

SD under Rule 66 13/9/77

13/79

No.25 of 1977

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA

B E T W E E N :

1. ENG MEE YONG (f)
2. NG YEE HONG @ NG YUE HONG
3. NG YEE FOO @ NY YUE FOO
4. NG YEE DENG @ WOO YEE LING
5. NG YEE CHEEN @ NG YUE CHUAN
6. NG YEE THONG

Appellants
(Applicants)

- and -

V. LETCHUMANAN s/o VELAYUTHAM

Respondent

RECORD OF PROCEEDINGS

GASTERS,
44 Bedford Row,
London, WC1

SMILES & CO.,
15 Bedford Row,
London, WC1

Solicitors for the Appellants

Solicitors for the Respondent

No.25 of 1977
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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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 6. NG YEE THONG

Appellants
(Applicants)

- and -

V. LETCHUMANAN s/o VELAYUTHAM

Respondent

RECORD OF PROCEEDINGS

No. 1

ORIGINATING MOTION
No. 73 of 1975

In the
High Court
No.1
Originating
Motion
dated 26th
August 1975

20

IN THE MATTER of Section 327(1) of the National
Land Code 1965

AND

IN THE MATTER of the land held under Grant
No.2457 Lot 593, Mukim of
Ampangan, District of Seremban

AND

IN THE MATTER of a Caveat Presentation No.59/74
Vol.38, Folio 66

BETWEEN

- 30
1. Eng Mee Yong (f)
 2. Ng Yee Hong @ Ng Yue Hong
 3. Ng Yee Foo @ Ng Yue Foo

In the
High Court
No.1
Originating
Motion
dated 26th
August 1975

4. Ng Yee Deng @ Wood Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Applicants

AND

V. Letchumanan s/o Velayutham Respondent

EX-PARTE ORIGINATING MOTION

TAKE NOTICE that on Monday the 13th day of October, 1975 at 9.30 o'clock in the forenoon or so soon thereafter as Counsel can be heard by Counsel for the abovenamed Applicants for an order :- 10

1. That the Caveat presented by the Respondent above named against the land held under Grant No. 2457 for Lot 593 in the Mukim of Ampangan, District of Seremban (hereinafter referred to as "the said land") be forthwith removed pursuant to Section 327(1) of the National Land Code 1965 on the grounds following :-

- (a) That the Respondent has no interest in the said land after he failed to complete the purchase on 28.9.74. 20
- (b) That even if the Respondent had an interest in the said land the Respondent ceased to have any interest in the said land after he failed to complete the purchase on 28.9.74.
- (c) That the Respondent does not have any right to claim title to or any registrable interest in the said land or any right to such title or interest after he failed to complete the purchase on 28.9.74. 30
- (d) That the said Caveat should not have been lodged by the Respondent on 28.9.74 when he failed to complete the purchase on that day and the Respondent should have withdrawn the said Caveat after 28.9.74.

2. That such damages as the Court shall deem fit be awarded to the Applicants pursuant to Section 329 of the National Land Code, 1965 for the Loss suffered by the Applicants as a 40

result of the wrongful lodgment of the said Caveat and/or failure of the Respondent to withdraw the said Caveat after 28.9.74 and

3. That the costs of this application be paid by the Respondent.

Dated this 26th day of August, 1975.

In the
High Court
No.1
Originating
Motion
dated 26th
August 1975

Sd. Augustine Paul
Senior Assistant Registrar,
High Court,
Seremban.

10

This Ex-Parte Originating Motion was taken out by Messrs. Chooi & Company, Advocates & Solicitors, Ming Building, Penthouse, Jalan Bukit Nanas, Kuala Lumpur.

This Motion will be supported by the Affidavit of Eng Mee Yong, Ng Yee Hong @ Ng Yue Hong, Ng Yee Foo @ Ng Yue Foo, Ng Yee Deng @ Wood Yee Ling, Ng Yee Cheen @ Ng Yue Chuan and Ng Yee Thong affirmed on the 7th day of August, 1975 and filed herein.

20

To:

V.Letchumanan s/o Velayutham
No.74 Paul Street,
Seremban.

In the
High Court

No.2
Affidavit
of Eng Mee
Yong
dated 7th
August 1975

No. 2

AFFIDAVIT OF ENG MEE YONG

IN THE HIGH COURT IN MALAYA AT SEREMBAN
ORIGINATING MOTION No. 73 OF 1975

In the matter of Section 327(1) of the National
Land Code 1965

AND

In the matter of the land held under Grant No.2457
Lot 593, Mukim of Ampangan, District of Seremban

AND

In the matter of a Caveat Presentation No.59/74
Vol. 38, Folio 66

BETWEEN

1. Eng Mee Yong (f)
 2. Ng Yee Hong @ Ng Yue Hong
 3. Ng Yee Foo @ Ng Yue Foo
 4. Ng Yee Deng @ Woo Yee Ling
 5. Ng Yee Cheen @ Ng Yue Chuan
 6. Ng Yee Thong
- Applicants

AND

V. Letchumanan s/o Velayutham

Respondent

AFFIDAVIT

We, ENG MEE YONG (I/C No. 1744999), NG YEE HONG @ NG YUE HONG (I/C No.2003064) NG YEE FOO @ NG YUE FOO (I/C No. 1999070), NG YEE DENG @ WOO YEE LING (I/C No. 1634708), NG YEE CHEEN @ NG YUE CHUAN (I/C No.2509475) and NG YEE THONG (I/C No.1999937) all of No.8, Rover Road, Seremban, Negri Sembilan of full age hereby affirm and state as follows:-

1. We are the Applicants abovenamed.
2. We are the co-owners of the land held under Grant No.2457 for Lot 593 in the Mukim of Ampangan, District of Seremban measuring 44a. lr. 30p. (herein-after referred to as "the said land").

In the
High Court
No.2
Affidavit
of Eng Mee
Yong
dated 7th
August 1975

10 3. By a written agreement dated 28.6.74 and made between ourselves as Vendors and the Respondent, V. Letchumanan s/o Velayutham (I/C No.0885391) of No. 74, Paul Street, Seremban, Negri Sembilan, as Purchaser (hereinafter referred to as "the said agreement") the Respondent agreed to purchase the said land at an agreed total price of 827,656.25 and upon the terms and conditions therein stated. A copy of the said agreement is annexed herewith and marked "P1".

20 4. By Clause 3 of the said agreement it was provided that "the purchase shall be completed on or before the 28th day of September 1974 at the office of Messrs. Chan & Chia, Advocates & Solicitors, No.39, Jalan Tuanku Hassan, Seremban, when Purchaser shall pay to the Vendors the balance of the purchase price amounting to \$699,890.63. In the interpretation of this Clause time shall be the essence of this contract."

5. The Respondent failed to complete the purchase or the balance of the purchase price amounting to \$699,890.63 on or before 28.9.74 or any other date.

30 6. By Clause 5 of the said agreement it was provided that "if the Purchaser shall fail to pay the balance of the purchase price in accordance with clause 1 and whatever payments made thereunder shall be irrecoverably forfeited to the Vendors as agreed and liquidated damages for breach of Contract."

40 7. In accordance with Clause 5 of the said agreement we forfeited the sums paid by the Respondent. A copy of the letter dated 30.9.74 from our then Solicitors Messrs. Chan & Chia to the Respondent is annexed herewith and marked "P2". A copy of the letter dated 30.9.74 from our then Solicitors Messrs. Chan & Chia to the Respondent's Solicitors Messrs. Muthu & Peri is also annexed herewith and marked "P3". The reply from Messrs. Muthu & Peri dated 25.10.74 is also annexed herewith and marked "P4".

8. We have never agreed to the extension of two months beyond the 28.9.74 for the completion

In the
High Court

No.2

Affidavit
of Eng Mee
Yong
dated 7th
August 1975

of the purchase or any extension at all. In any event the Respondent made no attempt to complete the purchase at any time.

9. We were notified by the Registrar of Titles, Seremban, by a Notice in Form 19A dated 9th November, 1974 that a Private Caveat had been lodged by the Respondent. A copy of this notice is annexed herewith and marked "P.5".

10. The Respondent has no interest in the said land whatsoever after he failed to complete the purchase on 28.9.74 and the sums were forfeited in accordance with the said agreement.

10

11. We applied to the Registrar of Titles, Seremban under Section 326(1) of the National Land Code 1965 on 6th January, 1975 for the removal of the said Private Caveat lodged by the Respondent. A copy of our application is annexed and marked "P6".

12. Our then Solicitors Messrs. Chan & Chia were informed by the Registrar of Titles, Seremban on 3rd June 1975 that the Notice of Intended Removal of Caveat in Form 19C could not be served on the said Respondent as the Collector of Land Revenue, Seremban has stated that the Respondent has moved to another place and his present address is unknown. The Collector further stated that action to have the notice served under Section 431(1)(d) of the National Land Code was also unsuccessful as the envelope containing the notice was returned by the Postal Department with the remark "Unclaimed". A copy of this letter from the Registrar of Titles, Seremban, dated 3.6.75 is annexed herewith and marked "P7".

20

30

13. We are advised and we verily believe that the said Respondent has no interest in the said land whatsoever and we are aggrieved by the existence of this Private Caveat Presentation No. 59/74 Vol. 38 Folio 66 lodged by the Respondent as the existence of the said Caveat prohibits the sale and transfer of the said land.

40

14. We crave the indulgence of this Honourable Court and apply under Section 327(1) of the National Land Code for an order for the removal of the said Caveat lodged by the Respondent in terms of the Ex-Parte Originating Motion.

Affirmed by the abovenamed)
ENG MEE YONG, NG YEE HONG)
@ NG YUE HONG, NG YEE FOO)
@ NG YEE DENT @ WOO YEE)
LING, NG YEE CHEEN @ NG YUE)
CHUAN and NG YEE THONG at)
Kuala Lumpur this 7th day)
of August, 1975 at 2.30 p.m.

