

15/80

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA
(APPELLATE JURISDICTION)

B E T W E E N :

MALAYAWATA STEEL BERHAD

Appellants
(Plaintiffs)

- and -

1. THE GOVERNMENT OF THE FEDERATION OF
MALAYSIA

2. OFFICIAL ASSIGNEE FEDERATION OF
MALAYSIA OF THE PROPERTY OF NG KENG
HOOI

Respondents
(Defendants)

RECORD OF PROCEEDINGS

Coward Chance,
Royex House,
Aldermanbury Square,
London EC2V 7LD

Solicitors for the Appellants

Stephenson Harwood,
Saddlers Hall,
Gutters Lane,
London EC2V 6BS

Solicitors for the
Respondents

(i)

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL No. 13 of 1978

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA
(APPELLATE JURISDICTION)

B E T W E E N :

MALAYAWATA STEEL BERHAD

Appellants
(Plaintiffs)

- and -

1. THE GOVERNMENT OF THE FEDERATION OF MALAYSIA
2. OFFICIAL ASSIGNEE FEDERATION OF MALAYSIA OF THE PROPERTY OF NG KENG HOOI

Respondents
(Defendants)

RECORD OF PROCEEDINGS

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Notice of Motion for conditional leave to appeal	11th August 1977

Description of document	Date
Notice of Motion for conditional leave to appeal to His Majesty the Yang di-Pertuan Agong	
Affidavit of Chin Yew Meng in support of Motion	5th August 1977
Order granting leave	5th September 1977

IN THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL

No. 13 of 1978

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA
(APPELLATE JURISDICTION)

B E T W E E N :

MALAYAWATA STEEL BERHAD Appellants
(Plaintiffs)

- and -

10

1. THE GOVERNMENT OF THE FEDERATION
OF MALAYSIA

2. OFFICIAL ASSIGNEE FEDERATION OF
MALAYSIA OF THE PROPERTY OF
NG KENG HOOI

Respondents
(Defendants)

RECORD OF PROCEEDINGS

No. 1

WRIT AND AMENDED STATEMENT
OF CLAIM

Amended this 1st day of September, 1970 pursuant to
Order dated the 24th day of August, 1970.

AMENDED SPECIALLY INDORSED

WRIT OF SUMMONS

IN THE HIGH COURT IN MALAYA AT
KUALA LUMPUR

Sgd. Abu Bakar bin
Awang
Senior Asst.
Registrar,
High Court,
Kuala Lumpur

Civil Suit No. 2263 of 1969

IN THE HIGH COURT
IN MALAYA

No. 1

Writ and Amended
Statement of
Claim

Dated 18th
December 1969
Amended 1st
September 1970

20

30

IN THE HIGH COURT
IN MALAYA

B E T W E E N

Malayawata Steel Berhad Plaintiffs

No. 1

and

Writ and Amended
Statement of
Claim

1. The Government of the
Federation of
Malaysia

Dated 18th
December 1969
Amended 1st
September 1970

2. Official Assignee
Federation of Malaya
of the property of
Ng Kong Hooi

10

Defendants

(Continued)

The Hon'ble Tan Sri Ong Hock Thye, P.S.M.,
D.P.M.S., Chief Justice of the High Court of
Malaya, in the name and on behalf of His Majesty
the Yang di-Pertuan Agong.

To 1. The Government
of the Feder-
ation of
Malaysia

2. The Official
Assignee,
Federation of
Malaya of the
property of Ng
Kong Hooi

20

We command you, that within eight (8) days
after the service of this Writ on you,
inclusive of the day of such service, you do
cause an appearance to be entered for you in an
action at the suit of Malayawata Steel Berhad

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AND TAKE NOTICE that in default of your so
doing the Plaintiff may proceed therein and
judgment may be given in your absence.

WITNESS Mohd Kamil bin Awang Senior Assistant
Registrar of the High Court in Malaya, the 18th
day of December 1969.

Sd. Allen & Gledhill.

Sd. Mohd. Kamil bin
Awang

Solicitors for the
Plaintiff

L.S. Senior Assistant
Registrar

40

High Court
Kuala Lumpur

N.B. This Writ is to be served within twelve months from the date thereof, or, if renewed, within six months from the date of last renewal, including the day of such date, and not afterwards.

IN THE HIGH COURT
IN MALAYA

No. 1

Writ and Amended
Statement of
Claim

10

The defendant (or defendants) may appear hereto by entering an appearance (or appearances) either personally or by Solicitor at the Registry of the High Court at Kuala Lumpur

Dated 18th
December 1969
Amended 1st
September 1970

A defendant appearing personally, may, if he desires, enter his appearance by post, and the appropriate forms may be obtained by sending a Postal Order for £3.00 with an addressed envelope to the Registrar of the High Court at Kuala Lumpur

(Continued)

20

If the defendant enters an appearance he must also deliver a defence within fourteen days from the last day of the time limited for appearance, unless such time is extended by the Court or a Judge, otherwise judgment may be entered against him without notice, unless he has in the meantime been served with a summons for judgment.

IN THE HIGH COURT
IN MALAYA

AMENDED STATEMENT OF CLAIM

No. 1

Writ and Amended
Statement of
Claim

Dated 18th
December 1969
Amended 1st
September 1970

(Continued)

1. The Plaintiffs are a registered company whose head office is at Prai, Province Wellesley.

2. The Defendants are the Government of the Federation of Malaysia.

3. The Plaintiffs claim against the Defendants is for the sum of \$215,613,64 in respect of goods sold and delivered to one Ng Kong Hooi Construction at its work site in Kuala Lumpur.

10

4. The said sum of money was due and owing to the Plaintiffs by virtue of an assignment made to the Plaintiffs by the said Ng Kong Hooi Construction by a letter dated the 20th July, 1968 to the Jabatan Kerja Raya on behalf of the Government of the Federation of Malaysia, and a letter in reply dated the 8th August, 1968 to the said Ng Kong Hooi Construction from the said Jabatan Kerja Raya thereof.

20

5. The Defendants have not paid the said sum or any part thereof.

6. The Plaintiffs therefore pray judgment for -

(a) -- The said sum of \$215,613,64;

(b) -- Interest at the rate of 6% per annum from the date of judgment to the date of realisation;

(c) -- Costs; and

(d) -- Any further and other relief this Honourable Court deem fit.

30

1. The Plaintiffs are a company incorporated in the States of Malaya carrying on business at Prai, Province Wellesley.

2. The First Defendants are the Government of the Federation of Malaysia.

3. The Second Defendant is the Official Assignee of the Federation of Malaya.

4. On the 17th day of October, 1969 the Plaintiffs

herein commenced a suit against Ng Kong Hooi @ Ng Kim Pian trading under the name and style of Ng Kong Hooi Construction in Civil Suit No. 1797 of 1969 in the High Court at Kuala Lumpur.

IN THE HIGH COURT
IN MALAYA

No. 1

5. By an Order dated the 30th day of March, 1970 in Bankruptcy No. 231 of 1969 a Receiving and Adjudication Order was made against the said Ng Kong Hooi @ Ng Kim Pian.

Writ and Amended
Statement of
Claim

Dated 18th
December 1969
Amended 1st
September 1970

10

6. By a letter dated 20th July, 1968 the said Ng Kong Hooi Construction informed and authorised the Jabatan Kerja Raya to make direct payments to the Plaintiffs for the amount of steel supplied from the progress payments due to them by the Jabatan Kerja Raya in consideration of the contract made with the Plaintiffs herein. The said action constitutes and equitable assignment of all payments due to the said Ng Kong Hooi Construction.

(Continued)

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The said Jabatan Kerja Raya on behalf of the Federation of Malaysia by letter dated 8th August, 1968 to the said Ng Kong Hooi Construction acknowledged the said assignment and confirmed acceptance of the said arrangement.

7. Pursuant to the said letter the Jabatan Kerja Raya on behalf of the First Defendants made the following payments :-

30

<u>24.10.68.</u>	<u>£108,767.00</u>
<u>12.2.69.</u>	<u>£141,450.00</u>
<u>April 1969.</u>	<u>£ 45,000.00</u>
<u>May 1969.</u>	<u>£ 7,155.00</u>
<u>July 1969.</u>	<u>£ 1,500.00</u>
<u>September 1969.</u>	<u>£ 1,500.00</u>
<u>October 1969.</u>	<u>£ 6,000.00</u>

8. The said Jabatan Kerja Raya failed to pay to the Plaintiffs despite the said assignment the sum of \$215,618.64, particulars of which are set out in the schedule annexed hereto marked 'A'.

9. The Plaintiffs therefore pray judgment for :-

40

(a) The sum of \$215,618.64 against the First Defendants by virtue of the said assignment dated the 20th July, 1969 and against the Second Defendant as Assignor of the said sum of \$215,618.64;

(b) Interest at the rate of 6% per annum from

IN THE HIGH COURT
IN MALAYA

No. 1

Writ and Amended
Statement of
Claim

Dated 18th
December 1969
Amended 1st
September 1970

(Continued)

the date of judgment to the date of realisation;

(c) Costs; and

(d) Any further and other relief this
Honourable Court deem fit.

~~Dated this 18th day of December, 1969~~

~~Sgd. Allen & Gledhill,
Solicitors for the Plaintiffs.~~

10

Dated this 1st day of September, 1970.

Sgd. Allen & Gledhill,
Solicitors for the Plaintiffs

Amended this 1st day of
September, 1970 pursuant to Order
dated the 24th day of August, 1970.

Statement of Claim
M/S Ng Kong Hooi Construction
56-a Jalan Bukit Bintang Kuala Lumpur

<u>Date</u>	<u>Term</u> As per Agreement	<u>Reference</u>	<u>Amount</u>	<u>Payment</u>	<u>Balance</u>
9-8-68	As agreed	(A) 287	12,893.23		
10-8-68	"	(A) 301	23,798.85		
11-8-68	"	(A) 307	23,279.12		
13-8-68	"	(A) 327	23,903.25		
14-8-68	"	(A) 337	20,799.91		
15-8-68	"	(A) 344	12,415.28		
16-8-68	"	(A) 366	48,723.66		
17-9-68	"	(A) 624	24,355.07		
19-9-68	"	(A) 641	38,702.92		
25-9-68	"	(A) 691	24,083.39		
26-9-68	"	(A) 705	25,538.53		
28-9-68	"	(A) 715	13,377.74		
29-9-68	"	(A) 720	23,411.41		
30-9-68	"	(A) 727	13,377.74		
7-10-68	"	(A) 770	10,506.11		
24-10-68	Inv. (A) 287 (A) 301 (A) 307 (A) 327 (A) 337 (A) 344-part			108,767.00	
29-10-68	As agreed	(A) 958	11,207.37		
31-10-68	"	(A) 983	10,460.19		
"	"	(A) 984	10,460.19		
28-11-68	"	(B) 212	11,148.11		
30-11-68	"	(B) 237	11,286.60		
2-12-68	"	(B) 243	10,974.95		
6-12-68	"	(B) 293	11,435.17		
8-12-68	"	(B) 316	5,945.54		
10-12-68	"	(B) 335	13,967.39		
12-12-68	"	(B) 355	11,816.60		
"	"	(B) 365	6,301.99		

IN THE HIGH COURT
IN MALAYA

No. 1

Writ and Amended
Statement of
Claim

Dated 18th
December 1969
Amended 1st
September 1970

(Continued)

And the sum of \$ 60.00 (or such sum as may be allowed on taxation) for costs, and also, in case the Plaintiff obtains an order for substituted service, the further sum of \$ 300.00 (or such sum as may be allowed on taxation). If the amount claimed be paid to the Plaintiff or his advocate and solicitor or agent within four days from the service hereof, further proceedings will be stayed.

IN THE HIGH COURT
IN MALAYA

No. 1

Writ and Amended
Statement of
Claim

Dated 18th
December 1969
Amended 1st
September 1970

(Continued)

10 Provided that if it appears from the
indorsement of the Writ that the plaintiff is
resident outside the scheduled territories as
defined in the Exchange Control Ordinance, 1953,
or is acting by order or on behalf of a person
so resident, or if the defendant is acting by
order or on behalf of a person so resident,
proceedings will only be stayed if the amount
claimed is paid into Court within the said time
and notice of such payment in is given to the
20 plaintiff, his advocate and Solicitor or agent.

This Writ was issued by ALLEN & GLEDHILL,
of Bangunan Bank Bumiputra, 21, Jalan Melaka
(7th Floor) Kuala Lumpur whose address for
service is at Bangunan Bank Bumiputra, 21, Jalan
Melaka (7th Floor), Kuala Lumpur, Solicitors for
the said Plaintiffs who have a place of business
at 5th Floor, Bangunan Bank Bumiputra, 21, Jalan
Melaka, Kuala Lumpur.

This Writ was served by me at

30 on the defendant on the day of
19 at the hour of

Indorsed this day of 19

IN THE HIGH COURT
IN MALAYA

No. 2

AMENDED DEFENCE OF FIRST DEFENDANT

No. 2
Amended
Amended
Defence of First
Defendant

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

CIVIL SUIT NO. 2263 OF 1969

B E T W E E N

30th September 1971. Malayawata Steel Berhad

Plaintiffs

And

10

1. The Government of the
Federation of Malaysia.

2. Official Assignee,
Federation of Malaya
of the property of
Ng Kong Hooi

Defendants

AMENDED AMENDED DEFENCE OF FIRST DEFENDANT

1. The First Defendant has no knowledge of
paragraph 1 of the Amended Statement of Claim and
hence makes no admission thereof.

20

2. The First Defendant admits paragraphs 2 and
3 of the Amended Statement of Claim.

3. The First Defendant has no knowledge of
paragraphs 4 and 5 of the Amended Statement of
Claim.

4. In regard to paragraph 6 of the Amended
Statement of Claim, the First Defendant avers
that the letter merely refers to an arrangement
made between the First Defendant and the said Ng
Kong Hooi Construction, whereunder deductions were
made from the progress payments due to the said
Ng Kong Hooi Construction and paid to the Plaintiff
from time to time as instructed by the said Ng
Kong Hooi Construction. The First Defendant denies
that such action constitutes an equitable
assignment of all or any payments due to the said
Ng Kong Hooi Construction. The First Defendant
denies that the letter of the 8th August, 1968 was
an acknowledgment and confirmation of the alleged
assignment.

30

40

5. In regard to paragraph 7 of the Amended Statement of Claim, the First Defendant avers that the first 4 payments of the 7 payments therein mentioned were made by the First Defendant pursuant to the arrangement afore-mentioned and denies that they were made pursuant to the alleged equitable assignment. The 5th and 6th payments were not made by the First Defendant. The last payment of \$6,000/- was made by the First Defendant to the Plaintiffs from the progress payment due to the said Ng Kong Hooi Construction in pursuance of a request by the said Ng Kong Hooi Construction.

IN THE HIGH COURT
IN MALAYA

No. 2

Amended
Amended Defence
of First Defendant

30th September 1971

(Continued)

6. The First Defendant further avers that even if there was an equitable assignment which is denied, the Plaintiffs, by his conduct and/or action is estopped from claiming that there was an equitable assignment or deemed to have waived on the strict performance of the assignment and therefore is estopped from alleging that there was failure to comply with the terms thereof. The arrangement was in any event terminated by the Plaintiffs on or before the 17th September, 1969.

7. In regard to paragraph 8 of the Amended Statement of Claim, the First Defendant denies liability for the payment of the sum of \$215,613.64 or at all and repeats the argument in paragraphs 4 and 6 above. The First Defendant further avers that any money due and owing or at all on the goods sold and delivered to Ng Kong Hooi Construction should be recovered from the said Ng Kong Hooi Construction.

8. Or alternatively, even if there was an equitable assignment which is denied, it existed only whenever the Defendant was instructed by the said Ng Kong Hooi Construction from time to time to pay the Plaintiffs from the progress payments due to the said Ng Kong Hooi Construction.

9. Or alternatively, the Defendant will contend that by the terms of the contract between the Defendant and the said Ng Kong Hooi the purported assignment, if any, which is denied, was a breach of contract between the Defendant and the said Ng Kong Hooi and therefore to the extent of that breach the claim by the Plaintiffs against the Defendant is invalid and barred.

10. Save as hereinbefore expressly admitted, the First Defendant denies each and every allegation of

IN THE HIGH COURT
IN MALAYA

No. 2
Amended
Amended Defence
of First Defendant

30th September 1971

fact contained in the Amended Statement of Claim as if the same were set forth herein and specifically traversed.

11. The First Defendant further avers that the Amended Statement of Claim is bad in law and discloses no cause of action.

12. The First Defendant prays that the Plaintiffs' claim be dismissed with costs.

10

Dated this 30th day of September, 1971.

(Continued)

Sgd: L.T. CHAN,
for and on behalf of the Defendants,
whose address for service is,
c/o Attorney-General's Chambers,
Kuala Lumpur.

To:

Messrs. Allen & Gledhill,
Advocates & Solicitors,
Bangunan Bank Bumiputra,
21, Jalan Melaka,
Kuala Lumpur.

