e) Penang Hill  |  |
| 30 | (i) Lands used for Commercial purpose                            | 5 cents per sq. ft.                                  |
|    | (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                  |
|    | (iii) Lands used for Residential purpose                         | 1 cent per sq. ft. with a minimum of \$10.00 per lot |

Exhibits

"D"  
National Land  
Code No.P.U.39  
31st December  
1969  
(continued)

| FIRST COLUMN   | SECOND COLUMN  |    |
|--|--|----|
| Class or Description   | Standard Rate  |    |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 1 cent per sq. ft. with a minimum of \$10.00 per lot |    |
| (f) Butterworth;   |  |    |
| (i) Lands used for Commercial purpose                            | 5 cents per sq. ft.                                  | 10 |
| (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                  |    |
| (iii) Lands used for Residential purpose                         | 1 cent per sq. ft. with a minimum of \$10.00 per lot |    |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 1 cent per sq. ft. with a minimum of \$10.00 per lot | 20 |
| (g) Prai;  |  |    |
| (i) Lands used for Commercial purpose                            | 5 cents per sq ft.                                   |    |
| (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                  |    |
| (iii) Lands used for Residential purpose                         | 1 cent per sq ft. with a minimum of \$10.00 per lot  | 30 |
| (iv) Lands used for purposes other than (i) (ii) or (iii) above  | 1 cent per sq. ft. with a minimum of \$10.00 per lot |    |

"D"  
National Land  
Code No. P.U.39  
31st December  
1969  
(continued)

|    | FIRST COLUMN  | SECOND COLUMN   |
|----|---|---|
|    | Class or Description  | Standard Rate   |
|    | (h) Tanjong Tokong;   |   |
|    | (i) Lands used for<br>Commercial<br>purpose                               | 3 cents per sq. ft.   |
| 10 | (ii) Lands used for<br>Industrial<br>purpose                              | 2 cents per sq. ft.   |
|    | (iii) Lands used for<br>Residential<br>purpose                            | 5 cents per sq. ft.<br>with a minimum of<br>\$10.00 per lot |
|    | (iv) Lands used for<br>purposes other<br>than (i), (ii)<br>or (iii) above | 5 cents per sq. ft.<br>with a minimum of<br>\$10.00 per lot |
|    | (i) Tanjong Bungah;   |   |
| 20 | (i) Lands used for<br>Commercial<br>purpose                               | 3 cents per sq. ft.   |
|    | (ii) Lands used for<br>Industrial<br>purpose                              | 2 cents per sq. ft.   |
|    | (iii) Lands used for<br>Residential<br>purpose                            | 5 cents per sq. ft.<br>with a minimum of<br>\$10.00 per lot |
| 30 | (iv) Lands used for<br>purposes other<br>than (i), (ii)<br>or (iii) above | 5 cents per sq. ft.<br>with a minimum of<br>\$10,00 per lot |
|    | (j) Batu Ferringgi;   |   |
|    | (i) Lands used for<br>Commercial<br>purpose                               | 3 cents per sq. ft.   |

Exhibits

"D"

National Land  
Code No.P.U.39  
31st December  
1969  
(continued)

| FIRST COLUMN   | SECOND COLUMN   |    |
|--|---|----|
| Class or Description   | Standard Rate   |    |
| (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                   |    |
| (iii) Lands used for Residential purpose                         | 5 cents per sq. ft. with a minimum of \$10.00 per lot |    |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 5 cents per sq. ft. with a minimum of \$10.00 per lot | 10 |
| (k) Balik Pulau;   |   |    |
| (i) Lands used for Commercial purpose                            | 3 cents per sq. ft.                                   |    |
| (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                   |    |
| (iii) Lands used for Residential purpose                         | 5 cents per sq. ft. with a minimum of \$10.00 per lot | 20 |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 5 cents per sq. ft. with a minimum of \$10.00 per lot |    |
| (l) Bayan Lepas;   |   |    |
| (i) Lands used for Commercial purpose                            | 3 cents per sq. ft.                                   | 30 |
| (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                   |    |
| (iii) Lands used for Residential purpose                         | 5 cents per sq. ft. with a minimum of \$10.00 per lot |    |

| FIRST COLUMN   | SECOND COLUMN  |
|--|--|
| Class or Description   | Standard Rate  |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 5 cent per sq. ft. with a minimum of \$10.00 per lot |
| (m) Bukit Mertajam;  |  |
| (i) Lands used for commercial purpose                            | 3 cents per sq. ft.                                  |
| (ii) Lands used for Industrial purposes                          | 2 cents per sq. ft.                                  |
| (iii) Lands used for Residential purpose                         | 5 cent per sq. ft. with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 5 cent per sq. ft. with a minimum of \$10.00 per lot |
| (n) Nibong Tebal;  |  |
| (i) Lands used for Commercial purpose                            | 3 cents per sq. ft.                                  |
| (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                  |
| (iii) Lands used for Residential purpose                         | 5 cent per sq. ft. with a minimum of \$10.00 per lot |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 5 cent per sq. ft. with a minimum of \$10.00 per lot |
| (o) Kepala Batas;  |  |
| (i) Lands used for Commercial purpose                            | 2 cents per sq. ft.                                  |