In the
High Court
No.2
Affidavit
of Eng Mee
Yong
dated 7th
August 1975

Before me,

10

Sd: Illegible
Commissioner for Oaths

This Affidavit is filed on behalf of the
Applicants by Messrs. Chooi & Company,
Advocates & Solicitors, Ming Building, Jalan
Bukit Nanas, Kuala Lumpur.

No.3

EXHIBITS TO THE AFFIDAVIT
OF ENG MEE YONG
"P.1."

No.3
Exhibit
"P.1"

20

A G R E E M E N T

AN AGREEMENT made this 28th day of June, 1974
between MADAM ENG MEE YONG (I.C.No.1744999),
NG YEE HONG @ NG YUE HONG (I.C.No.2005064), NG
YEE FOO @ NG YUE FOO (I.C. No.1999070), NG
YEE DENG @ WOO YEE LING (I.C. No. 1634708)
NG YEE CHEEN @ NG YUE CHUAN (I.C.No.2509465)
and NG YEE THONG (I.C.No.1999937) all of No.8
River Road, Seremban, Negri Sembilan (herein-
after jointly called the Vendors) of the one
part and V. LETCHUMANAN S/O VELAYUTHAM (I.C.
No.0885391) of No.74, Paul Street, Seremban
(hereinafter called the Purchaser) of the other
part

30

WHEREAS the Vendors are the registered
proprietors of the land held under Grant No.2457
for Lot No.593 in the Mukim of Ampangan,

In the
High Court

No.3
Exhibit
"P.1."

District of Seremban containing by measurement
44a. 1r. 30p. (hereinafter referred to as the
said land).

AND WHEREAS by an Agreement made on the
16th day of December 1973 (hereinafter referred
to as the former Agreement) between the Vendors
and the Purchaser, the Vendors agreed to sell
and the Purchaser agreed to purchase the said
land subject to the terms and conditions set
forth in the former Agreement.

10

AND WHEREAS the Vendors and the Purchaser
have mutually agreed to determine the former
Agreement.

AND WHEREAS the Vendors are desirous of
selling and the Purchaser is desirous of
purchasing the said land at the agreed total
price of \$827,656.25c (Dollars Eight hundred and
twenty-seven thousand six hundred and fifty-six
and cents twenty-five only) subject to the terms
and conditions hereinafter appearing.

20

WHEREBY IT IS AGREED AS FOLLOWS :-

1. The Vendors shall sell and the Purchaser
shall purchase the said land free from all
registered encumbrances at the agreed total
price of \$827,656.25c (Dollars Eight hundred and
twenty-seven thousand six hundred and fifty-six
and cents twenty-five only) whereof the Vendors
have on the execution of these presents received
the sum of \$97,765.62c (Dollars Ninety-seven
thousand seven hundred and sixty-five and cents
sixty-two only) by way of deposit and in part
payment of the purchase price.

30

2. The Purchaser shall pay to the Vendors a
further sum of \$30,000/- (Dollars Thirty thousand
only) on or before the 29th day of July, 1974
towards the account of the purchase price of
the said land failing which the deposit referred
to in Clause 1 hereof shall be irrecoverably
forfeited to the Vendors as agreed and liquidated
damages for breach of contract. In the inter-
pretation of this clause time shall be the essence
of this contract.

40

3. The purchase shall be completed on or before
the 28th day of September 1974 at the office of
Messrs. Chan & Chia, Advocates & Solicitors,

39, Jalan Tunku Hassan, Seremban, when the Purchaser shall pay to the Vendors the balance of the purchase price amounting to \$699,890.63c (Dollars Six hundred and ninety-nine thousand eight hundred and ninety and cents sixty-three only). In the interpretation of this clause time shall be the essence of this contract.

In the
High Court

No.3
Exhibit
"P.1."

10 4. The transfer of the said land shall be effected upon payment of the balance of the purchase price when the Vendors shall execute and deliver a valid and registrable transfer of the said land in favour of the Purchaser or his nominee/nominees. Possession of the said land shall be delivered by the Vendors to the Purchaser or his nominee/nominees on the day following the date of the execution of the transfer.

20 5. If the Purchaser shall fail to pay the balance of the purchase price in accordance with Clause 3 hereof, the deposit referred to in Clause 1 and whatever payments made thereafter shall be irrecoverably forfeited to the Vendors as agreed and liquidated damages for breach of contract.

30 6. The Vendors expressly undertake to sign any document or documents that may be asked to be signed by the Purchaser and or his nominee or nominees and or his agent in respect of developing the aforesaid land into a housing estate and obtaining access road to the said land.

40 7. The Vendors shall be liable to pay and settle all the quit-rent, rates, assessment and all other outgoings up to the 16th day of June 1974 and if the same or any part thereof has not been settled by the Vendors as at the date of transfer then the Purchaser shall be entitled to deduct the same from the said balance of the purchase price at the time of the said transfer.

8. All stamp and registration fees on this Agreement and of the transfer to the Purchaser and or his nominee or nominees including all legal costs shall be borne by the Purchaser.

9. The Vendors shall be liable to specific

In the
High Court

No.3
Exhibit
"P.1."

performance under this Agreement in the event of their breach of failure to cause the said land being registered in the name of the Purchaser or his nominee.

10. Time wherever mentioned shall be the essence of this contract.

11. All notices required to be served hereunder by one party to the other shall be served personally or sent by registered letter post to the respective addresses as shown in this Agreement of the parties hereto or to such other address as either party may from time to time appoint by notice in writing to the other for the service of notices hereunder.

10

12. This Agreement shall be binding upon the successors in title and assigns of the Vendors and the personal representatives successors and assigns of the Purchaser.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands on the day and year first above written

20

SIGNED by the said Vendors) (Sgd) Eng Mee Yong
in the presence of :-) (Madam Eng Mee Yong)

(Sgd) John Chia
JOHN CHIA SIN TET
ADVOCATE & SOLICITOR
SEREMBAN.

(Sgd) Ng Yee Hong
(Ng Yee Hong @ Ny Yue
Hong)

(Sgd)
(Ng Yee Foo @ Ng Yue Foo)

(Sgd) Woo Yee Ling
(Ng Yee Deng @ Woo Yee
Ling) 30

(Sgd) Ng Yee Chuan
(Ng Yee Cheen @ Ng Yee
Chuan)

(Sgd) Ng Yee Thong
(Ng Yee Thong)

SIGNED by the said Purchaser)
in the presence of:) (Sgd) V.Letchumanan

(Sgd)

No. 4

EXHIBIT MARKED "P2" referred to
THE AFFIDAVIT ENG MEE YONG (f)
& 5 OTHERS AFFIRMED ON 7.8.75

In the
High Court
No.4
Exhibit "P2"

CHAN & CHIA
PEGUAMBELA & PEGUAMCARA
Advocates & Solicitors
TINGKAT SATU, 87 JALAN BIRCH, SEREMBAN
Talipon: 74466 Rumah: 74440

10 Bil.Surat Komi: CHAN CHOONG TAK
N/L(2) 696/74 CHIA SIN TET, JOHN

30th September 1974

Mr. V.Letchumanan s/o Velayutham,
No.74, Paul Street,
Seremban.

Dear Sir,

20 re: Agreement dated 28th June 1974
entered into between Madam Eng Mee
Yong and five others of the one part
and V.Letchumanan s/o Velayuthan of
the other part - Grant No.2457 for Lot
No,593 Mukim of Ampangan

With reference to the above-referred
Agreement, we are instructed by the Vendors to
notify you, which we hereby do, that as a result
of your breach of Clause 3 of the said Agreement
our clients have pursuant to Clause 5 thereof
forfeited the deposit and the sum of \$30,000/-
(Dollars Thirty thousand only).

30 Yours faithfully,
(Sgd) Chan & Chia

c.c.

1. Messrs. Muthu & Peri,
Advocates & Solicitors,
No.46, Jalan Tunku Hassan,
(1st Floor), Seremban.
(Your ref: MP/S/M 25/73)
2. Madam Eng Mee Yong and 5 others,
No.8, River Road,
Seremban.

In the
High Court

No.5
Exhibit "P3"

No. 5

EXHIBIT MARKED "P3" REFERRED TO
THE AFFIDAVIT OF ENG MEE YONG &
5 OTHERS AFFIRMED ON 7.8.75

CHAN & CHIA
PEGUAMBELA & PEGUAMCARA
Advocates & Solicitors
TINGKAT SATU, 87 JALAN BIRCH, SEREMBAN
Talipon: 74466 Rumah: 74440

Bil.Surat Komi:
N/L(2) 696/74

10

Bil.Surat Tuan:
MP/S/M 25/73

CHAN CHOONG TAK
CHIA SIN TET, JOHN

BY HAND

30th September 1974

Messrs. Muthu & Peri,
Advocates & Solicitors,
No.46, Jalan Tunku Hassan,
(1st Floor),
Seremban.

Dear Sirs,

20

re: Agreement dated 28th June 1974 entered
into between Madam Eng Mee Yong and
five others of the one part and V.
Letchumanan s/o Velayutham of the
other part - Grant No.2457 Lot No.593
Mukim of Ampangan

We act for Madam Eng Mee Yong and five others,
the Vendors under the above-referred Agreement.

Our instructions are that you are in possession
of our clients' document of title Grant No.2457 Lot
No.593 Mukim of Ampangan pending completion of the
above-referred Agreement.

30

Now that the Agreement has been terminated,
kindly let us have the document of title for onward
transmission to our clients.

Yours faithfully,
(Sgd) Chan & Chia

c.c.
Madam Eng Mee Yong and
5 others,
No.8, River Road,
Seremban.

In the
High Court
No.5
Exhibit "P3"

Enclosed please find our Bill No.371/74
for early settlement.