20

(Solicitors for the Plaintiffs)

Dated this 26th day of November, 1971.

Senior Federal Counsel
for and on behalf of the Defendants,
whose address for service is,
c/o Attorney-General's Chambers,
Kuala Lumpur.

30

To:

Messrs. Allen & Gledhill,
Advocates & Solicitors,
Bangunan Bank Bumiputra,
21, Jalan Melaka,
Kuala Lumpur.

(Solicitors for the Plaintiffs)

No. 3.

IN THE HIGH COURT
IN MALAYA

FURTHER AND BETTER PARTICULARS
OF THE DEFENCE

No. 3

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

Further & Better
Particulars of
Defence

CIVIL SUIT NO. 2263 OF 1969

10th November 1971

B E T W E E N

Malayawata Steel Berhad

Plaintiffs

10

And

1. The Government of the
Federation of Malaysia

2. Official Assignee,
Federation of Malaya
of the property of
Ng Kong Hooi

Defendants

FURTHER AND BETTER PARTICULARS
OF THE DEFENCE

20

(a) The 5th payment of \$1,500/- was not made by
Government presumably it must be made by Ng
Kong Hooi Construction direct to Malayawata.
The 6th payment of \$1,500/- was made by Ng Kong
Hooi direct to Malayawata vide letter dated
11th September, 1969.

30

(b) The conduct as implicit in or as inferred in
or from the correspondence and/or the
circumstances arising out of the correspondence
by and/or between Ng Kong Hooi Construction,
Government and Malayawata Steel Berhad or one
or the other.

Dated this 10th day of November, 1971

Sd. Abdul Razak bin Abu Samah
Senior Federal Counsel,
For and on behalf of the Defendants,
whose address for service is,
c/o Attorney-General's Chambers,
Kuala Lumpur.

40

To:

Messrs. Allen & Gledhill, Advocates & Solicitors
Bangunan Bank Bumiputra, 21, Jalan Melaka,
Kuala Lumpur.

IN THE HIGH COURT
IN MALAYA

No. 4

NOTES OF EVIDENCE

No. 4
Notes of Evidence
3rd July 1972

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

CIVIL SUIT NO. 2263 OF 1969

B E T W E E N

Malayawata Steel Berhad

Plaintiffs

And

1. The Government of the
Federation of Malaysia

10

2. Official Assignee,
Federation of Malaysia,
of the property of
Ng Kong Hooi

Defendants

In Open Court

3rd July, 1972

NOTES OF EVIDENCE

BEFORE MOHD. AZMI J.

Mr. Henry Cheah for Plaintiffs.

Enche Abdul Razak bin Dato Abu Samah, Senior Federal
Counsel, for 1st Defendant.

20

Second Defendant absent. No appearance entered.

Plaintiffs' Agreed Bundle of Documents marked Exhibit
A.

Plaintiffs' Bundle of Documents not agreed by
Defendants, but now have been agreed to, subject to
interpretation marked Exhibit B.

Bundle of Invoices etc. marked Exhibit C.

Defendants' Agreed Bundle of Documents marked Exhibit
D.

30

Supplementary Defendants' Agreed Bundle of Documents
marked Exhibit E.

Mr. Henry Cheah says the issues are :-

(1) Whether the Plaintiffs supplied steel to Ng Kong Hooi Construction (the bankrupt) for the construction of Radio House in Kuala Lumpur; and, if so, what is the quantity and value.

IN THE HIGH COURT
IN MALAYA

No. 4

Notes of Evidence
3rd July 1972

(Continued)

(2) Whether there is an assignment by Ng Kong Hooi Construction to the Plaintiffs in respect of all payments for steel delivered on site at Radio House.

10

Enche Abdul Razak agrees to the above two issues.

Mr. Cheah calls:

IN THE HIGH COURT
IN MALAYA

No. 4

P.W.l. Khoo Soo Pin affirmed, states in English:

Age 52 years. Manager Business Department, Malayawata Steel Berhad.

Notes of Evidence
Plaintiffs
Evidence

20

The Plaintiffs' Company entered into an agreement with Ng Kong Hooi Construction for the supply of steel for the Radio House Project.

Khoo Soo Pin

(Refers to page 11 of Exhibit A).

Examination

On 2.7.1968 I wrote this letter to Messrs. Ng Kong Hooi Construction (Messrs. N.K.H.C.). The payment terms are as shown in item 5 page 12 of Exhibit A. These payment terms were not accepted by Messrs. N.K.H.C. Subsequent arrangements were made. We had discussion with Messrs. N.K.H.C., representative of Treasury and J.K.R. whereby it was agreed that Plaintiffs would supply steel to Messrs. N.K.H.C. for Radio House Project if Messrs. N.K.H.C. would instruct J.K.R. to pay directly to Plaintiffs out of progress payments due to Messrs. N.K.H.C. in respect of steel bars supplied to Messrs. N.K.H.C.

30

On 14.6.1968 I received a copy of letter dated 18.6.1968 from Ministry of Commerce & Industry to Ministry of Information & Broadcasting. (Refers to letter page 9 Exhibit A).

40

(I told Mr. Cheah Exhibit A has been agreed to. Only Exhibit B agreed subject to interpretation.)

I then supplied steel to Messrs. N.K.H.C. for

IN THE HIGH COURT
IN MALAYA

No. 4

Notes of Evidence
Plaintiffs
Evidence

Khoo Soo Pin

Examination

(Continued)

construction of Radio House. I rendered invoices in respect of steel supplied for Radio House to Messrs. N.K.H.C. These are the invoices. (Exhibit C pages 1 - 32 identified). The total volume of steel supplied is \$526,990.64. I did not receive any objection from Messrs. N.K.H.C. in respect of any of these invoices.

The subsequent arrangement made as to terms of payment was accepted by Messrs. N.K.H.C. and confirmed by J.K.R. and Treasury. These are in writing. (Refers to pages 17, 19, 18 and 16 of Exhibit A). As a result of the subsequent arrangement as to terms of payment, Plaintiffs supplied steel to Messrs. N.K.H.C. for the Radio House as shown in Exhibit C.

10

Out of \$526,990.64 I received payments of \$311,372.00. (Annexure "A" to Statement of Claim refers). In para 7 of Statement of Claim, the first four payments were made directly to me by J.K.R. The fifth and sixth payments were made by Messrs. N.K.H.C., because we discovered that J.K.R. had paid directly to Messrs. N.K.H.C. instead of to us. We requested Messrs. N.K.H.C. to pay over to us the monies which they had received from J.K.R.

20

(At this stage, Enche Razak says paras 4 and 5 of claim as regards bankruptcy is admitted).

As regards the sixth payment of \$1,500/-, I refer to second para of letter dated 11.9.1969. (Refers to page 63 Exhibit A).

30

The seventh payment of \$6,000/- was paid by J.K.R. directly to Plaintiffs.

I now contend that J.K.R. should pay me \$215,618.64 i.e. \$526,990.64 less \$311,372.00

(Page 27 Exhibit A referred to witness).

On 19.12.1968 I received a copy of letter from J.K.R. to Messrs. N.K.H.C. regarding value of steel \$109,920/-. I did not receive this amount from J.K.R. I have not received this sum up to now.

(Page 28 Exhibit A referred to witness).

40

On 26.12.1968 Messrs. N.K.H.C. wrote to J.K.R. saying J.K.R. should have paid the \$109,920 direct

to Plaintiffs. So, out of the balance of \$215,618.64, a sum of \$109,920 was paid over to Messrs. N.K.H.C. by J.K.R. instead of to us.

IN THE HIGH COURT
IN MALAYA

No. 4

(Page 48 Exhibit A referred to witness).

Notes of Evidence
Plaintiffs
Evidence

10 On 11.4.1969 I wrote to J.K.R. At page 49, third para from bottom, I pointed out to J.K.R. that they had made further payment of \$203,229/- to Messrs. N.K.H.C. instead of to us. Thus, J.K.R. had, due to oversight, made a few payments direct to Messrs. N.K.H.C. instead of to us as agreed. We have not received these payments up to now.

Khoo Soo Pin

Examination

(Continued)

Cross-examination by Enche Razak:

I was aware of the two letters dated 15.9.1968 and 18.9.1968. (Pages 20 and 22 Exhibit A identified).

Cross-examination

20 It is correct that pages 17, 19, 18 and 16 constitute the framework of the arrangement, the manner in which it is to operate is explained at pages 20 and 22.

30 The Invoices in Exhibit C only show steel which we have delivered to Messrs. N.K.H.C. for the Radio House project. I agree that these invoices do not show that J.K.R. had accepted the steel. But they were delivered to Messrs. N.K.H.C. at Radio House site. I agree from the invoices only some show that the steel was delivered to the site. I agree that during this period Messrs. N.K.H.C. was doing other projects, but I do not know whether they were Government projects. From these invoices, it is possible that Messrs. N.K.H.C. had used the steel for his other projects.

I agree 1st Defendant is not the agent of Messrs. N.K.H.C. during the period of purported assignment.

40 As far as I am aware, Messrs. N.K.H.C. was the agent for the Government as it got a contract from the Government to build the Radio House.

I am not aware of the agreement between Messrs. N.K.H.C. and the Government. I am not aware of any of the terms. I am not aware of the fact that under the agreement between Messrs. N.K.H.C. and Government the Government would only pay for the steel when

IN THE HIGH COURT
IN MALAYA

No. 4

Notes of Evidence
Plaintiffs
Evidence

Khoo Soo Pin

Cross-examination

(Continued)

delivered on site and accepted by Government. I still feel Messrs. N.K.H.C. was the agent of Government. This is based on J.K.R.'s letter dated 8.8.1968. (Page 18 Exhibit A).

The total value of steel supplied was \$526,990.64. I am not aware that under the terms of the contract Government will pay a certain percentage of the value of steel delivered on site.

(At this stage, by consent Agreement dated 4.12.1967 between Government and Messrs. N.K.H.C. produced and marked Exhibit D1).

10

(Clause 38(b) shown to witness).

I agree that the amount claimed has not taken into account any deduction. It is for the full value supplied. I agree that under the agreement Exhibit D1, Government should not pay the whole value to Messrs. N.K.H.C. In theory, I agree Government should pay the full value less 25% to Plaintiffs and Messrs. N.K.H.C.

Under the arrangement there is a blanket authority by Messrs. N.K.H.C. to J.K.R. to pay directly to us out of progress payment due to Messrs. N.K.H.C. as regards value of steel supplied. This is clear in J.K.R.'s letter dated 8.8.1968. (Page 18 Exhibit A refers).

20

It is true that prior to 13.9.1968 (see page 20 Exhibit A) we had been sending invoices direct to J.K.R. But after Messrs. N.K.H.C.'s letter of 13.9.1968, we sent invoices directly to Messrs. N.K.H.C. instead of direct to J.K.R. We feel this is a reasonable request because Messrs. N.K.H.C. had to certify the steel covered by our invoices is correct and thereby recommend to J.K.R. for payment. After this letter, not even copies of invoices were sent to J.K.R. We only sent the invoices to Messrs. N.K.H.C. I believe after certification Messrs. N.K.H.C. would send them to J.K.R. I agree before certification, the Government did not know what happened between us and Messrs. N.K.H.C.

30

40

Q: Following the letter at page 20, there were further instructions given by Messrs. N.K.H.C. to Government to pay Plaintiffs e.g. page 45 of Exhibit A?

A: No. The reason why we had to remind Messrs. N.K.H.C. in the last paragraph of page 45 because in December 1968 we had discovered J.K.R. had paid directly to Messrs. N.K.H.C. a sum of \$109,920/- which should be paid direct to us under the arrangement.

IN THE HIGH COURT
IN MALAYA

No. 4

Notes of Evidence
Plaintiffs
Evidence

10

Q: Why should you tell Messrs. N.K.H.C. to tell the Government to pay your Company? Why did you not write direct to Government?

Khoo Soo Pin

A: We wrote the letter (page 45 Exhibit A) as a reminder with a copy to J.K.R.

Cross-examination

(Continued)

20

Under the arrangement, I agree that as far as payment is concerned, Messrs. N.K.H.C. is out of the picture. It was between us and the Government. At the beginning we did send the invoices to Government with a copy to Messrs. N.K.H.C. We agree to the request of Messrs. N.K.H.C. to send the Invoices to them because we felt the request was reasonable. We could have stuck to our original arrangement whereby we send the original invoices to J.K.R. with copies to Messrs. N.K.H.C. I could not call it an 'arrangement'. It was only a 'practice'. There was no actual arrangement as regards the invoices. The only thing spelt out was in respect of payment. Originally it was our own idea to send the invoices to J.K.R. directly, but later at the reasonable request of Messrs. N.K.H.C., we sent the invoices to them instead of to J.K.R.

30

Q: Do you not agree by changing the system as regards invoices, you are in fact shifting the main responsibility of paying the money from the Government (as it should be) to Messrs. N.K.H.C.?

A: I do not agree.

40

Since we stopped sending the invoices to J.K.R. direct in response to request by Messrs. N.K.H.C., J.K.R. had never queried orally or in writing why we had stopped sending original invoices to them. A copy of Messrs. N.K.H.C. of 13.9.1968 (page 20 Exhibit A) was sent to J.K.R.

I agree the Government was to pay the money direct to us. But as far as delivery of the steel and certification, we still have to deal with

IN THE HIGH COURT
IN MALAYA

No. 4

Notes of Evidence
Plaintiffs
Evidence

Khoo Soo Pin

Cross-examination

(Continued)

Messrs. N.K.H.C.

Q: Why can't you send the invoices to Government for certification or verification as was done originally?

A: Because of the letter dated 13.9.1968 sent by Messrs. N.K.H.C. (Page 20 Exhibit A).

It was still possible for Government to certify and verify the invoices. I agree if the Government was not satisfied with the invoices, it could always refer to Messrs. N.K.H.C.

10

If the Government had any objection to Messrs. N.K.H.C.'s letter (page 20), it should have indicated its objection since a copy of that letter was sent to J.K.R.

Tan Sri Syed Albar is the Executive Director of Plaintiffs' Company and as well as Manager of our Kuala Lumpur office. At some time during this period, he did go and see J.K.R.

20

J.K.R. made two oversights in paying Messrs. N.K.H.C. instead of Plaintiffs. We did not threaten to take legal action against the Government for these oversights. Neither did we threaten to take legal action against Messrs. N.K.H.C. until 17.9.1969.

Civil Suit No. 1797 of 1969 by us against Messrs. N.K.H.C. was in respect of the same amount which we are now claiming against the Government. (See para 4 of Statement of Claim).

I agree that the fifth and sixth payments were not made by J.K.R., but by Messrs. N.K.H.C. direct.

30

Re-Examination

Re-examination:

The fifth and sixth payments were made by Messrs. N.K.H.C. because we found out that the monies should have been paid by J.K.R. to us direct instead of to Messrs. N.K.H.C. The fifth payment of \$1,500/- is in letter dated 11.7.1969. (Page 12 of Exhibit B). The sixth payment of \$1,500/- is in letter dated 11.9.1969. (Page 63 Exhibit A). This is the letter from Messrs. N.K.H.C. accompanying the fifth payment. (By consent, letter dated 22.7.1969 produced and marked Exhibit P2).

40

In the Agreement (Exhibit D1), I am not aware of any provision regarding payment of the balance of 25% in respect of steel supplied on site. According to practice in Government contract, the 25% would be paid by Government after the steel had been actually used in the construction.

10 On 19.12.1968 when J.K.R. wrote to Messrs. N.K.H.C. (page 27 Exhibit A) with a copy to me, on the face of it the value of steel supplied on site was \$109,920/-.

As regards page 20 Exhibit A, the amount of \$108,767.00 was paid by J.K.R. on 24.10.1968. Although we sent invoices to Messrs. N.K.H.C. as a result of the letter dated 13.9.1968 (page 20 Exhibit A), we still received payments from J.K.R. as shown in para 7 of Statement of Claim except the fifth and sixth payments which were paid direct by Messrs. N.K.H.C.

20 Enche Razak through the Court:

Generally, a contractor has to pay his labourers out of the progress payment. I expect that to happen also in this case.

Mr. Henry Cheah through Court:

The Plaintiffs do not expect to get the whole of progress payment of the project, but only in respect of progress payment pertaining to steel supplied.

COURT adjourned to 2.30 p.m.

30 Hearing resumed.

P.W.2 Hyacinth Francis Singarajah affirmed, states in English:

Age 40 years. Chartered Quantity Surveyor attached to P.W.D. HQ., Kuala Lumpur.

I have personal knowledge about the Plaintiffs' claim. I have with me all the records of payment in respect of Radio House project.

(Page 18 of Exhibit A referred to witness).

40 I am aware of this letter dated 8.8.1968

IN THE HIGH COURT
IN MALAYA

No. 4

Notes of Evidence
Plaintiffs
Evidence

Khoo Soo Pin

Re-examination

(Continued)

IN THE HIGH COURT
IN MALAYA

No. 4

Notes of Evidence
Plaintiffs
Evidence

Hyacinth Francis
Singarajah

Examination

IN THE HIGH COURT
IN MALAYA

written by J.K.R.