Exhibits

"D"  
National Land  
Code No. P.U.39  
31st December  
1969  
(continued)

| FIRST COLUMN   | SECOND COLUMN   |    |
|--|---|----|
| Class or Description   | Standard Rate   |    |
| (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                   |    |
| (iii) Lands used for Residential purpose                         | 5 cents per sq. ft. with a minimum of \$10.00 per lot |    |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 5 cents per sq. ft. with a minimum of \$10.00 per lot | 10 |
| (p) Sungei Bakap;  |   |    |
| (i) Lands used for Commercial purpose                            | 3 cents per sq. ft.                                   |    |
| (ii) Lands used for Industrial purpose                           | 2 cents per sq. ft.                                   | 20 |
| (iii) Lands used for Residential purpose                         | 5 cents per sq. ft. with a minimum of \$10.00 per lot |    |
| (iv) Lands used for purposes other than (i), (ii) or (iii) above | 5 cent per sq. ft. with a minimum of \$10.00 per lot  |    |
| (2) COUNTRY LANDS  |   |    |
| (a) Lands used for Commercial purpose                            | 1.25 cents per sq. ft.                                | 30 |
| (b) Lands used for Industrial purpose                            | 1 cent per sq. ft.                                    |    |
| (c) Lands used for Residential purpose                           | 25 cent per sq. ft. with a minimum of \$10.00 per lot |    |

|    | FIRST COLUMN  | SECOND COLUMN           |
|----|---|-------------------------|
|    | Class or Description  | Standard Rate           |
|    | (d) Lands used for Agricultural purposes;   |                         |
|    | (i) Under rubber or oil palm cultivation  | \$ c.<br>10.00 per acre |
| 10 | (ii) Under coconuts, fruit trees, coffee, tea, cocoa or nutmeg cultivation  | 6.00 per acre           |
| 20 | (iii) Under sugar cane, pineapple, tapioca, ragi, ground-nuts, maize, tobacco, pepper, vegetables or gambir cultivation | 4.00 per acre           |
|    | (iv) Under padi, sago or nipah cultivation  | 2.00 per acre           |
|    | (v) Breeding or keeping of live-stock   | 2.00 per acre           |
|    | (e) Lands used for purposes other than above  | 2.00 per acre           |

Dated this 31st day of December, 1969.

(PSUK/PP/15144)



"PEJ & WAG 1"  
annexed to  
Affidavit of  
Philip Hoalim  
Jr. and  
Wembley  
Alexandra Goh  
(m.w.) dated  
17th July 1974  
4th August 1964

I, ERIC CHOA an Advocate and Solicitor  
Singapore  
of the High Court in Malaya, practising in the State of ~~Penang~~ hereby  
testify that the signature of the within-named Quek Seng Guan  
of the written in my presence on  
this 2nd day of JULY 1964 is according to  
my own personal knowledge the true signature

~~(information given to me by the following trustworthy and reliable person,  
namely~~

~~which information I verily believe the true)~~  
of the said QUEK SENG GUAN who has

acknowledged to me that he is of full age and that he  
voluntarily executed this instrument.

As witness my hand this 2nd day of JULY 1964

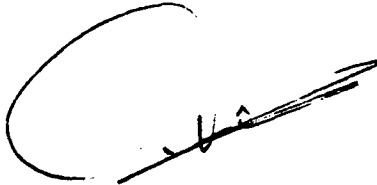


In Witness Whereof the parties hereto have hereunto set their  
hands and seals the day and year first above written.

Signed Sealed and Delivered  
in the presence of



*Witness of Eric Choa  
Singapore*



O N A P P E A L  
FROM THE FEDERAL COURT OF MALAYSIA

B E T W E E N :-

PHILIP HOALIM JR. and  
WEMBLEY ALEXANDRA GOH (M.W.)                      Appellants

- AND -

THE STATE COMMISSIONER PENANG                      Respondent

RECORD OF PROCEEDINGS

KINGSFORD DORMAN & CO.,  
13, Old Square,  
Lincoln's Inn,  
London, WC2A 3UA

STEPHENSON HARWOOD & TATHAM,  
Saddlers' Hall,  
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Cheapside,  
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Solicitors for the Appellants

Solicitors for the Respondent