Encl:

No. 6

In the
High Court
No.6
Exhibit "P4"

10

EXHIBIT MARKED "P4" REFERRED TO
THE AFFIDAVIT OF ENG MEE YONG (f)
& 5 OTHERS AFFIRMED ON 7.8.75

MUTHU & PERI
Advocates & Solicitors

No.46, Jalan Tunku
Hassan,
(1st Floor)
Seremban, Malaysia
Tel:73011 Seremban

PEGUAM₂ BELA DAN PEGUAM₂
CHARA

M.Muthupalaniyappan
S.Periasamy

25th October, 1974

20

Surat Tuan: N/L(2) 696/74
Surat Kami: MP/S/M 25/73

Messrs. Chan & Chia,
Advocates & Solicitors,
1st Floor,
87, Jalan Birch,
SEREMBAN.

Sirs,

30

Re: Agreement dated 28th June 1974
entered into between Madam Eng Mee
Yong and five others of the one
part and V.Letchumanan s/o Velayutham
of the other part - Grant No.2457
Lot No.593 in the Mukim of Ampangan

With reference to your letter dated 30th
September 1974 to our client Mr. V.Letchumanan
s/o Velayutham, we are instructed by our said

In the
High Court

No.6
Exhibit
"P.4"

client to reply thereto as follows :-

1. Our said client denies that he is in breach of clause three of the above-said agreement. Our client states that he and your clients have orally agreed for an extension of two months beyond the 28th day of September 1974 for the completion of the purchase.

2. Our said client denies that your clients are entitled to forfeit any sum at all.

3. Without prejudice to our paragraphs 1 and 2 above our client states that forfeiture of a sum of ~~₹~~127,765.62 out of a purchase price of ~~₹~~827,656.25 is undue. Even if your clients are entitled to make forfeiture of any sum at all which our client denies, our client states that forfeiture of any sum over and above ~~₹~~82,765.62 is excessive and would be a penalty.

10

4. Our said client states that he would complete the purchase on or before the agreed extended date of 28th November, 1974.

20

Yours faithfully,
(Sgd) Muthu & Peri

MP/tch cc. Client

No. 7

In the
High Court

EXHIBIT MARKED "P5" REFERRED
TO THE AFFIDAVIT OF ENG MEE
YONG (f) & 5 OTHERS AFFIRMED
ON 7.8.75

No.7
Exhibit
"P.5"

National Land Code
Form 19A
(Section 321)

NOTICE OF THE ENTRY OF A CAVEAT

10

To Eng Mee Yong (f), Ng Yee Hong @ Ng
Yue Hong, Ng Yee Foo @ Ng Yue Foo, Ng Yee
Deng @ Woo Yee Ling, Ng Yee Cheen @ Ng Yue
Chuan and Ng Yee Thong of No.8, River Road,
Seremban.

proprietor of the land described in the
schedule below;

~~lessee/sub-lessee/chargee under the lease/sub-
lease/charge described in the schedule below
of the land so described.~~

20

This is to inform you that, in exercise
of the powers conferred by sections 321/324/330,
I have this day entered, upon the register
document of title to the said land --

(a) ~~a-Registrar's Caveat~~

(b) a Private Caveat/~~Lien-holder's Caveat~~
on the application of V.Letchumanan
s/o Velayutham.

This caveat is expressed to bind --

30

the land itself/~~the particular interest~~
described in the said schedule; and

the effect thereof is --

Whole Share

Dated this 9th day of November 1974

Sdn. Illegible ?
Pendaftar/~~Pemungut~~ Grant
State/~~District~~ Negeri Sembilan

In the
High Court
No.7
Exhibit
"P.5"

Town/Vill- age/Mukim	Lot/Par- cel/L.O. No.	Descrip- tion and No. of Title	Share of land (if any)	Regist- ered No. of lease/ sub- lease (if any)	Regist- ered No. of Charge (if any)
(1)	(2)	(3)	(4)	(5)	(6)
Mukim Ampangan	Lot 593	Gt.2457	Whole	Nil	Nil 10

This is the True Translation of the Original
Document produced in Serial No.122 of 1977

(Sgd) Su Cheng Yee
(SU CHENG YEE)
Certified Translator
Su Translation Service &
Commissioner for Oaths

No. 8

EXHIBIT MARKED "P6" REFERRED
TO THE AFFIDAVIT OF ENG MEE YONG
(f) & 5 OTHERS AFFIRMED ON
7.8.75

In the
High Court

No.8
Exhibit
"P.6"

No.8, River Road,
Seremban

6th January, 1975

10 Registrar of Titles,
Titles Registration Department,
Seremban.

Sir,

Re: Grant No.2457 Lot No.593
District of Ampangan

We the undersigned are the owners of the
land mentioned above.

20 2. We have been informed that a Personal
Caveat Volume 38 folio 66 has been filed by
Encik V.Letchumanan s/o Velayutham on the
above land on 9th November, 1974.

3. We are applying to you to remove the
Caveat under section 326(1) of the National
Land Code by serving a copy of the Notice in
form 19C to Encik V.Letchumanan s/o Velayuthan.

Thank you,

Yours faithfully,

Sgd;
(Eng Mee Yong (f))

30 Sgd:
(Ng Yee Hong @ Ng Yue Hong)

Sgd:
(Ng Yee Foo @ Ng Yue Foo)

Sgd:
(Ng Yee Deng @ Woo Yee Ling)

Sgd:
(Ng Yee Cheen @ Ng Yue Chuan)

In the
High Court
No.8
Exhibit
"P.6"

This is the True Translation of the
Original Document produced in
Serial No. 124 of 1977

(Sgd) Su Cheng Yee

(SU CHENG YEE)
Certified Translator
Su Translation Service &
Commissioner for Oaths

No.8, River Road,
Seremban.

10

6hb Januari, 1975

Pendaftar Geran,
Pejabat Pendaftaran Geran,
Seremban.

Tuan,

Per: Grant No.2457 Lot No.593
Mukim Ampangan

Kami yang bertandatangan dibawah ini adalah
tuan-tuan punya tanah yang tersebut diatas.

Kami telah diberitahu bahawa satu Caveat
Persendirian Jilid 38 Folio 66 telah dimasukkan
oleh Encik V.Letchumanan s/o Velayutham diatas
tanah itu pada 9hb November, 1974.

20

Kami dengan ini memohon kepada tuan supaya
tuan menarik caveat tersebut menurut seksyen
326(1) Kanun Tanah Negara dengan menyerahkan
satu notis keatas Encik V. Letchumanan s/o
Velayutham didalam Borang 19C.

Terima kasih.

Yang benar,

30

(Sgd) Eng Mee Yong
(Eng Mee Yong (f))

(Sgd) Ng Yue Hong
(Ng Yee Hong @ Ng Yue Hong)

(Sgd) Ng Yue Foo
(Ng Yee Foo @ Ng Yue Foo)

(sgd) Woo Yee Ling
(Ng Yee Deng @ Woo Yee Ling)

(Sgd) Ng Yue Chuan
(Ng Yee Cheen @ Ng Yue Chuan)40

No. 9

In the
High Court

EXHIBIT MARKED "P7" REFERRED TO
THE AFFIDAVIT OF ENG MEE YONG (f)
AND 5 OTHERS AFFIRMED on 7.8.75

No.9
Exhibit
"P.7"

2/5/696/75

Our ref: PKNS/ 443(8)

M/s. Chan & Chia,
Advocates & Solicitors,
First Floor,
10 No.39 Jalan Tunku Hassan,
Seremban

Sir,

Grant No.2457 Lot No. 593
District of Ampangan

20 With reference to your letters N/L (2)
dated 1st April, 1975 and 2/5/696/74 dated 31st
May 1975, I am to inform you that the caveat
mentioned is still not removed as the Notice
in Form 19C - Notice of Intended Removal of
Caveat - could not be served on the caveator -
Mr. V.Letchumanan s/o Velayutham c/o No.74,
Jalan Paul, Seremban.

30 2. The Collector of Land Revenue, Seremban,
has reported that the caveator has moved to a
new address and the new address is not known.
Endeavours to effect service as stipulated
under section 431(1)(d) of the National Land
Code has also been unsuccessful as the envelope
containing the said notice has been returned
and marked "unclaimed" by the Postal Service
Department.

3. Under the circumstances, your client is
advised to forward the application to Court
under section 327(1), of the National Land Code,
because action taken in pursuant of section 431
(1)(e) will take a longer time.

4. Please inform us of the decision taken in
this matter.

40 Thank you,

I am, Your obedient servant,
(Sgd)

(MOHD. LAZIM B. ISMAIL)

(f) Registrar of Title, Negeri Sembilan.

In the
High Court
No.9
Exhibit
"P.7"

This is the True Translation of the
Original Document produced in Serial
No.123 of 1977

(Sgd) Su Cheng Yee
(SU CHENG YEE)
Certified Translator
Su Translation Service &
Commissioner for Oaths

Talipon: PENDAFTAR GERAN,
Seremban 72311 PEJABAT
Bil.Fail Kita: NEGERI SEMBILAN
PGNS.443 (8)

10

Seremban 3hb. Jun, 1975

Kapada Tetuan Chan & Chia,
Peguam-peguambela &
Peguam-peguamcara,
Tingkat Satu,
No.39, Jalan Tunku Hassan.
Seremban.

Tuan,

Grant No. 2457 Lot No. 593
Mukim Ampangan

20

Dengan hormatnya surat-surat tetuan N/L (2)
696/75 bertarikh lhb. April, 1975 dan 2/5/696/74
bertarikh 31hb. Mei, 1975 dirujuk, dan
dimaklumkan bahawa caveat tersebut masih belum
dipotong (removed) oleh kerana notis dalam
Borang 19C - Notis Berkenaan Dengan Cadangan
Hendak Memotong Caveat masih belum dapat
diserahkan kepada pengcaveat, Encik V.
Letchumanan a/l Velayutham, d/a No.74, Jalan
Paul, Seremban.