No. 4

Notes of Evidence
Plaintiffs
Evidence

Hyacinth Francis
Singarajah

Examination

(Continued)

The progress payments are made under three items -

- (i) value of work done;
- (ii) value of material on site;
- (iii) sub-contractors

(Exhibit C shown to witness).

10

It is not correct that these invoices (Exhibit C) represent the amount of steel supplied by Plaintiffs to Messrs. N.K.H.C. for the purpose of the Radio House project.

I was the Quantity Surveyor for the Radio House project. My duty as a Quantity Surveyor is to recommend payment to the Superintendent Office. There was a book kept by the resident engineer containing, inter alia, a list of materials brought to the site. I have the book.

20

The way how I look at Exhibit C is that the steel was bought by Messrs. N.K.H.C., but I cannot say whether the steel were all used for Radio House. I do not know the answer.

(Page 24 Exhibit A shown to witness).

The second paragraph of page 24 refers to Invoices pages 1 to 7 of Exhibit C.

(Page 25 of Exhibit A shown to witness).

The invoices referred to this letter - I do not know whether the steel was sent to the Radio House site.

30

I took measurement of the work once a month.

When we were preparing progress payment, we did take valuation of work done and valuation of material on site. Any material supplied in between and incorporated into the building will be reflected in the value of the work done.

In this case, 67½% of materials supplied on site and inspected by us would be paid.

40

When the contractor Messrs. N.K.H.C. wrote to J.K.R. (pages 24 and 25), I did not go to the site to inspect. I cannot dispute whether the steel was delivered or not delivered.

IN THE HIGH COURT
IN MALAYA

No. 4

If Messrs. N.K.H.C. says he has received all the steel in Exhibit C, I cannot dispute it because I would not know whether it was in fact delivered or not.

Notes of Evidence
Plaintiffs
Evidence

10 (Para 7 of Statement of Claim shown to witness).

Hyacinth Francis
Singarajah

I did certify the first four payments. I also certified the seventh payment for \$6,000/-.

Examination

(Page 27 Exhibit A shown to witness).

(Continued)

This letter was written by me. The amount of \$109,920/- should be paid to Plaintiffs. The letter is dated 19.12.1968. The seventh payment of \$6,000/- was made in October 1969.

20 I did take measurement of steel delivered to site and steel incorporated into the building after 8.8.1968 at every progress payment. At every progress payment, I am able to pay the amount of steel incorporated into the building and the amount of steel on site.

From 8.8.1968 up to 10th October 1969, J.K.R. made fifteen progress payments to Messrs. N.K.H.C. viz:-

30 Fourth progress payment 10.9.68 - \$108,767.00 consisting of value of work done and value of material on site. The whole sum was paid to Plaintiffs at the request of Messrs. N.K.H.C.

Fifth progress payment made on 12.10.1968 was \$80,330.00 paid to Messrs. N.K.H.C. Steel bought by Messrs. N.K.H.C. from Plaintiffs was \$93,939.90.

As regards fourth progress payment, the measurement was done on 6.9.1969. Steel bought by Messrs. N.K.H.C. from Plaintiffs was \$120,892.57.

40 We are only interested in the total amount of steel used in the building - irrespective of from where the contractor bought the steel.

(Page 27 Exhibit A shown to witness).

IN THE HIGH COURT
IN MALAYA

No. 4

Notes of Evidence
Plaintiffs
Evidence

Hyacinth Francis
Singarajah

Examination

(Continued)

Q: How did you know that \$109,920/- is for steel supplied to the contractor by Malayawata?

A: (Witness to check).

Q: How much steel was on site at Radio House or incorporated in the building before Messrs. N.K.H.C. became bankrupt (30.3.1970)?

A: I will be able to say after checking my books.

Q: After October 1969, were there any payments due to Plaintiffs for steel supplied? 10

A: No.

These books are called site diaries. (Two site diaries produced and marked Exhibit P3 A & B).

COURT adjourned to 9.30 a.m. tomorrow for continued cross-examination.

4th July, 1972.

Hearing resumed.

P.W.2 re-affirmed. 20

Continued examination by Mr. Cheah:

As regards seventh Progress Payment (page 27 Exhibit A), I arrived at the figure of \$109,920/- as value of steel on site by referring to progress payment No. 6. (See page 8 Exhibit D).

In Progress Payment No. 7 (see page 9 Exhibit D) the value of work done was \$400,000/-. In Progress Payment No. 6 (page 8 of Exhibit D) the value of work done was \$389,000/-. Therefore the value of work done between Progress Payment No. 6 and No. 7 is \$11,000/-. Deducting 10% retention, the balance of work done is \$9,900/-. 30

As regards materials on site, Progress Payment No. 7 was \$327,775.00. At that stage all the materials on site were steel. No other materials. In Progress Payment No. 6, value of materials on site was \$205,640/-. All these materials also consisted of steel only. The difference between these two figures is \$122,135/-. This infers that 75% of the value of steel brought in between these two 40

Progress Payments was \$122,135/-. In between these two payments, Messrs. N.K.H.C. on 18.11.1968 submitted a letter to J.K.R. with seven invoices valued at \$162,846.80. (See page 25 Exhibit A). 75% of \$162,846.80 is \$122,135.10. Since our measurements tallied with the certified invoices forwarded by Messrs. N.K.H.C., we accepted this as Malayawata steel. Deducting 10% retention money from \$122,135.10, the balance is \$109,921.59. As a round figure, I recommended payment of \$109,920/-. Hence the figure of value of steel in my letter at page 27 Exhibit A.

IN THE HIGH COURT
IN MALAYA

No. 4

Notes of Evidence
Plaintiffs
Evidence

Hyacinth Francis
Singarajah

Examination

(Continued)

I found the invoices pages 8 to 14 of Exhibit C sent to J.K.R. by the contractor Messrs. N.K.H.C. tallied with my measurement. This is the second batch.

(Page 24 Exhibit A shown to witness).

I did check these seven invoices (pages 1 to 7 of Exhibit C) with my own measurements. I found they did not tally. According to 24A, the total value of steel was \$165,813.30. But according to my measurement, it was \$161,136.76. There was a difference of \$4,676.54.

(Third Batch of invoices at page 33 Exhibit A shown to witness).

Whenever I did my measurement, the representative of the contractor Messrs. N.K.H.C. would be with me on every occasion.

After receipt of the letter dated 31.12.1968 (A33), I went for measurement on 15.1.1969 in respect of Progress Payment No. 8. (See page 57 Exhibit E). I made a measurement on 15.1.1969. But I cannot give the break-down now as to steel from Malayawata.

(Fourth Batch of invoices at page 35 Exhibit A shown to witness).

I did check the accuracy of the invoices (see page 16, and pages 20 to 32 of Exhibit C) on 5.2.1969 just before the 9th Progress Payment. (Page 29 Exhibit D identified). According to Messrs. N.K.H.C., the value of steel supplied was \$155,696.68. From my own measurement, I found different figure. I cannot give the figure now.

IN THE HIGH COURT
IN MALAYA

No. 4

Notes of Evidence
Plaintiffs
Evidence

Hyacinth Francis
Singarajah

Examination

(Continued)

If there was a difference, there was no necessity for J.K.R. to write to Messrs. N.K.H.C. because we accepted the value of the steel on site. I recommended progress payment according to what I found on the site. It was for the contractor Messrs. N.K.H.C. to object if the payment made by J.K.R. was less.

Normally the various steel bars are bundled together according to standard length and their diameter. I measured the tonnage by multiplying the total length by standard weight per pound.

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(Para 7 of Amended Statement of Claim shown to witness).

The first payment of \$108,767.00 was the 4th Progress Payment. (Page 1 of Exhibit D identified).

The second payment of \$141,450.00 was the Eighth Progress Payment. (Page 57 Exhibit E identified).

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The third payment of \$45,000/- was the 10th Progress Payment. (Page 30 Exhibit D identified).

The fourth payment of \$7,155/- was the 11th Progress Payment. (Page 59 Exhibit E identified).

The seventh payment of \$6,000/- was the Fifteenth Progress Payment.

(By consent, the photostat copy of the Fifteenth Progress Payment to be produced and marked Exhibit P4).

After 15th Progress Payment dated 8.10.1969, apart from retention money, there was no money due to Messrs. N.K.H.C.

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I agree that \$109,920/- mentioned in letter dated 19.12.1968 (page 27 Exhibit A) was not paid by J.K.R. direct to Plaintiffs. By that letter, Messrs. N.K.H.C. should pay the sum to the Plaintiffs.

After 8.10.1969, there were other payments due to other contractors. Because there were complaints by nominated sub-contractors regarding payment, J.K.R. invoked a provision in the Agreement (Exhibit D1) and paid the sub-contractors direct. This money arises in respect of works done by the nominated contractors. The money was due to work done by them.

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Cross-examination by Enche Razak:

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Cross-examination

When the contract with Messrs. N.K.H.C. was terminated by J.K.R. on 27.11.1969, J.K.R. took measures to complete the project by other contractors in accordance with the terms of the contract. For the purpose of final accounts, we made an assessment of work done and value of materials on site, before handing the site to the new contractor.

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I produce the new contract between J.K.R. and Sharikat Pembinaan Raya Sdn. Bhd. (Put in and marked Exhibit D5). I know the amount of steel on site and also the amount of steel incorporated into the building. The amount of steel on site is the Second Contract (Exhibit D5).

The site was handed to the new contractor on 15.4.1970 - about five months after termination of contract with Messrs. N.K.H.C.

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We did the measurements between February and March 1970 i.e. about two months after termination of contract.

Indirectly the amount of steel incorporated into the building is also in the new contract. It can be found from the drawings.

The amount of steel -

(a) incorporated was 788.98 tons;

(b) unincorporated i.e. on site was about 578 tons of various sizes.

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The total of (a) and (b) is 1,366.98 tons i.e. 1,367 long tons approximately.

Apart from invoices Exhibits C8 to C14 (Second Batch), I do not accept the figures given by Messrs. N.K.H.C. since they did not tally with my measurements.

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The total tonnage supplied according to Malayawata in Exhibit C is 1,429 long tons. Even assuming that all the 1,367 long tons of steel found after the termination of the contract came from Malayawata, there was a shortage of 62 long tons of steel.

Out of the total of 1,367 long tons incorporated

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(Continued)

and unincorporated, not all the steel could come from Malayawata.

Malayawata could only supply the market with bars size Nos. 3 to 9. In the Radio House project, we need size Nos. 2 to 11.

Exhibit C only shows sizes 3 to 9.

Out of the 1,367 long bars incorporated and unincorporated steel, approximately 501 long tons should belong to other manufacturers because of the sizes. This means that the maximum steel that could have come from Malayawata is 866 long tons. The approximate value would be \$320,420/- at \$370/- per ton. Malayawata has been paid \$311,372.00.

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HEARING resumed after 10 minutes.

Continued cross-examination:

The figure of \$320,420/- is the gross value. The nett value is \$329,364/- i.e. plus costs of labour and workmanship.

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The used or incorporated steel is 466 long tons, valued at \$370/- per ton.

The 866 long tons of steel need not necessarily have come directly from Malayawata. They could have been bought by Messrs. N.K.H.C. from other suppliers from Malayawata. It is probable. From my experience, this has been the practice of contractors. In fact Messrs. N.K.H.C. bought steel even from Japan. The price of steel varies according to the discount given by the supplier. Malayawata steel need not necessarily cost the same.

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If the value of alleged steel which have been supplied by Malayawata is \$526,990.64, under the terms of the contract, J.K.R. would have paid 67½% of it. That would amount to \$355,718.69.

The amount claimed by Plaintiffs is \$215,618.64. 67½% of this would come to \$145,542.59.

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\$355,718.69 less \$145,542.59 comes to \$210,176.10. We have now paid \$311,372.00.

Taking the deductions as provided in the contract into account and the amount already paid, the amount due to Plaintiffs, if there has been an assignment, would be \$44,346.69.

I only paid according to the amount of steel found on site. This is in accordance with terms in the contract. The contract does not mention about the invoices as being the proof of quantity of steel delivered to J.K.R.

The invoices in Exhibit C were supplied to J.K.R. merely for assisting us to make a valuation for the progress payment. Exhibit C does not form part of contract. It is never intended by J.K.R. and Messrs. N.K.H.C. that in the event of conflict in quantity, Exhibit C should prevail. Neither is it mentioned in the contract that the correspondence between Messrs. N.K.H.C. and Plaintiffs to J.K.R. as proof of steel supplied. As far as J.K.R. is concerned, the correspondence as regards quantity is irrelevant.

In Exhibit C pages 8 to 14 tally with my measurements. The steel Exhibits C8 to C14 appeared to have been sent to the site.

Pages 1 to 7 of Exhibit C do not tally with my figures, although except for page 5 under "Remarks Column" the steel was stated to have been sent to Radio House site. Apart from Exhibits C8 to C14, I cannot say whether the steel has in fact gone to the site.

Beside Radio House project, Messrs. N.K.H.C. was involved in other contracts. He could be buying the steel from Malayawata for his other projects. I have personal knowledge that at that time Messrs. N.K.H.C. was doing the Subang Golf Club. Although the invoices say that the steel was meant for Radio House project, Messrs. N.K.H.C. might have used it for other projects. Exhibit C is no proof at all that J.K.R. received the steel as stated therein.

COURT adjourned to 2.30 p.m.

Continued cross-examination by Enche Razak:

I know the site. During the day, there would be somebody from J.K.R. to record all materials brought to the site. He would not know where the materials came from. He only worked during day time.

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Cross-examination

(Continued)

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(Continued)

There was also the contractor's watchman at the site during day and night. At night, there was nothing to stop the contractor from taking materials out without being detected by J.K.R.

We understood that we were to pay any money due to Messrs. N.K.H.C. to Malayawata if so instructed by Messrs. N.K.H.C. We would pay any money due to Messrs. N.K.H.C. - not necessarily money arising out of steel bars. We had been paying Malayawata on that basis all the time. At times there have been payments made in respect of work done by Messrs. N.K.H.C. to Malayawata.

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I have nothing to do with Plaintiffs. I only deal with Messrs. N.K.H.C.

There was only one instance where I dealt with Malayawata. (Page 27 Exhibit A identified). I sent a copy of the letter to Malayawata. I told Messrs. N.K.H.C. to pay Malayawata as if Malayawata was entitled to the \$109,920/-. The letter was written under the following circumstances. At first I made all money due under Progress Payment No. 7 in favour of Messrs. N.K.H.C. (Page 10 Exhibit D identified). Before the payment could be effectively paid to Messrs. N.K.H.C. Tan Sri Syed Albar came to see Mr. Lawrence Chin - the Assistant Director Quantity Surveying. He is now dead. At that time he was my superior officer. They had a discussion. I was called into the room and I was asked about 7th Progress Payment. At that time I had already prepared the 7th Progress Payment. (Page 9 Exhibit D identified). It was at the request of Tan Sri Syed Albar that I split the figure of \$109,920/- as being due to Malayawata. I did this out of courtesy to him. That was the only occasion I departed from my usual arrangement to pay on the instruction of Messrs. N.K.H.C. and not to instruct Messrs. N.K.H.C. to pay Malayawata. Tan Sri Syed Albar never told me that Messrs. N.K.H.C. has assigned their rights to the money to the Plaintiffs. He never threatened to take any action if J.K.R. failed to pay the money to Malayawata.

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(Letter page 20 Exhibit A shown to witness).

This letter was sent much earlier than the meeting with Tan Sri Syed Albar.

I was surprised to get this letter (20A) in respect of paragraph 2, because earlier when Ng Kong Hooi and his representative and I went to the site to make assessment for progress payment No. 4, he told me to pay the whole fourth progress payment to Malayawata. But para 2 of the letter was entirely different from what he had told me earlier. Since I ceased getting verbal instruction from Messrs. N.K.H.C. I insisted on written instruction.

(Page 55 Exhibit A shown to witness).

I wrote this letter to Messrs. N.K.H.C. dated 14.6.1969. This was before the contract was terminated.

On 8.8.1968, when J.K.R. entered into the arrangement with Messrs. N.K.H.C. (see page 18 Exhibit A) the financial position of Messrs. N.K.H.C. was not good. Messrs. N.K.H.C. had been changing their account from bank to bank. He had four different banks at various times during the course of this arrangement. At that time I suspected that he was over-drawing on certain banks.

(Page 45 Exhibit D shown to witness).

This letter dated 23.7.1969 has nothing to do with the arrangement. Nor this letter dated 31.10.1969. (Refers to page 62 Exhibit E).

Messrs. N.K.H.C. sent J.K.R. a copy of the letter dated 2.7.1968. (Page 36 Exhibit A). I am aware of this letter. This was before the arrangement. There was a suggestion that J.K.R. provide guarantee of 90 days credit. This suggestion was passed to my superior Mr. Lawrence Chin. He disagreed with the suggestion. Instead he agreed to the alternative arrangement which is now in dispute. This is the letter dated 26.7.1968 sent by Mr. Lawrence Chin to the Treasury. (By consent, letter produced and marked Exhibit D6).