30

2. Pemungut Hasil Tanah, Seremban telah
melaporkan bahawa beliau itu telah berpindah
ketempat lain dan alamatnya yang baharu tidak
diketahui. Usaha untuk menyerahkannya dengan
cara yang dinyatakan oleh seksyen 431(1)(d),
Kanun Tanah Negara telah juga tidak berjaya oleh
kerana sampul yang mengandungi notis tersebut
telah dikembalikan semula oleh Jabatan
Perkhidmatan Pos dengan bertanda 'unclaimed'.

40

3. Dengan sebab itu adalah dinasihatkan supaya

pelanggan tuan mengemukakan permohonan kepada Mahkamah mengikut seksyen 327(1), Kanun Tanah Negara, oleh kerana jika tindakan mengikut seksyen 431(1)(e), akan mengambil masa yang agak lama.

In the
High Court

No.9
Exhibit
"P.7"

4. Sila beritahu saya akan keputusannya berkenaan perkara ini.

Skeian, terima kasih.

Saya yang menurut perintah,

(Sgd) Lazim Ismail

(MOHD. LAZIM BEN ISMAIL)
b.p. Pendaftar Geran,
Negeri Sembilan
(kr)

10

In the
High Court

No.10
Affidavit
of V.
Letchumanan
dated 4th
November
1975

No.10

AFFIDAVIT OF V. LETCHUMANAN
AFFIRMED ON 4th November 1975

IN THE HIGH COURT IN MALAYA AT SEREMBAN
ORIGINATING MOTION NO.73 OF 1975

In the matter of Section 327(1) of the National
Land Code 1965

AND

In the matter of the Land held under Grant No.
2457 Lot 593, Mukim of Ampangan, District
of Seremban

10

AND

In the matter of a Caveat Presentation No.59/74
Vol. 38, Folio 66.

BETWEEN

1. Eng Mee Yong (f)	}	Applicants
2. Ng Yee Hong @ Ng Yue Hong		
3. Ng Yee Foo @ Ng Yue Foo		
4. Ng Yee Deng @ Woo Yee Ling		
5. Ng Yee Cheen @ Ng Yue Chuan		
6. Ng Yee Thong		

20

AND

V. Letchumanan s/o Velayutham Respondent

AFFIDAVIT

I, V. Letchumanan s/o Velayutham of full age
and residing at 155, Jalan Birch (upstairs),
Seremban do solemnly affirm and state as follows:

1. I am the Respondent herein.
2. I crave leave to refer to the affidavit of
the Applicants affirmed on the 7th day of August,
1975 and filed in support of this motion and
especially to paragraphs 3, 4 and 6 of the said
affidavit.
3. Several agreements were entered into between

30

the Applicants and the Respondent and not just one as alleged.

In the
High Court

4. The Agreement in writing dated the 28th June, 1974 is not the final nor the first written agreement.

No.10
Affidavit
of V.
Letchumanan
dated 4th
November
1975

5. The first written agreement was dated the 16th December, 1973.

10 This agreement was not specifically cancelled or withdrawn by any subsequent agreement in writing.

6. A copy of the agreement dated the 16th December, 1973 is attached herewith and marked 'A' and hereinafter referred to as the 'First Agreement'.

7. The actual purchase price of the land in question is \$777,656.25 as stated in the First Agreement.

20 8. The sum of \$827,656.25 stated in the agreement dated 28th June, 1974 is not the actual purchase price.

9. Nor does the said agreement contain all the terms agreed to by the Applicants and the Respondent as a part of the terms were oral.

10. The oral terms were that time should not be of the essence as a sum of \$50,000/- over and above the purchase price had been agreed to be paid by me to the Applicants.

30 11. The said 'extra' sum of \$50,000/- agreed to be paid (and which sum was in fact paid in two instalments) by me was paid by way of part consideration for the promise that the Applicants would grant me all the time needed to arrange for the development of the property in question in association with a Third Party. The purchase price was to be paid to the applicants on the completion of such arrangements and on receipt by me of certain payments by such Third Party. The rest of the consideration was in the nature of the facts alleged hereinafter in paragraphs 40 17-21.

In the
High Court

No.10
Affidavit
of V.
Letchumanan
dated 4th
November
1975

12. The Second Agreement came into being as a result of a Third Party needing further time - the circumstances of which are known to the Applicants and also as a result of the Applicants attempting to terminate the first Agreement.

13. On 24th June, 1974 the Applicants had attempted to terminate the first Agreement and forfeit a sum of \$77,756.65 paid thereunder. A copy of the Applicants' Solicitors' letter dated 24th June, 1974 is attached hereto and marked 'B'. 10

14. It was agreed from the beginning that the time mentioned in the Second Agreement was not to be enforced at all.

15. The land in question was surrounded by other lands and did not have an approach road.

16. Third Parties were not interested in the land unless and until an approach road had been built connecting the said land to the Highway and the Applicants knew that no Third person would agree to contribute to its development until this was done. 20

17. This position was clearly understood by the Applicants even before the First Agreement was drawn up and the Applicants merely took advantage of the written terms therein to force me into a second agreement upon payment of a further \$50,000/- and which payment was made to appear as part of the purchase price.

18. Accordingly I on 7th January, 1974 applied on behalf of the Applicants and with their consent an application to the State Authorities to approve the construction of an approach road over and through State Land under section 390 of the Land Code. 30

19. All documents relating to the Application survey and other matters in connection with the road are annexed hereto and marked C¹; C²; C³; C⁴; C⁵; C⁶; C⁷; C⁸ and C⁹.

20. The road was completed in May this year and I am awaiting formal and final approval from the Survey Department before the same can be deemed approved. 40

21. The construction of the road by me over State

Land has enhanced the value of the property to a great extent.

In the
High Court

22. The fact that I built the access road and have borne every expense in connection therewith is not mentioned in the second agreement.

No.10
Affidavit
of V.
Letchumanan
dated 4th
November
1975

10

23. I therefore say that the second agreement does not contain all the terms agreed upon nor the consideration for the various oral terms agreed and acted upon.

24. There are external circumstances which create doubt as to the proper application of those words in the second agreement which seeks to impose upon me an absolute time limit.

20

25. The negotiations with the Third Party were in progress when the Applicants by letter purported to terminate the agreement notwithstanding that they had agreed to grant what has been described as an 'extension of time' for a period of two months from the 28th September, 1974.

26. There is no provision in the agreement for the termination of the contract and the contract has up to date not be expressly terminated and it cannot be deemed terminated except by express agreement.

30

27. As the Applicants having first agreed and later refused an extension the Respondent was in a quandry vis a vis the Third Party who wanted confirmation that the Applicants should sell the said land to the Respondent.

28. The Respondent also says that the Applicants' failure to honour the agreement to grant an extension of time as stated in paragraph 25 resulted in the Respondent's inability to complete the purchase.

40

29. The contract is such that the moment it came into existence and also upon the payment of a substantial initial sum the ownership of the land was, in equity, transferred by that contract from Applicants to the Respondent subject to the payment of the whole of the purchase price.

In the
High Court

No.10
Affidavit
of V.
Letchumanan
dated 4th
November
1975

This is especially so where the agreement does not expressly provide for its termination.

30. It was under the circumstances described in paragraphs 25, 26, 27 and 28 that the Caveat was lodged and the circumstances are such as to entitle me to an interest in the said land in equity.

31. The refusal for an 'extension' was unreasonable and unlawful bearing in mind all the circumstances of the case; the nature of the various agreements; the total amount paid and which amount exceeded the usual deposit of 10% of the purchase price; the fact that the Applicants actively encouraged the Respondent to expend money in obtaining a right of way thereby benefiting the Applicants by enhancing the value of the said land and the fact that the Applicants all along were aware of the Respondent's negotiations with the Third Party.

10

32. I have therefore an interest in the land in question and that in the special circumstances of this case the Applicants are to be deemed holding the land for me in trust.

20

33. The issue document of Title was always in my custody until my lawyers against my objections returned it to the Applicants. The said document of title was returned together with a letter from my Solicitors "Muthu & Peri" dated 14th October, 1974 a copy of which is attached hereto and marked 'D'.

30

34. The Applicants furthermore have on 30th September, 1974 purported to forfeit the sum of ~~₹~~97,765.62 described as a deposit in the second agreement together with a further sum of ~~₹~~30,000/- paid under the second agreement i.e. a total of ~~₹~~ 127,765.62.

35. The Applicants are not entitled to forfeit these sums.

36. As I have enhanced the value of the land by building an access road with the knowledge and consent of the Applicants the Applicants are estopped for denying my interest in the said land.

40

37. I was obliged to lodge the Caveat as the

Applicants were about to disregard the actual terms of the agreement and forfeit to their own use all moneys paid by me and all this notwithstanding the fact that work was still going on on building the approved road.

In the
High Court

No.10
Affidavit
of V.
Letchumanan
dated 4th
November 1975

38. I have also lodged a further Caveat setting out my grounds more fully for claiming an interest in the said land on 10th October, 1975 and have given due notice to the Applicants.

10

I have also caused a Writ (Civil Suit No. 288/75) to be issued claiming that the Applicants do complete the purchase and for a declaration that the Applicants are not entitled to forfeit the sum of \$127,765.62.

39. There are numerous disputed questions acts, oral agreements and other undertakings relating to this matter so much so that an Originating Notice of Motion is not a satisfactory method for approaching the Court to have the issues determined.

20

40. I therefore pray for an order that the application be dismissed or that an order be made for issues to be tried.

Affirmed by the said V.)
Letchumanan s/o Velayutham)
at Seremban this 4th day) Sd.
of November, 1975 at 10.30)
a.m.)

30

Before me,

Sd: K. Purushotman
Commissioner for Oaths,
High Court, Seremban.

Filed by Messrs. N.Ramachandran & Co., Solicitors
for the Respondent, whose address for service is
at Yusof Building, Seremban.

In the
High Court

No.11

No.11
Exhibit A
to Affidavit
of V.
Letchumanan
affirmed on
4th November
1975

EXHIBIT MARKED "A" TO
AFFIDAVIT OF V.LETCHUMANAN
AFFIRMED ON 4th November 1975

A G R E E M E N T

THIS AGREEMENT is made the 16th day of
December, 1973 BETWEEN MADAM ENG MEE YONG
(N.R.I.C. No.1744999); NG YEE HONG @ NG YUE HONG
(N.R.I.C. No.2005064); NG YEE FOO @ NG YUE FOO
(N.R.I.C.No. 1999070); NG YEE DENG @ WOO YEE LING
(N.R.I.C. No.1634708); NG YEE CHEEN @ NG YUE CHUAN
(N.R.I.C. No.2509465); NG YEE THONG (N.R.I.C.
No.1999937) all of No.8 River Road, Seremban,
Negeri Sembilan (hereinafter jointly called the
Vendors) of the one part and V. LETCHUMANAN s/o
VELAYUTHAM (N.R.I.C. No. 0885391) of No.74 Paul
Street, Seremban (hereinafter called the
Purchaser) of the other part

10

WHEREAS the Vendors are the registered
proprietors of the land held under Grant No.2457
for Lot No.593 in the Mukim of Ampangan, District
of Seremban containing by measurement 44a. lr. 30p.
(hereinafter referred to as the "said Land")

20

AND WHEREAS the Vendors are desirous of
selling and the purchaser is desirous of purchasing
the said land at the agreed price of \$777,656.25cts.
(Dollars Seven hundred and seventy-seven thousand,
six hundred and fifty-six and cents twenty-five
only) at \$17,500.00 (Dollars Seventeen thousand
and five hundred only) per acre.

30

NOW THIS AGREEMENT WITNESSETH as follows:

1. In consideration of the sum of \$20,000.00
(Dollars Twenty thousand only) paid by the
purchaser to the Vendors (which sum the
Vendors hereby jointly and severally acknowledge
receipt) as part payment the Vendors hereby
agree to sell and the Purchaser agrees to
purchase the said land free from all encum-
brances upon the terms and conditions
hereinafter contained.
2. The purchase price of the said land shall be

40

the sum of ~~₹~~777,656.25cts at the rate of ~~₹~~17,500.00 per acre. The aforesaid sum of ~~₹~~20,000.00 only referred to Clause 1 hereof and paid to the Vendors shall be treated towards account of such purchase price.

In the
High Court
No.11
Exhibit A
to Affidavit
of V.
Letchumanan
affirmed on
4th November
1975

10 3. The purchase herein shall be completed on or before the 16th day of June, 1974 and the balance of the purchase price amounting to ~~₹~~757,656.25cts. (Dollars Seven hundred and fifty-seven thousand six hundred and fifty-six and cents twenty-five only) shall be paid by the Purchaser to the Vendors in the manner hereinafter provided:

20 (a) The purchaser shall pay a further sum of ~~₹~~57,765.62cts. (Dollars Fifty-seven thousand seven hundred and sixty-five and cents sixty-two only) on or before 16th day of January, 1974 direct to the vendors towards the account of purchase price of the said land.

30 (b) The purchaser shall deposit the balance of the full purchase price amounting to ~~₹~~699,890.63cts. (Dollars Six hundred and ninety-nine thousand and Eight hundred and ninety and cents sixty-three only) on or before the 16th day of June, 1974 with Messrs. Muthu & Peri, Advocates & Solicitors No.46 Jalan Tunku Hassan, Seremban (hereinafter called the Solicitors) who shall hold same as stakeholders.

40 (c) Within seven days from receipt of a notification from the said solicitors of the aforesaid deposit of the balance of the purchase price amounting to ~~₹~~699,890.63cts. the vendors shall call upon the solicitors to execute the Memorandum of Transfer in respect of the said land in favour of the purchaser.

(d) Upon registration of the Memorandum of Transfer in respect of the said land in favour of the purchaser and or his

In the
High Court

No.11
Exhibit A
to Affidavit
of V.
Letchumanan
affirmed on
4th November
1975

nominee or nominees, the solicitors shall release to the vendors the balance of the purchase price amounting to \$699,890.63cts.

4. The possession of the said land shall be given to the purchaser only as on the date of execution of the Memorandum of Transfer.
5. The vendors expressly undertake to sign any document or documents that may be asked to be signed by the purchaser and or his nominee or nominees and or his agent in respect of developing the aforesaid land into a housing estate and obtaining access road to the said land. 10
6. If the Purchaser fails to pay the balance of the purchase price at the times stipulated in paragraph 3 herein the vendors shall forfeit the deposit paid this day and whatever payment made thereafter towards the purchase price as liquidated damages and thereupon this Agreement shall be void and of no further effect. 20
7. The vendors shall be liable to pay and settle all the quit rent, rates, assessment and all other outgoings up to the 16th day of June, 1974 and if the same or any part thereof has not been settled by the vendors as at the date of transfer then the purchaser shall be entitled to deduct the same from the said balance of the purchase price at the time of the said transfer. 30
8. All stamp and registration fees on this Agreement and of the transfer to the purchaser and or his nominee or nominees including all legal costs shall be borne by the purchaser.
9. The vendors shall be liable to specific performance under this Agreement in the event of their breach or failure to cause the said land being registered in the name of the purchaser or his nominee. 40
10. Time wherever mentioned shall be the essence of this contract.
11. All notices required to be served hereunder

by one party to the other shall be served personally or sent by registered letter post to the respective addresses as shown in this Agreement of the parties hereto or to such other address as either party may from time to time appoint by notice in writing, to the other for the service of notices hereunder.

In the
High Court

No.11
Exhibit A
to Affidavit
of V.
Letchumanan
affirmed on
4th November
1975

10 12. This Agreement shall be binding upon the successors in title and assigns of the vendors and the personal representatives successors and assigns of the purchaser.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands on the day and year first above written.

SIGNED BY The Vendors } 1. (Sgd) Eng Mee Yong
in the presence of:- } Madam Eng Mee Yong

20 2. (Sgd) Ng Yue Hong
Ng Yee Hong @ Ng Yue
Hong

3. (Sgd)
Ng Yee Foo @ Ng Yue
Foo

(Sgd) M.Muthupalaniappan 4. (Sgd) Woo Yee Ling
Ng Yee Deng @ Woo Yee
Ling

M.MUTHUPALANIAPPAN
ADVOCATE & SOLICITOR 5. (Sgd) Ng Yee Chuan
Ng Yee Cheen @ Ng Yee
Chuan

30 6. (Sgd)
Ng Yee Thong

SIGNED BY the Purchaser } (Sgd) V.Letchumanan
in the presence of:- } V.Letchumanan s/o
Velayutham

(Sgd) M.Muthupalaniappan
M. MUTHUPALANIAPPAN
ADVOCATE & SOLICITOR

In the
High Court

No.12

No.12
Exhibit B1
to Affidavit
of V.
Letchumanan
affirmed on
4th November
1975

EXHIBIT MARKED "B1"

CHAN & CHIA
PEGUAMBEIA & PEGUAMCARA
Advocates & Solicitors
TINGKAT SATU, 39 JALAN TUNKU HASSAN,
SEREMBAN
Talipon: 74466 Rumah: 74440

Bil Surat Kami: 2/2/695/74 CHAN CHOONG TAK
CHIA SIN TET, JOHN

BY HAND

24th June 1974

10

Messrs. Muthu & Peri,
Advocates & Solicitors,
No.46, Jalan Tunku Hassan,
Seremban.

Dear Sirs,

re: Agreement dated 16th December 1973
for sale of land held under Grant No.
2457 Lot No.593 Mukim of Ampangan

With reference to the meeting at our office on
the afternoon of the 20th June 1974, we regret to
inform that your client's request that he be given an
extension of three (3) months to pay up the balance
of the purchase price amounting to \$699,890.63c has
been turned down by our clients. 20

We are, therefore, to confirm that pursuant to
Clause 6 of the aforesaid Agreement our clients have
exercised their right to forfeit the sum of
\$77,765.62c paid under the Agreement.

We are further instructed to request you to
forward the title deed to us as Solicitors for our
clients as soon as possible. 30

Yours faithfully,
(Sgd) Chan & Chia

c.c.
Madam Ng Mee Yong and 5 others,
No.8, River Road,
Seremban.

This is the exhibit marked 'B' and referred to
in the Affidavit of Letchumanan s/o Velayutham
affirmed on 4th November 1975

40

No.13

In the
High Court

EXHIBIT MARKED "C1" REFERRED
TO THE AFFIDAVIT OF V.LETCHUMANAN
AFFIRMED ON 4.11.75

No.13
Exhibit "C1"
to Affidavit
of V.
Letchumanan
affirmed on
4th November
1975

National Land Code
Form 28A
(Section 390)

APPLICATION FOR A PRIVATE RIGHT-OF-WAY

To the Collector, District of Seremban.

10

We, NG YEE HONG @ NG YUE HONG, NG YEE
FOO @ NG YUE FOO and NG YEE DENG @ WOO YEE
LING all c/o Messrs. Muthu & Peri, No.46 Jalan
Tunku Hassan, Seremban, co-owners of the land
described in the schedule below;

Hereby apply for the creation of a private
right-of-way from the land to the nearest
public terminal as per attached plan.

Dated this 7th day of January, 1974

20

Signature of Applicants	}	1. (Sgd)
		Ng Yee Hong @ Ng Yue Hong
		2. (Sgd)
		Ng Yee Foo @ Ng Yue Foo
		3. (Sgd)
		Ng Yee Deng @ Woo Yee Ling

S C H E D U L E

Mukim : Ampangan

Lot No: 593

Description and No. of Title: Grant No.2457

Area: 44a. 1r. 30p.