All those payments made to Plaintiffs were made after inspection on the site with representative of Messrs. N.K.H.C. and after receiving instruction from Messrs. N.K.H.C. Except for one occasion, the other instructions from Messrs. N.K.H.C. were written.

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(Continued)

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Re-examination

Re-examination:

The J.K.R. man who was on duty during the day at the site was under the Resident Engineer or Architect. The Resident Architect was the agent of J.K.R. Messrs. K.J. Pappas & Associates, Petaling Jaya, were employed by J.K.R. for this project as resident architects.

By sizes 3 to 9, I mean from 3/8 of an inch diameter; 9 means 9/8" in diameter. I classify the steel bars according to their diameter. At that time Malayawata was manufacturing deformed steel bars of diameter 3/8, 1/2, 5/8, 3/4, 7/8, 1 and 1/8 inch.

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I have seen the site diaries (Exhibit P3 A & B).

At page 2 of Exhibit P3B - 3/8" - it is possible that the steel bars were manufactured by Malayawata. I agree that all the steel mentioned in Exhibit P3A & B could have been manufactured by Malayawata.

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Enche Razak through Court:

I cannot say who supplied the steel bars in Exhibit P3 A & B. I cannot say whether they came direct from Malayawata or through other suppliers.

Mr. Cheah through Court:

Radio House project has not been completed 100%.

BY COURT: Nil.

CASE FOR PLAINTIFFS.

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Enche Razak says that he is not calling any evidence. Will rest his case on submission.

By consent -

Enche Razak will submit his written submission on or before 18.7.1972.

Mr. Henry Cheah will submit his written submission within one week of receipt of Enche

Razak's written submission.

Reply to be submitted within one week of receipt by Enche Razak of Mr. Henry Cheah's written submission.

COURT:

10 Case adjourned to a date to be fixed by S.A.R.

Sd. Mohd Azmi

JUDGE
HIGH COURT
KUALA LUMPUR

Certified true copy

Sgd.

20 Secretary to Judge
Kuala Lumpur
11/June/72

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Re-examination

(Continued)

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IN MALAYA

No. 5.

JUDGMENT OF MOHD AZMI J.

No. 5

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

Judgment of
Mohd Azmi J.
13th July 1974

CIVIL SUIT NO. 2263 OF 1969

Between

Malayawata Steel Bhd

Plaintiffs

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And

1. The Government of the
Federation of Malaysia

2. Official Assignee,
Federation of Malaya
of the property of
Ng Kong Hooi

Defendants

GROUND OF JUDGMENT OF MOHD.
AZMI J.

This is a claim by Malayawata Steel Berhad against the Government of Malaysia and the Official Assignee for the sum of \$215,618.64 being the balance of payment due for the supply of steel to Ng Kong Hooi Construction (hereinafter referred to as "NKHC") for the Radio House project at Bukit Putri, Kuala Lumpur. Malayawata's claim is based on an equitable assignment alleged to have been made in their favour with NKHC as assignor and the Government of Malaysia as the debtor.

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From the evidence adduced in this case, I find the following facts have been established. By a written contract dated January 18, 1967, NKHC undertook to construct for the Government of Malaysia a broadcasting centre comprising a Radio House, two office towers and a large auditorium at Bukit Putri, Kuala Lumpur, for the sum of \$7,870,013.95 (Exhibit D1). By exchange of letters dated June 25, July 2 and July 25, 1968, NKHC entered into an agreement with Malayawata under which the latter was to supply steel bars of various sizes for the construction of the Radio House project. (See Exhibits A10, A11 and A13). The terms of payment for the supply of the steel bars were by way of irrevocable 120 days Letter of Credit

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or by J.K.R. guarantee with 90 days credit. Eventually, these terms of payment were modified by the parties vide correspondence dated July 20, August 8 and August 10, 1968. (See Exhibits A19, A17, A18 and A16). It seems to me that this modification in the terms of payment forms the principal source of the present dispute. Malayawata allege that this final arrangement as to payment constitutes an equitable assignment whereby they become the assignee of monies due from the Government to NKHC in respect of steel supplied for the Radio House project, but the Government refutes this allegation. It is the Government's contention that there was merely an arrangement to make deductions from the progress payments due to NKHC as instructed by NKHC from time to time. To continue with the story, the firm of NKHC, of which Mr. Ng Kong Hooi is the sole proprietor, got into financial difficulties and in October 1969 Malayawata sued Mr. Ng by specially indorsed writ for the sum of \$211,618.64, which was inclusive of the present claim vide Kuala Lumpur High Court Civil Suit No. 1797 of 1969 being the balance due in respect of steel bars supplied as at September 30, 1969. But before the case was ready for trial, on the petition of Jardine Waugh (M) Sdn. Bhd., Mr. Ng trading as NKHC was adjudged a bankrupt on March 30, 1970 vide Bankruptcy Petition No. 231 of the same year. Hence, the Official Assignee of Malaysia is brought in as a second defendant in the present proceedings to enable the Court to adjudicate completely and finally the dispute between the parties.

Briefly, the case of Malayawata is that between August 9, 1968 and October 25, 1969 they supplied NKHC with 1,429.939 long tons of steel valued at \$526,990.64 for the construction of the Government Radio House at Kuala Lumpur. Since a total sum of \$311,372/- has already been paid, there is now a balance of \$215,618.64 due which is the subject-matter of the present claim. Although the contract for the supply of steel was made by Malayawata with NKHC, it is pleaded that by letter dated July 30, 1968 (Exhibit A17), NKHC informed and authorised the Public Works Department to make direct payments to Malayawata for the amount of steel supplied from the progress payments due to NKHC by the P.W.D. in consideration of the contract made between Malayawata and NKHC. It is alleged that the said arrangement constitutes an equitable assignment in favour of Malayawata of all payments due to NKHC by the Government in respect of steel supplied. It is further alleged that, since the P.W.D. on behalf of the Government had by letter dated August 8,

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(Continued)

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1968 (Exhibit A18) acknowledged the said assignment and did make seven separate payments direct to Malayawata totalling \$311,372/- between October 24, 1968 and October 1969, the Government is therefore liable to pay over to Malayawata the balance sum of \$215,618.64 still due to NKHC.

In the Amended Statement of Defence, the Government of Malaysia denies that there was an equitable assignment of all or any payments due to NKHC. It denies that the letter of August 8, 1969 (Exhibit A18) was an acknowledgment or confirmation of the alleged assignment. Regarding the seven payments to Malayawata, it is averred that the first four payments and the last payment were effected pursuant to an arrangement between the P.W.D. and NKHC, under which deductions were made from the progress payments due to NKHC and paid over to Malayawata from time to time as and when instructed by NKHC. The Government denies making the fifth and sixth payments in July and September 1969 and says that they were in fact paid by NKHC direct to Malayawata. It is therefore denied that such arrangement constitutes an equitable assignment of all or any payments due to NKHC and, as such, it is NKHC and not the Government who should be liable to Malayawata for whatever balance sum still due. The Government further pleads that even if there was an equitable assignment -

- (a) Malayawata by their conduct and/or action are estopped from claiming equitable assignment, or are estopped from alleging that there was failure to comply with the terms of the assignment, and that in any event, the assignment was terminated on or before October 17, 1969, i.e. from the date when they filed the writ against NKHC for the recovery of the balance due;
- (b) the equitable assignment is severable and existed only whenever the Government was instructed by NKHC from time to time to pay Malayawata from the progress payment due;
- (c) the purported assignment was in breach of the terms of the contract between NKHC and the Government and to the extent of such breach, Malayawata's claim against the Government is invalid

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and barred.

IN THE HIGH COURT
IN MALAYA

There are two agreed issues in this case.
They are :-

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(Continued)

- 10 (1) Whether Malayawata supplied steel to NKHC for the construction of the Radio House and, if so, what was the quantity supplied and its value.
- (2) Whether there was an assignment by NKHC to Malayawata in respect of all payments for steel delivered on the work site at the Radio House.

20 For the purpose of convenience, I intend to deal with the second issue first. The law on equitable assignments is set out in Halsbury's Laws of England, Volume 14, Third Edition, from page 574. It is provided that in equity assignments are permitted both of contingent interests in real and leasehold estate and of choses in action. As regards choses in action, Halsbury has this to say at paragraph 1068:

30 "To constitute an equitable assignment of a chose in action no particular form of words is required; an engagement or direction by a debtor to pay out of a specified debt or fund constitutes an equitable assignment, though it does not operate as an assignment of the whole fund or debt. A mere charge on a fund or debt operates as a partial equitable assignment. Notice to the person owing the debt, or to the holder of the fund, is not necessary to complete the title of the assignee; but if he omits to give such notice, a subsequent assignee, who took without notice of the first charge, may, by giving notice, obtain priority over him."

40 It seems to me that there are three main ingredients of equitable assignments - an adequate mode, clear intention, and intimation to either debtor or assignee. As regards mode and form of assignment, no form of words is required for an equitable assignment. (See William Brand'ts Sons & Co. v. Dunlop Rubber Co. (1) and Durham Brothers v. Robertson (2). The assignment may be by word of mouth unless writing is required by law. As regards intention, it is necessary for the assignor to use

(1) (1904-7) A.E.R. 345 Rep.

(2) (1898) 1 Q.B. 765 C.A. @ 769.

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such word so as to make the meaning plain. With regard to the last ingredient, the intimation to assign must be addressed either to the debtor or the assignee. Notice to the person owing the debt or to the holder of the fund is not necessary to complete the title of the assignee, but if he omits to give such notice, a subsequent assignee who took without notice of the first charge, may, by giving notice obtain priority over him. Thus, once these three ingredients are fulfilled, then there is an enforceable equitable assignment provided it is not contrary to public policy or does not conflict with basic equitable principles or contravenes the provisions of a statute. On the requirement of consideration, it depends on whether the disposition amounts to an absolute equitable assignment or it merely gives a charge on the property. In the former case, the entire interest of the assignor in the chose in action is for the time being transferred unconditionally to the assignee and placed completely under his control. In short, the assignee is put in the place of the assignor, in which case no consideration is necessary, and the assignment is good though voluntary. But in the latter case, the assignment operates by way of contract and requires a valuable consideration to support it, even though the consideration for the assignment is in respect of property to be afterwards acquired by the assignor. Therefore, the effect of an equitable assignment, and the extent to which consideration is required before it is upheld, depend to some extent upon the nature of the assignment as well as upon its subject-matter. A necessary distinction in this connection is that between absolute and non-absolute equitable assignments, the latter category includes conditional equitable assignments. It is also important to distinguish an absolute equitable assignment from an equitable assignment by way of charge only. Further, an assignment may not be treated as absolute if the assignor retains any beneficial interest in the subject-matter of the chose in action assigned, or if the extent of what is assigned can be determined only upon an enquiry as to the state of accounts between the parties concerned. By contrast with an absolute assignment, a conditional assignment is one which is to become operative or ceases to be operative upon the happening of a certain event, and it is a useful test of this conditional nature that the person subject to the debt or liability in question (in the present case

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the Government) must necessarily be concerned with the state of accounts between the assignor and assignee before he deems himself justified in paying or requiring the assignee.

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(Continued)

10 Based on the above proposition of the law on equitable assignment, it is necessary in this case to determine not only whether there is equitable assignment but also its nature. On the first matter, Malayawata should establish that the three prerequisites have been fulfilled. For this purpose, it is essential to consider the evidence in some detail as to the terms and mode of payments for the steel bars. From the evidence of Mr. Khoo Soo Pin, the Business Department Manager of Malayawata (P.W.1) it is admitted under cross-examination that the correspondence as contained in Exhibits A19, A17, A18 and A16 constitute the framework of the arrangement between the P.W.D. on behalf of the Government, NKHC and Malayawata, but the manner in which the arrangement is to operate is explained in Exhibits A20 and A22. The question to be determined is whether these correspondence are sufficient to fulfil the incidence of equitable assignment. As stated earlier on, originally the terms of payment for the steel as between NKHC and Malayawata was either by irrevocable Letter of Credit or by P.W.D. guarantee. Subsequently, instead of by P.W.D. guarantee, it was agreed between NKHC and Malayawata that for payments of steel supplied NKHC should authorise P.W.D. to deduct the amount from progress payment due to NKHC and for the P.W.D. to make direct payment to Malayawata. Pursuant to this final arrangement, NKHC wrote Exhibit A17 to P.W.D. with copies to Malayawata office both in Kuala Lumpur and Butterworth. The second paragraph of the letter reads:

40 "In this connection, we hereby agree to authorise the P.W.D. to deduct from our progress payment and make direct payment to Malayawata Steel Berhad on the amount of steel supplied for the above project. We would like to have your written confirmation with a copy to Malayawata Steel Berhad that the P.W.D. can arrange the above."

The request to pay Malayawata direct was approved by the Treasury and the approval was conveyed by P.W.D. to NKHC and Malayawata vide Exhibit A18.

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Paragraph 2 of this letter reads:

"Your request has been considered by the Treasury and has been approved. However, please note that for purpose of progress payments, the deformed steel bars (whether as unfixed materials on site or incorporated in the works) will be valued in accordance with the conditions of contract. To assist the Quantity Surveyor in assessing the quantities of steel brought on to the site, please arrange for copies of Malayawata's delivery notes of the steel to be sent to this Office."

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In the present case, it is my view that for Malayawata to succeed, there must be evidence to establish not only the existence of equitable assignment in respect of value of steel supplied for the Radio House project out of NKHC's progress payments due from the Government, but also that that equitable assignment is not unconditional or non-absolute. From the above correspondence, it is clear that the three prerequisites of equitable assignment have been established, and that the consideration for the assignment is the supply of steel to NKHC. However, it is equally clear that it is within the knowledge of all parties in this case that the assignment is subject to certain conditions and is not intended to be absolute. As stated by Halsbury at paragraph 1068, a direction to pay out of a specified debt or fund constitutes an equitable assignment, though it does not operate as an assignment of the whole fund or debt. From Exhibits A20 and A22, it is my finding that the manner in which the assignment was to operate is such that the equitable assignment is not for the whole progress payments due to NKHC under the terms and conditions of the building contract with the Government. In my view, the assignment is conditional and non-absolute. It is also severable and becomes enforceable only on an ad hoc basis whenever the P.W.D. was instructed by NKHC from time to time to make the payment direct. The framework of the assignment is that P.W.D. would on behalf of NKHC pay direct to Malayawata subject, firstly, to the condition

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that for the purpose of computing progress payment due to NKHC, all steel bars would be valued in accordance with the conditions of contract between NKHC and the Government, and the second condition is that to assist the Government Quantity Surveyor in assessing the quantity of steel delivered at the work-site, copies of Malayawata's delivery notes or invoices should be sent to P.W.D. In the words of Mr. Khoo Soo Pin - a witness called by Malayawata, "NKHC had to certify the steel covered by our invoices is correct and thereby recommend to J.K.R. for payment". The first direct payment to Malayawata amounting to \$108,767/- was made by the P.W.D. some time in October 1968 as reflected in the schedule marked 'A' annexed to the Amended Statement of Claim. In my view, this sum constitutes a payment under the first ad hoc assignment. This finding is supported by what is stated in the final paragraph of Exhibit A20 and confirmed by Malayawata in Exhibit A22. To my mind, the effect of this correspondence is that as from September 18, 1968 -

(i) both the original and duplicate invoices should be submitted by Malayawata to NKHC, and only after they have been checked and verified that NKHC will forward the duplicate invoices to P.W.D.;

(ii) when forwarding the duplicate copy of the invoices, NKHC should also indicate to the P.W.D. the amount to be deducted from its progress payment and a copy of such instruction should be sent to Malayawata.

From that date, it becomes crystal clear that the assignment is conditional and severable, and NKHC the assignor is given the authority not only to decide when the money should be paid but also the amount to be assigned at a particular time out of the progress payments. This is consistent with the fact that out of fifteen progress payments due to NKHC, only five of them, namely, the fourth, eighth, tenth, eleventh and fifteenth progress payments were paid direct to Malayawata on the instruction of NKHC. (See Exhibit D page 1; Exhibit E page 57; Exhibit D page 30; Exhibit E page 59 and Exhibit P4). If it is the intention of the parties to make absolute assignment of all NKHC's rights to Malayawata, then there is no necessity to reserve to NKHC the power to direct P.W.D. as to the amount to be deducted from each progress payment. As it stands,

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13th July 1974

(Continued)

for every payment, the P.W.D. must first receive instructions from NKHC as to the amount to be released to Malayawata. I find this position must be within the knowledge of all parties concerned since each party was in receipt of every relevant correspondence. Thus, from the letters sent by Malayawata to NKHC dated January 28 and March 1, 1969 (Exhibits A41 and A45), it can reasonably be inferred that ad hoc or severable assignment must have been agreed to by Malayawata. In Exhibit A45, in denying NKHC's contention that the arrangement constitutes a guarantee, Malayawata even went to the extent of saying that, "Your authority to the J.K.R. to deduct the amount due to us from any interim payment due to us does not constitute a guarantee as the J.K.R. do not underwrite your debt". In the last paragraph of the same letter, Malayawata also state:

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"We believe that you have requested the J.K.R. to make another payment to us in March, and we look forward to receiving this payment. Please advise what the sum is likely to be."