Nature of land: Privately
owned

In the
High Court

No.14
Exhibit "D1"

No.14

EXHIBIT MARKED "D1" REFERRED
TO THE AFFIDAVIT OF V.
LETCHUMANAN AFFIRMED ON
4.11.75

14th October, 1974

N/L (2) 696/74
MP/S/M 25/73

Messrs. Chan & Chia,
Advocates & Solicitors,
87 Birch Road,
SEREMBAN

10

Without Prejudice

Sirs,

Re: Agreement dated 28th June 1974
entered into between Madam Eng
Mee Yong and five others of the
one part and V. Letchumanan s/o
Velayutham of the other part -
Grant No.2457 Lot No.593 in the
Mukim of Ampangan

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With reference to the telephone conversation
that your Mr. John Chia had with our Mr. Muthu
on 12.10.1974, we are enclosing herewith Grant
No.2457 Lot No.593 in the Mukim of Ampangan
strictly without prejudice to the right of our
client to buy the above.

Thanking you,

Yours faithfully,

Sd: Nahappan, Muthu & Peri.

Encl.
MP/tch.

30

No.15

GROUNDS OF JUDGMENT
OF THE HIGH COURT

In the
High Court

No.15
Grounds of
Judgment
dated 5th
February
1976

IN THE HIGH COURT IN MALAYA AT SEREMBAN

ORIGINATING MOTION NO. 73 OF 1975

In the matter of Section 327(1) of the National
Land Code 1965

AND

10 In the matter of the land held under Grant No.
2457 Lot 593, Mukim of Ampangan, District
of Seremban

AND

In the matter of a Caveat Presentation No.
59/74 Vol. 38, Folio 66

BETWEEN

20 1. Eng Mee Yong (f))
2. Ng Yee Hong @ Ng Yue Hong)
3. Ng Yee Foo @ Ng Yue Foo) Applicants
4. Ng Yee Deng @ Woo Yee Ling)
5. Ng Yee Cheen @ Ng Yue Chuan)
6. Ng Yee Thong)

AND

V. Letchumanan s/o Velayutham Respondent

GROUNDS OF JUDGMENT

30 This was an application for an order that a
private caveat entered by the respondent against
land belonging to the applicants under Grant No.
2457 Lot 593 in the Mukim of Ampangan be forth-
with removed on the ground that the respondent
had no interest in the land after he had failed
to complete the purchase of the said land under
an agreement for sale dated 28th June 1974.
The applicants also claimed damages for loss
suffered by them as a result of the wrongful
lodgment of the caveat and the failure on the
part of the respondent to withdraw it after 28th
September 1974 which was the date for the

In the
High Court

No.15
Grounds of
Judgment
dated 5th
February
1976

completion of the sale of the land.

The application was by originating motion supported by a joint affidavit of the applicants dated 7th August, 1975. In their affidavit the applicants stated that they were co-owners of the land and they had entered into a written agreement with the respondent on 28th June 1974 whereby the respondent was to purchase the land at the price of \$827,656.25. Time was stated to be the essence of the contract and the agreement provided that the purchase should be completed on or before 28th September 1974. The respondent however failed to complete the purchase of the land by that date in accordance with the written agreement whereupon the applicants forfeited the sum of \$97,765.62 which was paid by the respondent as a deposit and in part payment of the purchase price. The applicants also forfeited a further sum of \$30,000 which was paid by the respondent to the applicants towards the purchase price pursuant to a clause in the agreement. On 9th November 1974 the applicants were served with a notice by the Registrar of Titles under section 324(3) of the National Land Code stating that a private caveat expressed to bind their land had been entered on the application of the respondent. On 6th January 1975 the applicants applied to the Registrar for the removal of the caveat under section 326(1) of the Code but the Registrar's notice of intended removal of the caveat could not be served upon the respondent as the respondent had moved to another place. The notice could not also be served by registered post and the envelope containing the was returned undelivered to the Registrar by the Postal Department with the remark that it was unclaimed. Hence the present application by the applicants for the removal of the caveat under section 327(1) of the National Land Code. In their joint affidavit the applicants referred to a letter dated 25th October 1974 addressed to the applicants' previous solicitors by the then solicitors of the respondent wherein it was stated inter alia that the applicants and the respondent had orally agreed to an extension of two months beyond 28th September 1974 for the completion of the purchase of the land and that the respondent would complete the purchase on or before the agreed extended date of 28th November 1974. The applicants in their affidavit denied that they had ever agreed to

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the extension of two months beyond 28th September 1974 for the completion of the purchase or to any extension at all. In any event they said that the respondent made no attempt to complete the purchase at any time.

In the
High Court

No.15
Grounds of
Judgment
dated 5th
February
1976

10 When the notice of motion came up for hearing before me I noticed that it was not served upon the respondent but was made ex parte. I did not think it proper in the circumstances of this case to make any order on the application in the absence of the respondent and I directed that the notice of motion be served upon him which was eventually done by way of substituted service. The respondent then filed a lengthy affidavit in reply but not everything that was stated therein was relevant or worthy of consideration. In his affidavit the respondent stated that 20 the agreement for sale dated 28th June 1974 was not the final or the first written agreement concerning the land and he referred to an earlier agreement dated 16th December 1973 a copy of which was exhibited in the affidavit. The respondent stated that this earlier agreement was not specifically cancelled or withdrawn by any subsequent agreement in writing and further that the 30 second agreement dated 28th June 1974 did not contain all the agreed terms because some of the terms were made orally which included the term that time should not be the essence of the contract. He further stated that the applicants had agreed to grant an extension of time for a period of two months from 28th September 1974 and he said that the agreement of 28th June 1974 had not been expressly terminated. He stated further that the applicants were not entitled to forfeit the 40 two sums of \$97,765.62 and \$30,000. He had enhanced the value of the land by building an access road with the knowledge and consent of the applicants and they were therefore estopped from denying his interest in the said land. He said he was obliged to lodge the caveat as the applicants were about to disregard the actual terms of the agreement and forfeit to their own use the sums of money paid by him notwithstanding the fact that the 50 building of the approach road on the land was

In the
High Court

No.15
Grounds of
Judgment
dated 5th
February
1976

still in progress. The respondent stated further on 10th October 1975 he lodged a second caveat against the same land setting out his grounds more fully for claiming an interest in the land. He also caused a writ to be issued against the applicants for an order that they do complete the sale of the land and for a declaration that they were not entitled to forfeit the sum of \$127,765.62.

After giving due consideration to the application, the affidavits and the submissions advanced on behalf of the parties I came to the conclusion that the respondent had no caveatable interest in the land concerned within the meaning of Section 323 (1) of the National Land Code. The parties had entered into a written agreement on 28th June 1974 wherein time was made the essence of the contract and acting pursuant to the provisions in the agreement the applicants were well within their rights when they forfeited the deposit of \$97,765.62 and the further sum of \$30,000 upon the failure of the respondent to complete the purchase of the land on or before 28th September 1974. The respondent stated in his affidavit that the first agreement dated 16th December 1973 was not specifically cancelled or withdrawn by any subsequent agreement in writing. This statement was patently false because in one of the recitals in the second agreement of 28th June 1974 it was specifically stated that the vendors and the purchaser had mutually agreed to determine the former agreement of 16th December 1973. The respondent also said in his affidavit that there was an oral term agreed to by the parties that time should not be the essence of the contract and that the time for the completion of the purchase be extended by two months. Here too there was no merit in the respondent's allegations. The vendors and the purchaser signed the agreement of 28th June 1974 in the presence of solicitors and the agreement itself appeared to have been drawn by a firm of solicitors. It was a well prepared document and it stated in no uncertain terms that time should be the essence of contract. The respondent's attempt to introduce extrinsic parol evidence to vary the terms of the written agreement of 28th June 1974 was obviously meant to embarrass the applicants and to cause delay in the proceedings. Moreover this evidence was inadmissible under sections 91 and 92 of the Evidence Act 1950 for apart from the bare allegations of the respondent

10 no other evidence in support was adduced
so as to bring the matter under any of the
provisos to section 92 of the Evidence Act.
On the other hand I accepted the statement
of the applicants in their joint affidavit
that they had not agreed to any extension of
time for the completion of the purchase of
the land and that the respondent had made no
attempt whatsoever to complete the purchase
at any time. In the event I held that the
applicants were entitled to an order in terms
of the first prayer in the originating motion
and I ordered that the caveat entered by
the respondent be removed. The applicants
had also claimed damages for loss suffered
by them as a result of the wrongful lodgment
of the caveat. This claim however was not
pursued by the applicants and no evidence
was adduced on their behalf to establish the
20 extent of any damage or loss suffered by
them. With regard to the second caveat
entered against the same land by the respon-
dent on 10th October 1975 Mr. Ramachandran
for the respondent gave an undertaking
after briefly consulting his client in
court that in the event that no appeal against
my decision ordering the removal of the
caveat was filed within ten days of my order
the respondent would withdraw the second
30 caveat.

Costs of the proceedings were ordered
to be paid by the respondent to the
applicants.

Dated this 5th day of February, 1976.

Sd. Ajaib Singh
(AJAIB SINGH)
JUDGE
HIGH COURT, MALAYA
SEREMBAN

40 Ng Seng Kiok, Esq. for Applicants
Solicitors: Chooi & Company, Kuala Lumpur

N.Ramachandran, Esq. for Respondent
Solicitors: N.Ramachandran & Co., Seremban

In the
High Court
No.15
Grounds of
Judgment
dated 5th
February
1976

In the
High Court

No.16
Order of
High Court
dated 10th
November
1975

No.16

ORDER OF HIGH COURT
dated 10th November 1975

IN THE HIGH COURT IN MALAYA AT SEREMBAN

ORIGINATING MOTION NO.83 OF 1975

In the matter of Section 327(1) of the National
Land Code, 1965

And

In the matter of the Land held under Grant 2457
Lot 593, Mukim of Ampangan, District of
Seremban

10

And

In the matter of a Caveat Presentation No.59/74
Vol.38, Folio 66

Between

1. Eng Mee Yong (f)
2. Ng Yee Hong @ Ng Yue Hong
3. Ng Yee Foo @ Ng Yue Foo
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong

Applicants

20

And

V. Letchumanan s/o Velayutham

Respondent

BEFORE THE HONOURABLE MR. JUSTICE
AJAIB SINGH, HIGH COURT
SEREMBAN

IN OPEN COURT
THIS 10TH DAY OF NOVEMBER
1975

O R D E R

UPON HEARING Mr. Ng Seng Kiok of Counsel
for the applicants abovenamed and Mr. N.Ramachandran
of Counsel for the Respondent abovenamed AND UPON
READING the Ex-Parte Originating Motion dated the
26th day of August, 1975 and the joint Affidavit
of Eng Mee Yong and 5 others affirmed on the 7th
day of August, 1975 and the Affidavit of

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10 V. Letchumanan s/o Velayutham affirmed on the 4th day of November, 1975 all filed herein IT IS ORDERED that only the Caveat presented by the Respondent abovenamed against the land held under Grant No.2457 for Lot 593 in the Mukim of Ampangan, District of Seremban and registered as Private Caveat Presentation No. 59/74 Volume 38, Folio 66 be and is hereby removed pursuant to Section 327(1) of the National Land Code, 1965 and that the costs of this application be paid by the Respondent to the Applicants to be taxed AND IT IS ALSO ORDERED that the Caveat Presented by the Respondent subsequent to Caveat presentation No.59/74, Volume 38, Folio 66 be removed unless the Respondent files a Notice of Appeal against this Order within 10 days of date hereof.

In the
High Court

No.16
Order of
High Court
dated 10th
November
1975

20 Given under my hand and the Seal of the Court this 10th day of November, 1975.

Sd: Augustine Paul
Senior Assistant Registrar,
High Court,
Seremban.

Certified True Copy.

Sd: Augustine Paul
Senior Assistant Registrar,
High Court,
Seremban.

In the
Federal Court

No.17

No.17
Memorandum
of Appeal
dated 18th
March 1976

MEMORANDUM OF APPEAL

IN THE FEDERAL COURT IN MALAYA
(Appellate Jurisdiction)

CIVIL APPEAL NO.158 of 1975

BETWEEN

V. Letchumanan s/o Velayutham Appellant

AND

1. Eng Mee Yong (f)
2. Ng Yee Hong @ Ng Yue Hong 10
3. Ng Yee Foo @ Ng Yue Foo
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Respondents

(In the matter of Originating Motion
No.73 of 1975 in the High Court of
Malaya at Seremban

Between

1. Eng Mee Yong (f)
2. Ng Yee Hong @ Ng Yue Hong
3. Ng Yee Foo @ Ng Yue Foo 20
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Applicants

And

V. Letchumanan s/o Velayutham Respondent)

MEMORANDUM OF APPEAL

V. Letchumanan s/o Velayutham the Appellant
abovenamed appeals to the Federal Court against
the whole of the decision of the Honourable Mr.
Justice Ajaib Singh given at Seremban on the 10th
day of November, 1975 on the following grounds :- 30

1. The learned Judge erred in law in holding that
the Appellant had no caveatable interest in the land

in question.

In the
Federal Court

No.17
Memorandum
of Appeal
dated 18th
March 1976

2. While the learned Judge was right in holding that the agreement was terminated and right in holding that oral statements were not admissible to vary the agreement he nevertheless should have considered the position in the light of the benefit that had accrued to the respondents by virtue of the fact that the Appellant has expended money in improving the land.

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3. The learned Judge should have held that the moneys so expended were recoverable thereby entitling the Appellant to a caveatable interest.

4. Furthermore the learned Judge should have held that the Respondents were not entitled to forfeit the whole of the sum of \$127,765.62 paid up to date by the Appellant but only an amount equal to the initial deposit as the forfeiture of the whole of the various sums paid tantamounts to a penalty.

20

5. As such the Appellant had a further caveatable interest in the said land.

Dated the 18th day of March, 1976

(Sgd)

Solicitors for the Appellant

To:

1. The Chief Registrar,
Federal Court,
Kuala Lumpur.
2. The Senior Assistant Registrar,
High Court,
Seremban.

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And to the abovenamed Respondents and/or their Solicitors, Messrs. Chooi & Co., Advocates & Solicitors, Ming Building, Penthouse, Jalan Bukit Nanas, Kuala Lumpur.

The address for service of the Appellant is c/o Messrs. N.Ramachandran & Co., Advocates & Solicitors, Yusof Building, Seremban.

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In the
Federal Court

No.18

No.18
Notes of
Gill Ag.L.P.
dated 7th
September
1976

NOTES AND DECISIONS RECORDED
BY S.S.GILL Ag. Lord President

IN THE FEDERAL COURT OF MALAYA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO.158 of 1975

BETWEEN

V.Letchumanan s/o Velayutham Appellant

AND

1. Eng Mee Yong (f) 10
2. Ng Yee Hong @ Ng Yue Hong
3. Ng Yee Foo @ Ng Yue Foo
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Respondents

(In the matter of Originating Motion
No.73 of 1975 in the High Court of
Malaya at Seremban

Between

1. Eng Mee Yong (f) 20
2. Ng Yee Hong @ Ng Yue Hong
3. Ng Yee Foo @ Ng Yue Foo
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Applicants

And

V. Letchumanan s/o Velayutham Respondent)

Coram: S.S.Gill, Ag.Lord President
H.S.Ong, Federal Judge
Raja Azlan Shah, Federal Judge. 30

Kuala Lumpur, 7th September 1976
Encik N. Ramachendran for Appellant
Encik Wong Soon Foh for Respondent.

Ramachendran

This is an appeal from the decision of Ajaib J.

whereby it was held that the appellant has no caveatable interest. There is a motion for extension of time to file record of appeal to which there is no objection from the other side (Encik Wong Soon Foh confirms) Extension of time granted.

In the
Federal Court
No.18
Notes of
Gill Ag. L.P.
dated 7th
September 1976

Ramachendran (continuing)

10 I say that there is a caveatable interest even though the vendors purported to forfeit the deposit to put an end to the contract and notwithstanding that time was of the essence of the contract. I refer to my grounds of appeal.

Wong:

20 The appellant has no caveatable interest, because the agreement was lawfully terminated. In this connection I would refer to the second ground of appeal of the appellant. (Encik Ramachandran interposes to say that he relies only on ground 1 and abandons the other grounds).

We hold that the appellant does have a caveatable interest and that in the circumstances the order for removal of the caveat should not have been made. We allow the appeal, setting aside the order of the Court below that the caveat be removed. Respondents to pay the costs of the appeal and the costs in the Court below. Deposit to be refunded to the appellant.

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Sd. S.S.Gill

TRUE COPY

(Sgd)

Secretary to Chief Justice
High Court
Malaya 22/9/76

In the
Federal Court

No.19
Judgment
dated 21st
September
1976

No.19

JUDGMENT OF THE FEDERAL COURT
BY S.S.GILL, Ag. LORD PRESIDENT

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO.158 OF 1975

BETWEEN

V. Letchumanan s/o Velayutham Appellant

AND

1. Eng Mee Yong (f) 10
2. Ng Yee Hong @ Ng Yue Hong
3. Ng Yee Foo @ Ng Yue Foo
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Respondents

(In the matter of Originating Motion
No.73 of 1975 in the High Court of
Malaya at Seremban

Between

1. Eng Mee Yong (f) 20
2. Ng Yee Hong @ Ng Yue Hong
3. Ng Yee Foo @ Ng Yue Foo
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Applicants

And

V.Letchumanan s/o Velayutham Respondent)

Coram: S.S. Gill, Ag. Lord President
H.S.Ong, Federal Judge
Raja Azlan Shah, Federal Judge. 30

JUDGMENT OF THE COURT

This was an appeal from the judgment of
Ajaib Singh J. granting an order, on the
application by way of originating notion of the
respondents to this appeal, for the removal of the
caveat entered by the appellant against their

land held under Grant No.2457 for Lot 593 in the Mukim of Ampangan in the District of Seremban. The caveat was lodged on the basis that by an agreement in writing dated 28th June 1974 the respondents had agreed to sell the said land to the appellant.

In the
Federal Court

No.19
Judgment
dated 21st
September
1976

10 The appellant paid a sum of \$97,765.62 by way of deposit and in part payment of the purchase price on signing the agreement. He was to pay a further sum of \$30,000/- on or before 29th July 1974 and to complete the purchase by paying the balance of the purchase price amounting to \$699,890.63 on or before 28th September 1974. Time was stated in the agreement to be of the essence of the contract.

20 The appellant paid the sum of \$30,000/- as agreed but he failed to pay the balance of the purchase price on or before the due date, whereupon the respondents purported to forfeit the total sum paid by the appellant as liquidated damages for breach of contract as provided in clause 5 of the agreement and notified the appellant accordingly by their solicitors' letter of 30th September 1974.

30 In their affidavit in support of the motion for the removal of the caveat, the respondents stated, inter alia, that they had never agreed to any extension of time beyond the date stipulated for the completion of the purchase. In opposing the application, the appellant filed a lengthy affidavit in which he stated that there was an earlier agreement of sale in relation to the same land which had not been specifically cancelled or withdrawn by the agreement of 28th June 1974, that this latter agreement did not contain all the terms as agreed orally including the term that time shall not be of the essence of the contract, that the respondents had agreed to an extension of time for a period of two months from 28th September 1974, and that he had enhanced the value of the land by building an access road with the knowledge and consent of the respondents so that they were estopped from denying his interest in the land.

40 After giving due consideration to the affidavits and the submissions made on behalf of the parties the learned Judge came to the

In the
Federal Court

No.19
Judgment
dated 21st
September
1976

conclusion that the appellant had no caveatable interest in the said land within the meaning of section 323(1) of the National Land Code. He accordingly made the order appealed from. In reaching that conclusion the learned Judge made certain findings of fact on the affidavits before him, namely, that by their second agreement of 28th June 1974 the parties had mutually agreed to terminate the earlier agreement of 16th December 1973 and that the respondents had not agreed to any extension of time for the completion of the purchase and the appellant had made no attempt whatsoever to complete the purchase at any time.