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There is therefore ample evidence that all the parties concerned acknowledged NKHC's right to give instruction to P.W.D. and to determine the amount to be assigned to Malayawata from any progress payment under the building contract, and as such Malayawata are estopped from saying that there has been a breach of the terms of the assignment. Since every payment by P.W.D. to Malayawata is subject to instruction from NKHC, it is small wonder that in none of the correspondence Malayawata can be said to have claimed to be an assignee of all progress payments due to NKHC under the building contract with the Government. Under the circumstances, if no instruction is forthcoming from NKHC as to the amount to be released from each progress payment, I do not think the Government can be held to be under any obligation to make payment to Malayawata. It may be argued that there were no such conditions to the assignment, since the first payment of \$108,767/- to Malayawata in October 1968 was made without the apparent instruction of NKHC. This is not really so. It should be noted that this payment was made only after NKHC had written to Malayawata on September 13, 1968 with a copy to

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P.W.D. stating that in that particular instance it would not object to the payment although Malayawata had sent the duplicate invoices direct to P.W.D. instead of through NKHC. (See Exhibit A20). I therefore hold that the equitable assignment in respect of the present claim is conditional and non-absolute, and on the facts it is not enforceable and the claim should accordingly be dismissed.

IN THE HIGH COURT
IN MALAYA

No. 5

Judgment of
Mohd Azmi J.
13th July 1974

(Continued)

10 The present claim must also fail on account of Malayawata's conduct after they came to know that the P.W.D. had on two occasions made payment to NKHC instead of to themselves. The first payment of \$109,920 was made on December 19, 1968, and the second payment of \$203,220/- was made in February 1969. (See Exhibits A28 and A48 respectively). It is true that the first payment was an oversight on the part of the P.W.D. but if there had been an absolute equitable assignment, both payments would clearly constitute a breach of the terms of the assignment and one would have expected Malayawata to query P.W.D. or take action against the Govern-
20 ment in view of the large sums involved. Instead, it is significant to note that on October 17, 1968, i.e. subsequent to the two payments, Malayawata brought a claim against NKHC for the sum of \$221,618.64 being money due for steel supplied as at September 30, 1969 vide Kuala Lumpur High Court Civil Suit No. 1797 of 1969. If there had been an absolute equitable assignment, I hold that by
30 Malayawata's conduct the said assignment was terminated or impliedly waived from the date of the filing of the specially indorsed writ. The conduct of Malayawata is not consistent with a claim that the arrangement as to the terms of payment between the parties constitutes an absolute equitable assignment. From the evidence, I find the assignment in the present case is not only conditional but also severable and, therefore, the present claim must necessarily fail. It is also
40 significant to note that Malayawata's claim as assignee of the amount due was only brought up after Mr. Ng, the sole proprietor of NKHC, had been adjudged bankrupt on March 30, 1970. In all the circumstances of the case, I find Malayawata have so conducted themselves that there is an implied waiver and that it becomes inequitable for the Court to enforce the equitable assignment, whatever may be the nature of such assignment.

As regards the seven payments referred to in

IN THE HIGH COURT
IN MALAYA

No. 5

Judgment of
Mohd Azmi J.
13th July 1974

(Continued)

paragraph 7 of the Amended Statement of Claim, P.W.1. agrees under cross-examination that the fifth and sixth payments of \$1,500/- each were in fact made by NKHC and not by the P.W.D. I therefore accept the contention of Government that the first four payments and the last payment were made by P.W.D. on the specific instruction of NKHC. Malayawata's allegation in the pleadings that all the seven payments totalling \$311,372/- were made by P.W.D. on behalf of the Government pursuant to the alleged equitable assignment cannot, therefore, be sustained by the evidence. For reasons already stated, those five direct payments by P.W.D. to Malayawata should be construed as payments made under severable and conditional equitable assignments.

10

In view of my conclusion, it is unnecessary for me to consider the defence contention that the purported assignment was in breach of clause 34(b) (iii) of the building contract between NKHC and the Government which prohibits any assignment without permission. Suffice for me to say that if absolute equitable assignment had been proved, I do not think this defence could succeed having regard to the fact that the P.W.D. and the Treasury were well aware of the correspondence regarding the assignment, and, as such, even if there was such a breach, it had been waived by implication.

20

On the first agreed issue, there can be no doubt that Malayawata did supply deformed steel bars to NKHC for the construction of the Radio House. The difficulty in this case is to ascertain the quantity actually supplied for the project and its value. The determination of this question is important in view of the principle that all assignments are subject to equities, and in equitable assignment an assignee cannot possibly have more right than the assignor against the debtor or fundholder. In the present case, it means that the Government is liable to pay Malayawata, if any, only what it is bound to pay NKHC under the building contract. Under clause 38 of the said contract, NKHC is entitled to be paid in addition to work done, in respect of materials and things properly supplied and stored upon the site. Therefore, I hold that even if absolute equitable assignment is proved, the Government is only liable for the value of Malayawata's steel actually brought onto the Radio House worksite, and the burden of proof on this particular issue is clearly on Malayawata. As

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contained in Exhibit C and the other documentary exhibits, the price depends on the various sizes of the steel bars. The evidence adduced by the plaintiffs have produced three different sets of figures as to the total quantity of steel for which they say the Government is bound to pay. The first figure is based on the invoices as contained in Exhibit C and on Exhibits A24, A25, A33 and A35. These exhibits show that 1429.99 long tons of steel were supplied in four batches by Malayawata to NKHC valued at \$526,990.64 between November 9, 1968 and January 16, 1969. The second figure is given by P.W.2, the P.W.D. Chartered Quantity Surveyor who, under cross-examination, gave the figure of 1,367 long tons and eventually changed it to 866 long tons. The third figure is based on the site diary of the Radio House project (Exhibit P3 A & B).

IN THE HIGH COURT
IN MALAYA

No. 5

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Mohd Azmi J.
13th July 1974

(Continued)

As regards Exhibit C, both P.W.1, the Business Manager of Malayawata, and P.W.2, the P.W.D. Chartered Quantity Surveyor, have admitted in evidence that those invoices do not show how much of the steel supplied to NKHC was in fact delivered at the Radio House site. On this issue, I place more reliance on Malayawata's invoices (Exhibit C) than the letters written by NKHC as contained in Exhibits A24, A25, A33 and A35 for the simple reason that it was Malayawata's men who brought the steel bars onto the Radio House site. Very few of the invoices in Exhibit C show that the steel was delivered to the site. Other than the invoices at pages 1, 2, 3, 4, 6 and 7, all the other invoices do not state under the "Remarks" column that the steel bars were supplied at the Radio House site. P.W.1. in his testimony agrees that during that material period NKHC was undertaking other projects and P.W.2. also testifies that at that time NKHC was also the contractor for the construction of the Subang Golf Club. It is therefore highly probable that NKHC had used substantial portion of the steel supplied for its other projects and, as such, the Government should not be liable for the value of all the steel as disclosed in Exhibit C. In my view, the invoices in Exhibit C merely show the amount of steel brought by NKHC, but they do not prove how much of the steel bought were actually delivered at the worksite for the use of the Radio House project. With regard to the P.W.D. Chartered Quantity Surveyor, who is a witness called by the plaintiff, his evidence does

IN THE HIGH COURT
IN MALAYA

No. 5

Judgment of
Mohd Azmi J.
13th July 1974

(Continued)

not support the figure claimed by Malayawata. In his testimony, he states that certain dimension of steel bars found on the site were not required for the Radio House project, and those that were required some did not come from Malayawata since Malayawata only produced certain dimensions of steel at that time. He also states that when the contract with NKHC was terminated and a new contract was awarded to Syarikat Pembinaan Raya Sendirian Berhad to complete the project on November 27, 1969, the total amount of steel found on site and incorporated was only 1,366.98 long tons, that is to say, less by 62.959 long tons than the figure claimed by Malayawata. Out of 1366.98 long tons of steel incorporated and unincorporated, not all the steel could have come from Malayawata. Based on the sizes of steel bars, P.W.2 says under cross-examination, only 866 long tons could have come from Malayawata. In short, instead of 1429.939 tons worth of steel, the Government merely received 866 tons. There is, therefore, a shortage of 563 tons. Even accepting the price of the steel at a flat rate of \$370/- per long ton irrespective of its different sizes, the value of 866 long tons of steel would come to \$320,420/-. Since Malayawata have been paid a total sum of \$311,372/-, it seems to me that at the most, only a sum of \$9,045/- and not \$215,618.64 is due from the Government to Malayawata, even if the equitable assignment is enforceable. To complicate matters, there is the evidence of the site diary which contains a different set of figures regarding steel supplied on site.

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From the above conflicting evidence adduced on behalf of the plaintiffs, it is clear that the total quantity of steel supplied by Malayawata for the construction of the Radio House at Bukit Putri cannot be properly ascertained. It is not the duty of the Court to speculate on the actual worth of steel supplied by Malayawata and received by the Government. In the event, I hold that Malayawata have failed to prove what is the actual quantity of steel supplied and its value. In my considered opinion, even if Malayawata had been successful in proving that the equitable assignment is enforceable in that it is not conditional, or not non-absolute, or not severable, the present claim would still fail in view of the unsatisfactory evidence as to the amount of steel supplied and its value.

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For the above reasons, I dismiss the plaintiffs' claim with costs.

IN THE HIGH COURT
IN MALAYA

Sd. Mohd. Azmi

No. 5

JUDGE
HIGH COURT
KUALA LUMPUR

Judgment of
Mohd Azmi J.
13th July 1974

Kuala Lumpur
July 13, 1974.

(Continued)

10 Mr. Henry Cheah of M/s Allen & Gledhill for
plaintiffs.

Encik Abdul Razak bin Dato Abu Samah, Senior
Federal Counsel, for 1st defendant.

Authorities cited but not mentioned in Judgment:

- (1) Re Steel Wing Co., Ltd.,
(1920) A.E.R. 292 Rep.
- (2) Walter & Sullivan, Ltd. v. J. Murphy & Sons,
Ltd., (1955) 1 A.E.R. 843.
- (3) Hughes v. Pump House Hotel Co., Ltd.,
(1902) 2 K.B. 190.
- 20 (4) Cator v. Croydon Canal Company,
160 E.R. 1149
- (5) Williams v. Atlantic Assurance Company,
148 L.T. 313.
- (6) Percival v. Dunn,
(1885) 29 Ch.D. 128.
- (7) Palmer v. Carey,
(1926) A.C. 706.
- (8) Howell v. Falmouth Boat Construction Co.Ltd.,
(1951) A.C. 837.
- 30 (9) Robertson v. Minister of Pensions,
(1949) 1 K.B. 227.

Certified true copy

Sgd.
Secretary to Judge, Kuala Lumpur.
31/Jne/74.

IN THE HIGH COURT
IN MALAYA

No. 6

ORDER

No. 6

Order
13th August 1974

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

CIVIL SUIT NO. 2263 OF 1969

Between

Malayawata Steel Berhad Plaintiffs

And

10

1. The Government of the Federation of Malaysia
2. Official Assignee, Federation of Malaysia, of the property of Ng Keng Hooi Defendants

BEFORE THE HONOURABLE MR. JUSTICE
MOHD. AZMI IN OPEN COURT

THIS 13TH DAY OF AUGUST, 1974.

O R D E R

20

THIS ACTION coming on for hearing on the 3rd and 4th days of July, 1972, in the presence of Mr Henry B.H. Cheah of counsel for the plaintiffs and Encik Abdul Razak bin Datuk Abu Samah Senior Federal Counsel appearing for and on behalf of the defendants AND UPON READING the pleadings herein AND UPON HEARING the arguments of counsel as aforesaid IT WAS ORDERED that this action do stand adjourned for judgment AND UPON THIS ACTION coming on for judgment this day in the presence of Mr. Roger Tan of counsel for the plaintiffs and Encik Arifin bin Jaka of counsel for the defendants IT IS ORDERED that the plaintiffs' claim be and is hereby dismissed AND IT IS ORDERED that the costs of this action be taxed and be paid by the plaintiffs.

30

GIVEN under my hand and the seal of this Court this 13th day of August, 1974.

Senior Assistant Registrar
High Court Malaya,
Kuala Lumpur.

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No. 7

IN THE FEDERAL
COURT

NOTICE OF APPEAL

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

No. 7

Notice of Appeal
26th July 1974

CIVIL APPEAL NO. OF 1974

Between

10 Malayawata Steel Berhad Appellants

And

1. The Government of the
Federation of Malaysia

2. Official Assignee,
Federation of Malaysia
of the property of
Ng Keng Hooi

Respondents

(in the matter of the Kuala Lumpur High Court
Civil Suit Nos. 2263 of 1969

20 Between

Malayawata Steel Berhad Plaintiffs

And

1. The Government of the
Federation of Malaysia

2. Official Assignee,
Federation of Malaysia,
of the property of
Ng Keng Hooi

Defendants)

NOTICE OF APPEAL

30 Take Notice that Malayawata Steel Berhad
being dissatisfied with the decision of the
Honourable Mr. Justice Mohd. Azmi given at Kuala
Lumpur on the 13th. day of July, 1974 appeals to
the Federal Court against the whole of the said
decision.

Dated this 26th day of July, 1974.

To: Sgd.
The Chief Registrar Solicitors for Appellants.
Federal Court, Kuala
40 Lumpur.

IN THE FEDERAL
COURT

No. 7

Notice of Appeal
26th July 1974

(Continued)

And To:

The Senior Assistant Registrar,
High Court,
Malaya.

And To:

The Government of the
Federation of Malaysia,
c/o Attorney-General Chambers,
Kuala Lumpur.

10

The Address for service on the Appellants
is care of M/s. Allen & Gledhill, Bangunan
UMBC, (24th Floor), Jalan Sulaiman, Kuala
Lumpur 01-33.

No. 8

IN THE FEDERAL
COURT

MEMORANDUM OF APPEAL

No. 8

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

Memorandum of
Appeal
30th September
1974

CIVIL APPEAL NO: 108 OF 1974

10

Between

Malayawata Steel Berhad

Appellants

And

1. The Government of the
Federation of Malaysia

2. Official Assignee,
Federation of Malaysia,
of the property of
Ng Keng Hooi

Respondents

(In the matter of the Kuala Lumpur High Court
Civil Suit Nos. 2263 of 1969

20

Between

Malayawata Steel Berhad

Plaintiffs

And

1. The Government of the
Federation of Malaysia

2. Official Assignee,
Federation of Malaysia,
of the property of
Ng Keng Hooi

Defendants)

30

MEMORANDUM OF APPEAL

Malayawata Steel Berhad, the Appellants
abovenamed, appeal against the whole decision of
the Honourable Mr. Justice Mohd. Azmi, given at
Kuala Lumpur on the 13th day of July, 1974 on the
following grounds :-

1. The Learned Judge after having held that there
was valuable consideration for the equitable
assignment failed to consider the enforceability of

IN THE FEDERAL
COURT

No. 8

Memorandum of
Appeal
30th September
1974

the equitable assignment and erred in law and in fact by holding that the equitable assignment is conditional and not absolute as the very nature of the enforceability of the equitable would not render it as such after the Appellants have supplied steel to the Contractor M/s. Ng Kong Hooi Construction and after the value of the steel supplied had been determined by the Quantity Surveyor of the Respondents.

(Continued)

2. The Learned Judge erred in law and in fact by holding that the said equitable assignment is also severable and would be enforceable only on an ad hoc basis. 10

3. The Learned Judge erred in law and in fact by holding that the said assignment is conditional and severable by basing his reasoning on the arrangements made between the Respondents and its Contractor M/s. Ng Kong Hooi Construction pertaining to the operation of their contractual obligation under the terms of their respective contract. 20

4. The Learned Judge erred in law and in fact by not holding that the arrangements made between the Respondents and its Contractor M/s. Ng Kong Hooi Construction pertaining to the measured value of steel brought on site would be of the nature of equities to which the equitable assignment would be subjected to and would not render the equitable assignment a conditional and severable assignment as such.

5. The Learned Judge erred in law and in fact by not holding that the various tasks to be performed by P.W.2. the Quantity Surveyor in relation to the assessment of the amount of progress payment to be made to the Contractor M/s. Ng Kong Hooi Construction purely relates to the administration of the contract between the Respondents and its said contractor and since there were no such terms imposed upon the equitable assignment the equitable assignment is therefore not conditional. 30

6. The Learned Judge erred in law and in fact by holding that subsequent arrangements between Appellants and M/s. Ng Kong Hooi Construction pertaining to the despatch of invoices by the Appellants to the M/s. Ng Kong Hooi Construction for verification by M/s. Ng Kong Hooi Construction would render the equitable assignment a conditional 40

and a severable assignment as this was purely an arrangement inter-se between the said parties not involving the Respondents which in no way had abrogated the equitable assignment.

IN THE FEDERAL
COURT

No. 8

7. The Learned Judge erred in law and in fact by holding that for every payment to be made by the Respondent to the Appellants the P.W.D. would have to be directed by M/s. Ng Kong Hooi Construction.

Memorandum of
Appeal
30th September
1974

10 8. The Learned Judge erred in law and in fact by not holding that the equitable assignment relates to the value to be placed on the amount of steel supplied by the Appellants to M/s. Ng Kong Hooi Construction and as such there would be a burden on the Respondents' part to value the quantity of steel supplied by way of exercising its right to set-off and/or its rights to establish that the equitable assignment would be subject to equities.

(Continued)

20 9. The Learned Judge erred in law and in fact by holding that the Appellants' claim against the Respondents in respect of equitable assignment was terminated or impliedly waived by the Appellants in having filed a separate claim against M/s. Ng Kong Hooi Construction for \$221,618.64 cts.

10. The Learned Judge failed to consider the fact that M/s. Ng Kong Hooi Construction would in any event upon being sued be deemed to be Trustee to the Appellants in respect of the sum of \$221,618.64 cts and as such M/s. Ng Kong Hooi Construction could be sued by the Appellants.

30 11. The Learned Judge erred in law and in fact by not holding that on account of the equitable assignment the Appellants have concurrent remedies to sue both the Respondents and M/s. Ng Kong Hooi Construction for the recovery of the sum of \$221,618.64 cts. when the Respondents have by oversight paid M/s. Ng Kong Hooi Construction the said sum notwithstanding the equitable assignment.

40 12. Having regard to the fact that the Respondents have paid M/s. Ng Kong Hooi Construction a sum of \$221,618.64 cts. in spite of the equitable assignment the Learned Judge erred in law and in fact by not holding that the said sum would constitute the value of the steel bars claimed under the equitable assignment that is the basis of the

IN THE FEDERAL
COURT

No. 8

Memorandum of
Appeal
30th September
1974

(Continued)

Appellants' claim.

13. The Learned Judge erred in law and in fact by holding that the Appellants have failed to prove what is the actual quantity of steel supplied and its value.

14. The Learned Judge erred in law and in fact by holding that of the total amount of steel bars obtained by M/s. Ng Kong Hooi Construction from the Appellants M/s. Ng Kong Hooi Construction had not used all the steel bars for the Respondents' Radio House Project.

10

Dated this 30th day of Sept 1974.

Sgd.
Appellants' Solicitors.

This Memorandum of Appeal is filed by M/s. Allen & Gledhill, Solicitors for the Appellants whose address for service is Bangunan UMBC, (24th Floor), Jalan Sulaiman, Kuala Lumpur.

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No. 9

IN THE FEDERAL COURT

JUDGMENT

No. 9

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT
KUALA LUMPUR

Judgment
29th June 1977

(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO. 108 OF 1974

10

Between

Malayawata Steel Berhad

Appellants

And

1. The Government of the
Federation of Malaysia

2. Official Assignee,
Federation of Malaysia,
of the property of
Ng Keng Hooi

Respondents

20

(In the matter of the Kuala Lumpur
High Court Civil Suits
Nos. 2263 of 1969

Between

Malayawata Steel Berhad

Plaintiffs

And

1. The Government of the
Federation of Malaysia

2. Official Assignee,
Federation of Malaysia,
of the property of
Ng Keng Hooi

30

Defendants)

Coram: Suffian, L.P.
Raja Azlan Shah, F.J.
Wan Suleiman, F.J.

JUDGMENT OF RAJA AZLAN SHAH, F.J.

The appellants supplied steel bars to the
builder, NKHC. The question on the appeal was

IN THE FEDERAL
COURT

No. 9

Judgment
29th June 1977

(Continued)

whether the arrangement contained in the letters of July 20, 1968, August 8 and 10, 1968 and September 13 and 18, 1968 made between NKHC, the appellants, and J.K.R. ("the respondents") was a valid equitable assignment by NKHC to the appellants of all monies due to NKHC from the respondents. If it was not, that was the end of the matter. If it was, then a further question arises as to the quantity of steel bars supplied and their value.

10

The circumstances under which this litigation arose were as follows. NKHC had contracted with the respondents to construct a Radio House, two office towers and a large auditorium at Bukit Putri, Kuala Lumpur, for the sum of MS/7,870,013.95. That contract was entered into in January 18, 1967. By exchange of letters dated June 25, July 2, and July 25, 1968 the appellants agreed to supply NKHC with steel bars and the terms of payment were by way of irrevocable 120 days letter of credit or by J.K.R. guarantee. These terms, which was the issue in the present dispute, were subsequently modified by the parties vide the exchange of letters.

20

On July 20, 1968 NKHC wrote to appellants "in respect of the term of payment for your above steel supply will be accepted if the P.W.D. is authorised to deduct the amount from our interim payment and made direct to you instead of a J.K.R. guarantee."

30

On the same day NKHC wrote to J.K.R. with a copy to appellants regarding the alternative arrangement of payment as agreed between NKHC and appellants: the letter reads, inter alia:

"In this connection, we hereby agree to authorize the P.W.D. to deduct from our progress payment and make direct payment to Malayawata Steel Berhad on the amount of steel supplied for the above project. We would like to have your written confirmation with a copy to Malayawata Steel Berhad that the P.W.D. can arrange the above."

40

J.K.R. replied in August 8, 1968, inter alia, as follows:

"2. Your request has been considered by

IN THE FEDERAL
COURT

No. 9

Judgment
29th June 1977

(Continued)

10 the Treasury and has been approved. However, please note that for purpose of progress payments, the deformed steel bars (whether as unfixed materials on site or incorporated in the works) will be valued in accordance with the conditions of contract. To assist the Quantity Surveyor in accessing the quantities of steel brought on to the site, please arrange for copies of Malayawata's delivery notes of the steel to be sent to this office."

On August 10, 1968 NKHC confirmed by letter to J.K.R. that they were agreeable to the J.K.R.'s suggestion contained in para. 2 above.

On September 13, 1968 NKHC again reminded the appellants of their new arrangement with regard to the method of payment. The final paragraph of the letter reads:

20 "We wish to draw your attention to the arrangement agreed between you and our Messrs. Lim and Ooi for you to forward all your Invoices to us for checking and verification first and thereafter we will forward your invoices together with our recommendation for payment to Jabatan Kerja Raya. Please therefore note that in future you should not forward any Invoices to Jabatan Kerja Raya direct but will follow the procedure as stated above so as to avoid referring back and forth as the most important thing is that all tonnage received must be checked and confirmed by us first."

30

The appellants confirmed the new arrangement vide their letter of September 18, 1968 to NKHC, which reads:

40 "We confirm we have agreed to this arrangement and are pleased to note that you have also promised to submit the duplicate invoices to the PWD as soon as you have completed the checking and will copy us the letter addressed to the PWD indicated therein the amount to be deducted from your progress payments."

NKHC were in financial difficulties and in October 8, 1969, the appellants sued them for a sum of \$211,618.64 (inclusive of the present claim) being balance due in respect of steel bars supplied

IN THE FEDERAL
COURT

No. 9

Judgment
29th June 1977

(Continued)

as at September 30, 1969 - vide K.L. High Court C.S. 1797/1969. Before the case got off the ground NKHC was made a bankrupt by Messrs. Jardine Waugh (M) Sdn. Bhd. in 1970. As a consequence, the 2nd respondent was brought in as a second defendant so that the court could adjudicate finally and conclusively the dispute between the parties in one action.

The learned trial judge held that the assignment was conditional and not absolute and on the facts it was not enforceable. He therefore dismissed the claim. The appellants appealed on the ground that it was a valid equitable assignment. 10

The learned trial judge in a painstaking judgment analysed the evidence and arrived at the view that it was within the knowledge of all parties that the assignment was subject to certain conditions and was not intended to be absolute. The framework of the arrangement, so the judge held, was that J.K.R. on behalf of NKHC would pay direct to appellants subject to the conditions, first, that for the purpose of computing progress payment, all steel bars would be valued in accordance with the conditions of contract between the government and NKHC, and, secondly, to assist the Government Quantity Surveyor in assessing the quantity of steel delivered at site, copies of appellants' delivery invoices should be sent to J.K.R. That would inevitably have involved reference to NKHC. This finding, the judge said, was substantiated by what was stated in the final paragraph of the letter of September 13, 1968 and confirmed by the appellants in their letter of September 18, 1968. He therefore held on the evidence that the parties acknowledged NKHC's right to give instruction to J.K.R. and to determine the amount to be deducted and paid to appellants. If it was the intention of the parties to make an absolute assignment, then there was no necessity to reserve to NKHC the power to direct J.K.R. as to the amount to be deducted from each progress payment. 20 30 40

I am prepared to accept, for the purposes of this judgment, the view that if what was clear as evinced by the new arrangement was to assign, to make over all the progress payments completely and absolutely to the appellants, they are entitled to

succeed. But it seems to me equally clear that whether the arrangements had that effect is a matter of the intention to be derived from that arrangement itself and the evidence of it. No rule can be laid down as to the form requisite for a valid equitable assignment. "The mode or form of assignment is absolutely immaterial provided the intention of the parties is clear": see Williams Brandt Sons & Co. v. Dunlop Rubber Co. (1)

IN THE FEDERAL
COURT

No. 9

Judgment
29th June 1977

(Continued)

10 The question therefore arises as to whether
the arrangement which as the learned judge held was
the framework of the assignment in the present
case was absolute and not conditional. What is
meant by a valid equitable assignment is well
illustrated in the judgments delivered in Re
McArdle's (2) case where the real issue was not
the law of consideration but the construction of
the instrument claimed to be an assignment. In
that case the appellant failed because the document
20 on which she relied was not complete. In the form
in which it was drafted, the executors (the holder
of the fund) "would not have been obliged to pay
that sum without taking proper steps to verify
that the workhad.....been done. That would
inevitably have involved reference to assignors."
Because of the requirement of reference to the
assignors the gift was not complete: they had a
locus poenitentiae. In Durham Bros. v. Robertson (3)
30 the assignment of a book debt was expressed to
endure until, and only until, money lent by the
assignee to the assignor was repaid. This was held
to be a conditional assignment. It did not transfer
the whole debt to the assignee unconditionally, but
only until the advances were repaid. The debtor
could not be sure that he was paying his debt to
the right person without knowing the state of
accounts between the assignor and the assignee.
He would in the end have to investigate their state
of accounts. But if the debtor knows and can find
40 out by simply looking at his own books to whom he
owes the debt the assignment is absolute and
complete. The distinction between these cases can
best be understood by looking at the situation from
the point of view of the debtor and assuming he wants
to pay the debt. Thus in Tancred v. Delagoa Bay and
East Africa Railway (4) a debt was assigned as

(1) (1905) A.C. 454, 462

(2) (1951) 1 A.E.R. 905

(3) (1898) 1 Q.B. 765

(4) (1889) 23 Q.B.D. 239

IN THE FEDERAL
COURT

No. 9

Judgment
29th June 1977

(Continued)

security for a loan of money with the proviso that if the assignor repaid the loan, the debt should be reassigned to him. That was held to be an absolute assignment. Although the assignment was subject to a condition, the debtor was not prejudiced. Firstly, he would receive notice of the assignments; secondly, he would also receive notice of the reassignment, if one was made, so that he would always be in a position to know to whom he owed the debt by simply looking at his own books.

10

Applying these principles to the present case, I take the view that the judgment of the learned judge must be affirmed. To satisfy the appellants' claim they must be able to find in the new arrangement an intention to assign the progress payments to them, so that the debtor (the respondents) might know how much they were justified in paying to the appellants. Looking at the arrangement as a whole, I think that it was not a clear and unconditional directive to pay the sum of money, but was conditional upon the need to refer the matter back to the assignor, i.e., the requirement that the respondents (the debtor) must ascertain from NKHC as to the state of accounts between NKHC and the appellants in order to verify the supply of steel that had been made. That being so, the arrangement was not absolute and therefore not a valid equitable assignment but merely a request to the respondents to pay the appellants. Such a request or authorisation did not give the appellants any rights against the respondents, and could be revoked by the creditor (NKHC). They had a locus poenitentiae. Thus in Ex parte Hall, In re Whitting (5) a landlord wrote to his tenant "authorising and requesting" him to pay the rent to the landlord's bank "to my credit for which I will accept their receipt as so much of your rent discharged." This was not an assignment, but only an authority to the tenant to pay the bank. In Coulls v. Bagot's Executor and Trustee Co. Ltd. (6) an agreement between A and B provided for payment of royalties by B to A and concluded: "I (A) authorise.....(B) to pay all money connected with this agreement to my wifeand myself....as joint tenants." The document was signed by A, B and A's wife. A majority of the High Court of Australia took the

20

30

40

(5) (1878) 10 Ch. D. 615
(6) (1967) A.L.R. 385

50

view that the agreement did not contain a promise by B to A to pay A's wife but only a mandate by A to B to pay A's wife. This mandate was revocable and had been revoked by A's death.

IN THE FEDERAL
COURT

No. 9

Judgment
29th June 1977

(Continued)

10

In the circumstances the learned judge was right when he said that the assignment was enforceable only on an ad hoc basis whenever the PWD was instructed by NKHC from time to time to make the payment direct and which was consistent with the fact that out of the fifteen progress payments due to NKHC, only five of them, namely, the fourth, eighth, tenth, eleventh and fifteenth progress payments were paid direct to the appellants on the instructions of NKHC. If it was the intention of the parties to make absolute assignment of all NKHC's rights to the appellants, then there was no necessity to reserve to NKHC the power to direct PWD as to the amount to be deducted from each progress payment. As matters stood, for every

20

payment, the PWD must first obtain instruction from NKHC as to the amount to be released to the appellants.

For my part I will dismiss the appeal with costs.

RAJA AZLAN SHAH
JUDGE,
FEDERAL COURT, MALAYSIA.

Kuala Lumpur.
29th June, 1977.

30

Counsel:

Encik Chin Yew Meng of Messrs. Allen & Gledhill,
Kuala Lumpur, for appellants.

Encik Fong Seng Yee, Senior Federal Counsel,
for respondents.

Salinan yang di:akui benar.

Sgd.

Kuala Lumpur
5/7/77.

IN THE FEDERAL
COURT

No. 10

ORDER

No. 10

Order
29th June 1977

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT KUALA
LUMPUR

(APPELLATE JURISDICTION)

FEDERAL COURT CIVIC APPEAL NOS: 106 OF 1974

Between

Malayawata Steel Berhad Appellants 10

And

- 1. The Government of the Federation of Malaysia
- 2. Official Assignee Federation of Malaysia of the property of Ng Keng Hooi Respondents

(In the matter of the Kuala Lumpur High Court

Civil Suit No: 2263 of 1969

Between 20

Malayawata Steel Berhad Plaintiffs

And

- 1. The Government of the Federation of Malaysia
- 2. Official Assignee Federation of Malaysia of the property of Ng Keng Hooi Defendants)

CORAM: SUFFIAN, LORD PRESIDENT, FEDERAL COURT MALAYSIA; 30

RAJA AZLAN SHAH, JUDGE, FEDERAL COURT MALAYSIA;

WAN SULEIMAN, JUDGE, FEDERAL COURT, MALAYSIA:

IN OPEN COURT

IN THE FEDERAL COURT

THIS 29TH DAY OF JUNE, 1977

No. 10

ORDER

Order
29th June 1977

(Continued)

10

20

THIS APPEAL coming on for hearing on the 23rd day of February, 1977 in the presence of Encik Chin Yew Meng of Counsel for the Appellants and Encik Fong Seng Yee, Senior Federal Counsel appearing for and on behalf of the First Respondent AND UPON READING the record of appeal filed herein AND UPON HEARING the arguments of Counsel as aforesaid IT WAS ORDERED that this appeal do stand adjourned for judgment AND UPON this appeal coming for judgment this day in the presence of Encik Chin Yew Meng of Counsel for the Appellants and Encik Fong Seng Yee, Senior Federal Counsel appearing for and on behalf of the First Respondent IT IS ORDERED that this appeal be and is hereby dismissed AND IT IS ORDERED that the costs of this appeal be taxed by the proper officer of Court and be paid by the appellant to the Respondents AND IT IS FURTHER ORDERED that the deposit of \$500/- of the Appellants be paid to the Respondents against taxed costs.

GIVEN under my hand and the Seal of the Court this 29th day of June, 1977.

Sgd.