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It would seem clear from the learned Judge's grounds of judgment that he made the order for the removal of the caveat because he took the view that the appellant ceased to have any caveatable interest in the land after the respondents had repudiated the contract on the ground that the appellant had failed to complete the purchase on or before the agreed date. With respect to the learned Judge, repudiation by one party to the agreement cannot preclude the other party from suing on the contract.

20

As has been stated again and again, the whole system of caveat is founded on the principle that they exist for the protection of alleged as well as proved interests. In the recent case of Registrar of Titles, Johore vs. Temenggong Securities Ltd. & Anor., Lord Diplock in delivering the judgment of the Privy Council (yet unreported) stated that -

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"The purpose of a private caveat is to preserve the status quo pending the taking of timeous steps by the applicant to enforce his claim to an interest in the land by proceedings in the courts."

Thus, the lodging of a caveat is really in the nature of the initiation of litigation. It need hardly be said that the rights of the parties under a contract can only be determined in a proper action and not merely on affidavits. In other words, whether or not there has been a breach of contract on the part of any of the parties is a question which can only be decided in a proper action.

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In the
Federal Court

No.19
Judgment
dated 21st
September
1976

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The only ground in support of the appeal before us was that the appellant had a caveatable interest in the land even though the respondents had purported to forfeit the deposit to put an end to the contract and notwithstanding that time was of the essence of the contract. The argument which was put forward on behalf of the respondents was that the appellant had no caveatable interest because the agreement had been lawfully terminated. In our judgment, whether or not the agreement has been lawfully terminated can only be decided in the action which the appellant, we were given to understand, had in fact brought in relation to the agreement of sale.

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For the reasons which we have stated we allowed the appeal and set aside the order of the learned Judge that the caveat be removed.

S. GILL
AG. LORD PRESIDENT

Kuala Lumpur,
21st September, 1976.

Encik N. Ramachandran for Appellant
Solicitors: Messrs. N.Ramachandran & Co.

Encik Wong Soon Foh for Respondents
Solicitors: Messrs. Chooi & Co.

TRUE COPY

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(Sgd)

Secretary to Chief Justice
High Court,
Malaya. 22/9/76

In the
Federal Court

No.20
Order
dated 7th
September
1976

No.20

ORDER OF THE FEDERAL COURT
dated 7th September 1976

IN THE FEDERAL COURT IN MALAYSIA HOLDEN AT
KUALA LUMPUR (APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO.158 OF 1975

BETWEEN

V. Letchumanan s/o Velayutham Appellant

AND

1. Eng Mee Yong (f) 10
2. Ng Yee Hong @ Ng Yue Hong
3. Ng Yee Foo @ Ng Yue Foo
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Respondents

(In the matter Originating Motion
No.73 of 1975 in the High Court
in Malaya at Seremban

Between

1. Eng Mee Yong (f) 20
2. Ng Yee Hong @ Ng Yue Hong
3. Ng Yee Foo @ Ng Yue Foo
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Applicants

And

V. Letchumanan s/o Velayutham Respondent)

CORAM: GILL, AG. LORD PRESIDENT, FEDERAL COURT
MALAYSIA.
ONG HOCK SIM, JUDGE, FEDERAL COURT, 30
MALAYSIA
RAJA AZLAN SHAH, JUDGE, FEDERAL COURT,
MALAYSIA

IN OPEN COURT

THIS 7TH DAY OF SEPTEMBER, 1976

O R D E R

In the
Federal Court

No.20
Order
dated 7th
September
1976

THIS APPEAL coming on for hearing this day in the presence of Encik N. Ramachandran of Counsel for the Appellant and Encik Wong Soon Foh of Counsel for the Respondents AND UPON READING the Record of Appeal herein AND UPON HEARING the submissions of Counsel as aforesaid IT IS ORDERED that this Appeal be and is hereby allowed:

10 AND IT IS ORDERED that the Judgment of the Honourable Mr. Justice Ajaib Singh in Seremban High Court Originating Motion No.73 of 1975 given on the 10th day of November, 1975 be and is hereby set aside:

20 AND IT IS FURTHER ORDERED that the caveat presented by the Appellant against the Land held under N.S.Grant for Land No. 2457 for Lot numbered 593 in the Mukim of Ampangan District of Seremban and Registered as Private Caveat Presentation No.59/74 Volume 38, Folios 66 do remain;

AND IT IS FURTHER ORDERED that the Respondents do pay the Appellant the costs of this Appeal and the costs in the Court below as taxed by the proper officer of the Court

30 AND IT IS LASTLY ORDERED that the sum of \$500.00 (Ringgit Five Hundred only) deposited in Court by the Appellant as security for costs of this Appeal be refunded to the Appellant

GIVEN under my hand and Seal of the Court this 7th day of September, 1976.

(Sgd)

CHIEF REGISTRAR
FEDERAL COURT
KUALA LUMPUR

40 This Order is taken out by Messrs. N. Ramachandran & Co., Solicitors for the Appellant whose address for service is at Yusof Building, Seremban.

O R D E R

In the
Federal Court

No.21
Order
Granting
Conditional
leave to
Appeal to
H.M. The
Yang
di-Pertuan
Agong dated
15th November
1976

UPON MOTION preferred unto Court this day by Encik Wong Soon Foh of Counsel for the Respondents in the presence of Encik N. Ramachandran of Counsel for the Appellant AND UPON READING the Notice of Motion dated the 26th day of October, 1976 and the Affidavit of Ng Yee Deng @ Woo Yee Ling affirmed on the 6th day of October, 1976 and filed in support of the said Motion AND UPON HEARING Counsel as aforesaid:

10

IT IS ORDERED that leave be and is hereby granted to the Respondents to appeal to His Majesty the Yang di-Pertuan Agong against the decision given by this Court on the 7th day of September, 1976 upon the following conditions :-

(a) that the Respondents do within three (3) months from the date hereof enter into good and sufficient security to the satisfaction of the Chief Registrar, Federal Court, Malaysia, in the sum of \$5,000.00 (Ringgit Five thousand only) for the due prosecution of the Appeal, and the payment of all costs as may become payable to the Appellant in the event of the Respondents not obtaining an Order granting final leave to appeal or if the Appeal being dismissed for non-prosecution, or if His Majesty the Yang di-Pertuan Agong ordering the Respondents to pay the Appellant's costs of the Appeal as the case may be; and

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(b) that the Respondents do within the said period of three (3) months from the date hereof take necessary steps for the purpose of procuring the preparation of the record and for the despatch thereof to England.

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AND IT IS FURTHER ORDERED that the costs of and incidental to this application be costs in the Appeal.

GIVEN under my hand and the Seal of the Court this 15th day of November, 1976

(Sgd)
CHIEF REGISTRAR,
FEDERAL COURT, MALAYSIA

In the
Federal Court

No. 22

No.22
Order granting
final leave
to Appeal to
H.M. The
Yang Di-Pertuan
Agong dated
23rd May 1977

ORDER GRANTING LEAVE TO
APPEAL TO H.M. THE YANG
DIPERTUAN AGONG

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR

(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO.158 OF 1975

BETWEEN

V. Letchumanan s/o Velayutham Appellant 10

AND

1. Eng Mee Yong (f)
2. Ng Yee Hong @ Ng Yue Hong
3. Ng Yee Foo @ Ng Yue Foo
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Respondents

And

(In the matter of Originating Motion
No.73 of 1975 in the High Court of
Malaya at Seremban 20

Between

1. Eng Mee Yong (f)
2. Ng Yee Hong @ Ng Yue Hong
3. Ng Yee Foo @ Ng Yue Foo
4. Ng Yee Deng @ Woo Yee Ling
5. Ng Yee Cheen @ Ng Yue Chuan
6. Ng Yee Thong Applicants

And

V. Letchumanan s/o Velayutham Respondent) 30

CORAM: GILL, CHIEF JUSTICE, HIGH COURT, MALAYA
ONG HOCK SIM, JUDGE, FEDERAL COURT, MALAYSIA
RAJA AZLAND SHAH, JUDGE, FEDERAL COURT,
MALAYSIA

IN OPEN COURT
THIS 23RD DAY OF MAY 1977

O R D E R

In the
Federal Court

No.22

Order granting
final leave
to Appeal to
H.M.The Yang
Di-Pertuan
Agong dated
23rd May 1977

10 UPON MOTION made unto Court this day
by Mr. Ng Seng Kiok of Counsel for the
Respondents abovenamed and Mr. R.R.Chelliah
mentioning on behalf of Mr. N Ramachandran
of Counsel for the Appellant abovenamed
AND UPON READING the Notice of Motion dated
the 26th day of April, 1977 and the
Affidavit of Ng Yee Deng @ Woo Yee Ling
affirmed on the 16th day of March, 1977
and filed in support of the said motion
AND UPON HEARING Counsel as aforesaid
IT IS ORDERED that the Respondents above-
named be and is hereby granted final leave
to appeal to His Majesty the Yang Dipertuan
Agung against the decision of this
Honourable Court given on the 7th day of
September, 1976 AND IT IS ORDERED that the
costs of this application be costs in the
cause.

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GIVEN under my hand and the Seal of
the Court this 23rd day of May, 1977.

(Sgd)

CHIEF REGISTRAR,
FEDERAL COURT,
MALAYSIA

No.25 of 1977
IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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

B E T W E E N :

1. ENG MEE YONG (f)
2. NG YEE HONG @ NG YUE HONG
3. NG YEE FOO @ NY YUE FOO
4. NG YEE DENG @ WOO YEE LING
5. NG YEE CHEEN @ NG YUE CHUAN
6. NG YEE THONG

Appellants
(Applicants)

- and -

V. LETCHUMANAN s/o VELAYUTHAM

Respondent

RECORD OF PROCEEDINGS

GASTERS,
44 Bedford Row,
London, WC1

Solicitors for the Appellants

SMILES & CO.,
15 Bedford Row,
London, WC1

Solicitors for the Respondent