30

L.S. CHIEF REGISTRAR
FEDERAL COURT
MALAYSIA
KUALA LUMPUR

IN THE FEDERAL COURT

No. 11

No. 11

Order granting final leave to Appeal to His Majesty the Yang di-Pertuan Agong
9th January 1978

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

IN THE FEDERAL COURT IN MALAYSIA HOLDEN AT KUALA LUMPUR

(APPELLATE JURISDICTION)

10

FEDERAL COURT CIVIL APPEAL NO: 108 OF 1974

Between

Malaywata Steel Berhad

Appellants

And

1. The Government of the Federation of Malaysia

2. Official Assignee, Federation of Malaysia, of the property of Ng Kong Hooi

Respondents

20

(In the matter of the Kuala Lumpur High Court Civil Suit No: 2263 of 1969

Between

Malaywata Steel Berhad

Plaintiffs

And

1. The Government of the Federation of Malaysia

2. Official Assignee, Federation of Malaysia, of the property of Ng Kong Hooi

Defendants)

30

CORAM: SUFFIAN, LORD PRESIDENT, FEDERAL COURT, MALAYSIA:

LEE HUN HOE, CHIEF JUSTICE, HIGH COURT, BORNEO;

WAN SULEIMAN, JUDGE, FEDERAL COURT, MALAYSIA.

IN OPEN COURT

IN THE FEDERAL
COURT

THIS 9TH DAY OF JANUARY,
1978

No. 11

O R D E R

Order granting
final leave to
Appeal to His
Majesty the
Yang di-Pertuan
Agong
9th January 1978

(Continued)

10 UPON MOTION preferred unto Court this day by
Mr. Chin Yew Meng of Counsel for the Appellants
abovenamed in the presence of Mr. Lim Beng Choon,
Senior Federal Counsel for the Respondents
abovenamed AND UPON READING the Notice of Motion
dated the 5th day of December, 1977 and the Affidavit
of Chin Yew Meng affirmed on the 16th day of
November, 1977 all filed herein IT IS ORDERED
that the Appellants be granted final leave to appeal
to His Majesty the Yang Di-Pertuan Agong and that
the costs of this application be costs in the
cause.

20 GIVEN under my hand and the Seal of the Court
this 9th day of January, 1978.

Sgd.

CHIEF REGISTRAR,
FEDERAL COURT,
MALAYSIA.

EXHIBITEXHIBIT "A"

A
Plaintiffs'
agreed bundle
of documents

Pages 1 & 2

Letter,
Ng Kong Hooi
Construction
to Appellants
22nd January
1968

Letter - Ng Kong Hooi
Construction to Appellants
22nd January 1968

Ng Kong Hooi Construction
56A Jalan Bukit Bintang
K. Lumpur.

NKH/67/68

Date 22nd January 1968.

10

Malayawata Steel Berhad,
Prai, Butterworth,
P.O. Box 60,
Province Wellesley

Dear Sirs,

Re: Malaysian Broadcasting Centre -
Radio House

In the verbal conversation with your sale officer in Kuala Lumpur, Mr. Ting Buoï Ho and having know your intentions for the supply of reinforcing steel for Radio House, Phase II of the project, Malaysian Broadcasting Complex.

20

You are aware that the tender of this project was closed on the 9th October, 1967 and awarded to us on the 2nd December, 1967. During the estimate of this tender, your mill has not produce the deformed bar, thereby we have contacted the Japanese firms for quotations together with their delivery schedule. You are aware that this was a competitive tender and firm quotations both in price and delivery are very essential to the success.

30

The quantities of all steel size have been ordered from Japanese Steel Mills and are expected to arrive on January or February 1968, since we have no idea that your Mill is able to produce them.

Due to the restriction of import against your Company, we have to find out your position in this matter before we can have further negotiation with concerned Department.

40

For your information, according to our

construction schedule, we require not later than February 5th, 1968 the following sizes :-

EXHIBIT

	3	...	50 L/ton.	(All to comply with High
	4	...	130 L/ton.	Tensile Deformed Bars
	5	...	70 L/ton.	Specifications ASTM
	6	...	60 L/ton.	A15/58, Deformation
	7	...	15 L/ton.	A305/56T. Intermediate
	8	...	150 L/ton.	Grade Length 40 feet).
10	9	...	100 L/ton	
	10	...	20 L/ton.	
	11	...	120 L/ton.	

A
Plaintiffs'
agreed bundle
of documents

Pages 1 & 2

Letter,
Ng Kong Hooi
Construction
to Appellants
22nd January
1968

The above quantities which we estimate will last us to the end of March 1968. The second delivery of steel should arrive not later than March 15th, 1968 to allow sufficient time for pre-bending.

(Continued)

Trusting that the above explanation on our position are in order and for the good of this project, your immediate reply would be much appreciated.

Yours faithfully,

Sgd. Ng Kong Hooi

c.c. M/s. N.J. Pappas & Associates,
Malaysian Broadcasting Centre Site,
Bukit Putri,
Kuala Lumpur.

30 c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
Kuala Lumpur.
Attention: Mr. C.M. Campbell

c.c. Malayawata Steel Berhad,
5th Floor, Bumiputra Building,
Malacca Street,
Kuala Lumpur.
Attention: Mr. Ting Buoi Ho.

NKH/LSK.

EXHIBITEXHIBIT "A"

"A"
Plaintiffs
agreed bundle
of documents

LETTER, APPELLANTS TO NG KONG
HOOI CONSTRUCTION - 26th JANUARY 1968

MALAYAWATA STEEL BERHAD
Prai

Pages 3 & 4

26th January, 1968

Letter,
Appellants
to Ng Kong Hooi
Construction
26th January
1968

M/s. Ng Kong Hooi Construction,
No. 56-A, Jalan Bukit Bintang,
KUALA LUMPUR.

10

Dear Sirs,

Re: Radio House

Referring to your letter No. NKH/67/68
dated 22nd January on the supply of High Tensile
Deformed Bars to the project of Malaysian
Broadcasting Centre-Radio House and further to our
discussion with your Chief Engineer Mr. Lim on
25th instant, we wish to confirm that:-

20

- 1) We can supply the following asserted
sizes of our H.T. Deformed Bars in
accordance with the under-mentioned
schedule:-

No. 3 = 3/8";	50L/T Not later than 3rd March, 1968
No. 4 = 1/2";	130L/T Not later than 26th February, 1968
No. 5 = 5/8";	70L/T Not later than 25th February, 1968
No. 6 = 3/4";	60L/T Not later than 10th February, 1968
No. 7 = 7/8";	15L/T Not later than 27th February, 1968
No. 8 = 1" ;	150 L/T Not later than 10th February, 1968
No. 9 = 1/8";	50L/T Not later than 25th February, 1968
= 1/8";	50L/T Not later than 2nd March, 1968

30

We supply our Deformed Bars as MYCON-60 in
majority, but more or less 10% may be as MYCON-55.

40

We further understand that you require

additional delivery in March, 1968 as follows :-

No. 3	(3/8")	Approximately	150 L/T
No. 4	(1/2")	Approximately	220 L/T
No. 5	(5/8")	Approximately	50 L/T
No. 6	(3/4")	Approximately	30 L/T
No. 7	(7/8")	Approximately	65 L/T
No. 8	(1")	Approximately	30 L/T
No. 9	(1 1/8")	Approximately	200 L/T

EXHIBIT

"A"
Plaintiffs
agreed bundle
of documents

Pages 3 & 4

Letter,
Appellants
to Ng Kong Hooi
Construction
26th January
1968

10 We wish to inform that we can deliver the
above asserted quantity any time after 15th March,
1968.

2) Specifications:

Length : 40' straight

High Yield Stress : min. 55,000 lbs/ins²

Ultimate Tensile Strength : min. 75,000
lbs/ins²

20 Other Mechanical and Chemical properties are
not lower than ASTM/A15.

Meanwhile, the section area of 1 1/8" shall
tally with ASTM/A15, but others will follow as
7 5 - High Yield 60.

3) Prices:

3/8"	\$430.00 per L/T F.O.R. KL
1/2"	\$415.00 per L/T F.O.R. KL
5/8 - 1	\$400.00 per L/T F.O.R. KL
1 1/8"	\$415.00 per L/T F.O.R. KL

30 Remarks : Unloading charges and demurrage,
if any, at KL Railway Station
are for Buyers account.

4) Payment Terms :

120 days sight L/C payment after the date
of Railway Consignment Note. Interest is
included in the above prices.

5) He regret to say that we cannot supply the
following sizes and quantity of Deformed
Bars in accordance with your required

(Continued)

EXHIBIT

schedule:

"A" Plaintiffs agreed bundle of documents		<u>Delivery February</u>	<u>Delivery March</u>	<u>Total</u>
Pages 3 & 4	No. 10 (1 1/4")	20L/T	80 L/T	100 L/T
	No. 11 (1 3/8")	120L/T	360 L/T	480 L/T

Trusting the above will be in order and waiting
for your esteemed order shortly.

Letter,
Appellants
to Ng Kong Hooi
Construction
26th January
1968

Yours faithfully,

Sd. K. Sano

K. Sano, Acting Manager,
Business Department.

(Continued)

10

C.C.
M/s. N.J. Pappas & Associates,
Malaysian Broadcasting Centre Site,
Bukit Putri,
KUALA LUMPUR.

20

Penolong Pengarah Kerja Raya (Ukor Baharu),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
KUALA LUMPUR. ATTENTION: MR. C.K. CAMBELL

Inche Yahaya Bin Haji Talib,
Deputy Controller, Trade Division.

Our K.L. Office,
Our Rolling Mill.

P.S. Attached herewith : a) Comparison of
Specification
b) PWD Test Certificate,
for your information

30

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 23RD FEBRUARY 1968

Ng Kong Hooi Construction
Jalan Bukit Bintang
K. Lumpur

NKH/147/68

23rd February 1968

10 M/s. Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH

Attention: Mr. K. Sano.

Dear Sirs,

Re: Supply of Deformed Steel Bars to
the Radio House, Malaysian
Broadcasting Centre, K.L.

20 We refer to your letter dated 26th January,
1968 and would like to inform that the position in
using 'Mycon' deformed bars for the replacement of
ASTM/A15 (Intermediate Grade) to the above project
is still undecided.

You are aware that the delay in confirming your
supply of the above is beyond our control as we have
not yet received any firm instructions neither from
Messrs. N.J. Pappas & Associates nor P.W.D. in
respect of such substitution, in spite of our several
requests for early advice.

30 We apologise for the inconvenience that may be
caused, but will inform you accordingly when we hear
from them on this matter.

Yours faithfully,

Sgd.
(LIM KOH DEN)
Engineer

40 c.c. Malayawata Steel Berhad,
5th Floor, Bank Bumiputra Building,
21, Jalan Melaka,
Kuala Lumpur.

LKD/LSK.

EXHIBIT

"A"
Plaintiffs
agreed bundle
of documents

Page 5

Letter,
Ng Kong Hooi
Construction
to Appellants

23rd February
1968

EXHIBIT

"A"
 Plaintiffs
 agreed bundle
 of documents

Page 6

Letter,
 Appellant to
 Ng Kong Hooi
 Construction

26th February
 1968

EXHIBIT "A"

LETTER, APPELLANTS TO NG KONG HOOI
 CONSTRUCTION - 26TH FEBRUARY, 1968.

KUALA LUMPUR OFFICE
 5TH FLOOR, BANGUNAN BANK
 BUMIPUTRA,
 21 JALAN MELAKA.

PRAI 26th February, 1968

Messrs. Ng Kong Hooi Construction,

10

Jalan Bukit Lintang,
 Kuala Lumpur.

Attn: Mr. Lim

Dear Sirs,

Re: Deformed Bars for Radio House

Further to our letter dated 26th January,
 1968 on the captioned, please be kindly advised
 that:-

1) We have completed our rolling of your
 requested deformed bars as follows:

20

1/2" (No. 4)	130 L/T
5/8" (No. 5)	70 L/T
3/4" (No. 6)	60 L/T
7/8" (No. 7)	15 L/T
1" (No. 8)	150 L/T
1 1/8" (No. 9)	<u>100 L/T</u>

525 L/T

2) We shall complete our rolling of 3/8" of
 50 L/T not later than 5th March.

30

Such being the circumstances, we shall be
 able to deliver all of the above anytime early
 March, for your information.

Your earliest order will be highly appreciated.

Yours faithfully,

Sgd. K Sano
 Acting Manager
 Business Department

c.c. M/s. N.J. Pappas & Associates
Malaysian Broadcasting Centre Site,
Bukit Putri,
Kuala Lumpur.

c.c. Penolong Pengarah Kerja Raya (Ukor Baharu),
Ibu Pejabat, J.K.R.
Jalan Maxwell,
Kuala Lumpur.
Attn: Mr. C.K. Cambell

c.c. Inche Yahaya Bin Haji Talib,
Deputy Controller, Trade Division.

c.c. Our K.L. Office,
Our Rolling Mill.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 6

Letter,
Appellant to
Ng Kong Hooi
Construction

26th February
1968

EXHIBIT

EXHIBIT "A"

"A"
Plaintiffs
agreed bundle
of documents

LETTER, NG KONG HOOI CONSTRUCTION TO
APPELLANTS - 29TH FEBRUARY 1968

Ng Kong Hooi Construction
Jalan Bukit Bintang,
K. Lumpur.

Page 7

NKH/172/68

Date 29th February 1968

Letter,
Ng Kong Hooi
Construction
to Appellants

M/s. Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH.

10

29th February
1968

Dear Sirs,

Re: Deformed Bars for Radio House

We are in receipt of your letter of 26th
instant on the above and the contents are noted.

We believed that our letter to you dated 23rd
instant, reference NKH/147/68 has already explained
about our position in respect of your supply on
deformed bars for the above project.

20

Your kind understanding to us at this stage
will be much appreciated.

Yours faithfully,

Sgd.
(LIM KOH DEN)
Engineer

c.c. M/s. N.J. Pappas & Associates, K.L.

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan) K.L.

c.c. M/s. Malaywata Steel Berhad, K.L.

30

LKD/LSK.

EXHIBIT "A"

LETTER, APPELLANTS TO TIMBALAN
PENGAWAL KEMENTERIAN PERDAGANGAN
DAN PERUSAHAAN - 25th May 1968

MALAYAWATA STEEL LIMITED

Malayawata Steel Berhad
Telegraph address: 5th Floor, Bangunan Bumiputra
"BESIBAJA" 21 Jalan Melaka
Kuala Lumpur Kuala Lumpur
Tel: K.L.288461/3

Our ref:KIS/17/03 25th May 1968

Inche Yahaya bin Haji Talib,
Timbalan Pengawal,
Bahagian Perdagangan,
Kementerian Perdagangan dan Perusahaan,
Kuala Lumpur.

Tuan,

Re: Deformed Bars for Radio House

Further to the discussion between you and our
Mr.K.Sano, we have pleasure in informing you that
we are prepared to reduce our prices by another
\$10.00 per long ton, i.e.:

3/8"	...	\$390.00	per I/T
1/2"	...	\$375.00	" "
5/8" - 1"	...	\$360.00	" "
1 1/8"	...	\$375.00	" "

Other terms and conditions remain unchanged.

Meanwhile, we have to point out that the
above prices are of special offer owing to
special circumstances which, we believe, are
understandable to all the parties concerned.

Comparing the above prices with that of
imported bars, the difference between them is
more or less 10% which, we hope, is acceptable to
the Government.

Your assistance to the matter is highly
appreciated.

Yours faithfully,
Sgd.

Tan Kim Yeow
Joint-Managing Director

c.c. K.J.Pappas & Associates,
Consulting Architects & Engineers,
c/o Television Malaysia,
Jalan Ampang, Kuala Lumpur.

" Pen. Pengarah (Ragunan) J.K.R.,
Jabatan Kerja Raya, Kuala Lumpur.

" Pen. Pengarah (Ukor Bahan) J.K.R.,
Jabatan Kerja Raya, Kuala Lumpur.

" M/s Ng Kong Hooi Construction,
50A Jalan Bukit Bintang, Kuala Lumpur.

" Secretary,
Ministry of Information, Kuala Lumpur.

" Business

EXHIBIT

"A"

Plaintiffs
agreed
bundle of
documents

Page 8

Letter,
Appellants
to Timbalan
Pengawal
Kementerian
Perdagangan
dan Perusa-
haan

25th May 1968

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 9

Letter,
Ministry of
Commerce &
Industry to
Kementerian
Penerangan
dan Penyiaran

June 1968

EXHIBIT "A"

LETTER, MINISTRY OF COMMERCE
& INDUSTRY TO KEMENTERIAN
PENERANGAN DAN PENYIARAN -
June 1968

Macomind, Kuala Lumpur
Kementerian Perdagangan
dan Perusahaan

C&I(TI&E)1001/M/21

SEGERA

MINISTRY OF
COMMERCE & INDUSTRY
MALAYSIA,
FEDERAL HOUSE,
KUALA LUMPUR

10

Jun, 1968

Setia Usaha Tetap,
Kementerian Penerangan dan Penyiaran,
Malaysia,
Kuala Lumpur

Tuan,

Pembelian deformed steel bars
untuk: Bangunan Radio

Saya suka manarak perhatian tuan surat
Kemontarian ini bil. C&I(TI&E)1001/M/21
bertarikh 10hb Jun, 1968 dalam siri sama
bahawa Perenggan 2 dalam surat tersebut sebenar-
nya berbunyi demikian:

20

"(2) Oleh itu mengikut ketetapan Perbenda-
haran, pembena bangunan radio ini,
ia-itu Sharikat Ng Kong Hooi
Construction hendak-lah mandapathan
perbekalan batang 2 besi-nya daripada
Sharikat Malayawata Berhad"

2. Akhir-nya saya minta maaf atos kesilapan
itu. Harap maalom.

30

Saya yang menurut perintah,

Sgd.

(YAHYA BIN HAJI TALIB),

b.p. Setia Usaha Tetap,

Kementerian Perdagangan dan Perusahaan.

s.k.

Setia Usaha Tetap,
Perbendaharasn Malaysia,
Kuala Lumpur.

40

M/s Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur.

Sharikat Malayawata Steel Berhad,
Tingkat 5, Bangunan Bumiputra,
21, Jalan Melacca,
Kuala Lumpur.

Surat tuan bil, Temp Try.
0.0268/78 bertarikh
7hb Jun ada hubungan.

50

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION TO APPELLANTS - 25TH JUNE 1968

NG KONG HOOI CONSTRUCTION
Jalan Bukit Bintang,
K. Lumpur.

Date 25th June, 1968.

10

M/s. Malayawata Steel Berhad,
Prai,
Province Wellesley,
P.O. Box 60,
BUTTERWORTH

A.R. REGISTERED

Dear Sirs,

Re: Deformed Bars for Radio House

We wish to inform you that we are now desirous of obtaining from you the above steel bars comprising of the undermentioned sizes :-

20

3/8" ϕ , 1/2" ϕ , 5/8" ϕ ,
1/4" ϕ , 7/8" ϕ , 1" ϕ 1 1/8" ϕ (cross-section is equivalent to 9 of ASTM/A15.)

30

We shall be obliged if you will let us know your present quotations, conditions of sale and terms of payment at your earliest convenience. We are in the meantime preparing a proposed delivery schedule which will be sent to you as soon as we receive your firm prices which we hope will be more economical than that previously quoted.

40

As time is the essence of our Contract with the Government, we trust you will treat this matter as of utmost urgency and in order to finalize the issue quickly, we shall be obliged if you could give us your lowest quotations. It will be appreciated that the stiff prices quoted by you in the past has caused considerable delay in the execution of this project.

We look forward to your co-operation so that

EXHIBIT

"A"

Plaintiffs
Agreed bundle
of documents

Page 10

Letter, Ng Kong
Hooi Construction
to Appellants

25th June, 1968

EXHIBIT

arrangements to conclude the deal could be effected without any further day.

"A"

Plaintiffs
Agreed bundle
of documents

We remain,

Yours faithfully,

Page 10

Sgd.
(NG KONG HOOI)

Letter, Ng Kong
Hooi Construction
to Appellants

c.c. M/s. Malayawata Steel Berhad,
Bank Bumiputra Building,
Jalan Melaka,
Kuala Lumpur.

10

25th June, 1968

(Continued)

nkh:lsk.

EXHIBIT "A"

LETTER, APPELLANTS TO NG KONG HOOI
CONSTRUCTION - 2ND JULY 1968

MYS/BUS-74/0059/68

MALAYAWATA STEEL BERHAD
5th Floor,
Bangunan Bank
Bumiputra,
21 Jalan Melaka.

Prai 2nd July, 1968

Messrs. Ng Koong Hooi Construction,
561, Jalan Bukit Bintang,
Kuala Lumpur.

Dear Sirs,

Re: Deformed Bars for Radio House

Thank you for your letter dated 25th June 1968
in respect of the above-mentioned deformed bars.

As stated in our letter to the Ministry of
Commerce and Industry of 11th instant, a total
reduction of \$15,007.20 for the 1.110 tons of the
deformed bars, i.e. \$13.20 per long ton has been
agreed.

Therefore, details of our offer for the
deformed bars are now as follows:

- 1) Commodity: High Tensile Deformed Bars.
- 2) Specification: High Yield Stress: min.
55,000 lbs/ins²
Ultimate Tensile Strength:
min. 75,000lbs/ins²
Other Mechanical and
Chemical properties are
not lower than ASTM/A15.
- 3) Quantity: 40' Straight.

D3/8"	...	200 tons
D1/2"	...	350 tons
D5/8"	...	120 tons
D3/4"	...	80 tons
D7/8"	...	80 tons
D 1"	...	80 tons
D 1 1/8"	...	200 tons
		<u>1,110 tons</u>

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 11 & 12

Letter,
Appellants
to Ng Kong Hooi
Construction

2nd July 1968

EXHIBIT

"A"
Plaintiffs
agreed bundle
of documents

Pages 11 & 12

Letter,
Appellants
to Ng Kong Hooi
Construction

2nd July 1968

(Continued)

4) Price:

- D 3/8" \$386.48 per long ton (delivered)
- D 1/2" \$371.48 per long ton (delivered)
- D5/8"-
- D1" \$356.48 per long ton (delivered)
- D1 1/8" \$371.48 per long ton (delivered)

5) Payment Terms:

- i) Irrevocable Letter of Credit 120 days
sight to be opened 7 days before your
required date of first delivery. L/C
should stipulate "Partial Shipment
permitted" with one month validity.

10

or

- ii) J.K.R. Guarantee with 90 days credits.

- 6) Delivery: From July 1968 onwards. The
delivered quantity for each
consignment should not be less
than 25 tons.

We look forward to being favoured with your
esteemed order soon.

20

Yours faithfully,

Sgd. K. Sano

c.c. Our K.L. Office.

/gsl.

Acting Manager

Business Department

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 25TH JULY 1968

NG KONG HOOI CONSTRUCTION
Jalan Bukit Bintang,
K. Lumpur.

NKH/630/68

Date 25th July, 1968

Messrs. Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH

Dear Sirs,

Re: High Tensile Deformed Bars for the
Radio House Project, Bukit Putri,
Kuala Lumpur.

We have the pleasure to inform you that the situation of the 'steel problem' on the above project have been cleared, and hereby, would like to place our order officially on the high tensile deformed bars from your Company. The total quantities of all sizes are shown as follows :-

Sizes of Steel	3	4	5	6	7	8	9	Total Quanti- ties in L/T
	200	350	120	80	80	80	290	1,200 L/t

We would be much appreciated if you could deliver the following for our urgent use now :-

3	...	60	L/ton	7	...	20	L/ton
4	...	50	L/ton	8	...	20	L/ton
5	...	70	L/ton	9	...	200	L/ton
6	...	30	L/ton				

The balance of the quantities of deformed bars can be delivered to us whenever the stock is available.

We trust that this is the information you require

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 13 & 14

Letter,
Ng Kong Hooi
Construction to
Appellants

25th July 1968

10

20

30

EXHIBIT

at this time.

"A"

Yours faithfully,

Plaintiffs
agreed bundle
of documents

Sgd.
(NG KONG HOOI)

Pages 13 & 14

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.
Jalan Maxwell,
Kuala Lumpur.

Letter,
Ng Kong Hooi
Construction to
Appellants

c.c. M/s. N.J. Pappas & Associates,
Malaysian Broadcasting Centre Site,
Bukit Putri,
Kuala Lumpur.

10

25th July 1968

(Continued)

c.c. M/s. Malayawata Steel Berhad,
Bank Bumiputra Malaysia Building,
Jalan Melaka,
Kuala Lumpur.

NKH/lsk.

20

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 10TH AUGUST 1968

NG KONG HOOI CONSTRUCTION
Jalan Bukit Bintang,
K. Lumpur

NKH/689/68

Date 10th August, 1968

10

M/s. Malayawata Steel Berhad, BY HAND
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH.

Dear Sirs,

Re: Supply of Deformed Steel Bars
for Radio House Project.

20

We have the pleasure to enclose herewith a photostat copy of letter received from Jabatan Kerja Raya dated 8th instant which is self-explanatory for your information. A copy of the letter was sent direct to your Kuala Lumpur branch by Jabatan Kerja Raya.

30

We shall therefore be obliged if you will make arrangements to have the bars delivered to our Site as soon as possible to enable us to proceed with the construction works. Our letter to you of 25th July, 1968 will constitute our present order to be followed subsequently by more orders.

Yours faithfully,

Sgd.
(NG KONG HOOI)

Encls:

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R., Kuala Lumpur.

c.c. M/s. N.J. Pappas & Associates, K.L.

40

c.c. M/s. Malayawata Steel Berhad,
K.L. Branch Office.

NKH/lsk.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 15

Letter,
Ng Kong Hooi
Construction
to Appellants

10th August 1968

EXHIBITEXHIBIT "A"

"A"
Plaintiffs
agreed bundle
of documents

Page 16

Letter,
Ng Kong Hooi
Construction
to P.W.D.

10th August
1968

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 10TH AUGUST 1968

NKH/689/68
NG KONG HOOI CONSTRUCTION,
Jalan Bukit Bintang,
K. Lumpur.

dim. PKR. Date 10th August, 1968
B15/229/Q6

Pengarah Kerja Raya, BY HAND
Ibu Pejabat,
Jabatan Kerja Raya,
Jalan Maxwell,
Kuala Lumpur.

Attention: Mr. L. Chin Yun Howe.

Dear Sir,

Deformed Bars for Radio House Project.

We thank you for your letter reference (278) dlm. PKR.B15/229/Q6 of 8th instant informing us that the Treasury has approved our request as contained in our letter to you of 20th July, 1968.

We confirm that we are agreeable to the suggestion contained in paragraph 2 of your letter under reference.

Yours faithfully,

Sgd.
(NG KONG HOOI)

- c.c. Assistant Director (Buildings), J.K.R., HQ., Kuala Lumpur.
c.c. Senior Treasury Accountant, J.K.R., HQ., Kuala Lumpur.
c.c. M/s. N.J. Pappas & Associates, K.L.
c.c. M/s. Malayawata Steel Berhad, K.L.
c.c. M/s. Malayawata Steel Berhad, Prai, Butterworth.

NKH/lsk.

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EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 20th JULY 1968

NG KONG HOOI CONSTRUCTION,
Jalan Bukit Bintang,
K. Lumpur.

NKH/617/68 Date 20th July, 1968.

10 Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell,
Kuala Lumpur.

Dear Sir,

Deformed Bars for Radio House Project

20 Further to our letter reference NKH/569/68 dated
8th instant to Messrs. N.J. Pappas & Associates
with a copy to you in respect of our last paragraph
on the term of payment for the supply of deformed
steel bars, we have the pleasure to inform you that
Malayawata Steel Berhad is willing to accept an
alternative arrangement of payment as stated in
our letter to Malayawata Steel Berhad vide
reference NKH/616/68 dated 20th instant.

30 In this connection, we hereby agree to
authorize the P.W.D. to deduct from our progress
payment and make direct payment to Malayawata Steel
Berhad on the amount of steel supplied for the
above project. We would like to have your written
confirmation with a copy to Malayawata Steel Berhad
that the P.W.D. can arrange the above.

Your kind co-operation to give us an early
reply would be greatly appreciated as the project
has been seriously delayed and in which is no fault
of ours.

Thanking you.

Yours faithfully,

Sgd.
(NG KONG HOOI)

40 c.c. M/s. N.J. Pappas & Associates, K.L.
c.c. M/s. Malayawata Steel Berhad, Butterworth.
c.c. M/s. Malayawata Steel Berhad, K.L. Office.
NKH/lsk.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 17

Letter,
Ng Kong Hooi
Construction to
P.W.D.

20th July 1968

EXHIBITEXHIBIT "A"

"A"

LETTER, P.W.D. to NG KONG HOON
CONSTRUCTION - 8TH AUGUST 1968Plaintiffs
agreed bundle
of documentsJABATAN KERJA RAYA

Page 18

Burat: (278)dlm.JKR.B15/ 8hb. Ogos, 1968
229/Q.6.Letter,
PW.D. to
Ng Kong Hoon
ConstructionMessrs. Ng Kong Hoon Construction,
No. 56A, Jalan Bukit Bintang,
KUALA LUMPUR.

10

8th August
1968

Tuan-Tuan,

Deformed Bars for Radio House Project

I would refer to your letter NKH/617/68 dated 20th July, 1968, requesting this Department to deduct from your progress payments the value deformed steel bars and pay direct to Malayawata Steel Berhad, of 5th Floor, Bangunan Bank Bumiputra, 21 Jalan Melaka, Kuala Lumpur.

20

2. Your request has been considered by the Treasury and has been approved. However, please note that for purpose of progress payments, the deformed steel bars (whether as unfixed materials on site or incorporated in the works) will be valued in accordance with the conditions of contract. To assist the Quantity Surveyor in accessing the quantities of steel brought on to the site, please arrange for copies of Malayawata's delivery notes of the steel to be sent to this office.

30

Yang benar,

b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu.
(L. CHUN TUN HOWE, JSM)

c.c.

Assistant Director (Building),) Copies of (275) dlm.
J.K.R. H.Q., Kuala Lumpur,) B15/229/Q.6. and
) (8.01) 4/35.1
Senior Treasury Accountant,) attached.
J.K.R. H.Q., Kuala Lumpur)

40

Messrs. N.J. Pappas & Associates,
20, Jalan 16/5,
PETALING JAYA.Malayawata Steel Berhad,
5th Bangunan Bank Bumiputra,
KUALA LUMPUR.

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 20TH JULY 1968

NKH/616/68

Date 20th July, 1968

Messrs. Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 19

Letter,
Ng Kong Hooi
Construction
to Appellants

20th July 1968

10

Dear Sirs,

Re: Supply of Deformed Bars for Radio
House Project, K. Lumpur.

20

This is to confirm the telephone conversation between your sale officer, Mr. Ting Buoï Ho and our Mr. K.D. Lim at 9.20 a.m. to-day in respect of the term of payment for your above steel supply will be accepted if the P.W.D. is authorized to deduct the amount from our interim payment and made direct payment to you instead of a J.K.R. guarantee, as stated in your letter reference MYS/BUS-74/0059/68 dated 2nd July, 1968.

Yours faithfully,

Sgd.
(NG KONG HOOI)

c.c. M/s. N.J. Pappas & Associates, K.L.

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R., K. Lumpur.

c.c. Malayawata Steel Berhad, K.L. Office.

30

NKH/lsk.

EXHIBIT

EXHIBIT "A"

"A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 13TH SEPTEMBER 1968

Plaintiffs
agreed bundle
of documents

NG KONG HOOI CONSTRUCTION
Jalan Bukit Bintang,
K. Lumpur.

Page 20

NKH/793/68

Date 13th September, 1968.

Letter,
Ng Kong Hooi
Construction
to Appellants

Messrs. Malayawata Steel Berhad,
5th Floor, Bangunan Bumiputra,
21, Jalan Melaka, Attention: Mr. Ting
Kuala Lumpur. Buoi Ho.

10

13th September
1968

Dear Sirs,

Deformed Steel Bars for Radio House

We wish to inform you that up to date we have received your Invoices showing that 449,591 Long Tons totalling \$165,813.32 have been shipped by you. We are in the meantime checking the actual amount of deformed bars received at Site and will communicate with you as soon as our checking has been completed.

20

In the meantime, Jabatan Kerja Raya has recommended the payment of \$108,767.00 to you and in this particular instance, we will not object to the payment.

We wish to draw your attention to the arrangement agreed between you and our Messrs. Lim and Ooi for you to forward all your Invoices to us for checking and verification first and thereafter we will forward your Invoices together with our recommendation for payment to Jabatan Kerja Raya. Please therefore note that in future you should not forward any Invoices to Jabatan Kerja Raya direct but will follow the procedure as stated above so as to avoid referring back and forth as the most important thing is that all tonnage received must be checked and confirmed by us first.

30

40

Yours faithfully,

Sgd.

(OOI GHEE HIM)

Administrative Officer.

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan)
Ibu Pejabat, J.K.R. Jalan Maxwell, K.Lumpur.
c.c. M/s. Malayawata Steel Berhad, Prai, Butterworth
OGH/LKD/lsk

EXHIBIT "A"

LETTER, APPELLANTS TO NG KONG HOOI
CONSTRUCTION - 17th SEPTEMBER 1968

MALAYAWATA STEEL BERHAD
5th Floor,
Bangunan Bumiputra,
21, Jalan Malacca,
Kuala Lumpur.

17th September 1968

Messrs. Ng Kong Hooi Construction,
561, Jalan Bukit Bintang,
Kuala Lumpur. (Attention: Mr. Ooi Ghee Him)

Dear Sirs,

Deformed Bars for Radio House

We thank you for your letter NKH/793/68 dated
13th September, 1968.

In order to assist the Quantity Surveyor in
assessing the quantities of steel brought to the
site and to enable them to arrange deduction from
your progress payments as agreed, it is necessary
that we send duplicate invoices to P.W.D.
Headquarters for their reference and information.
As all the original invoices and other necessary
documents are sent to your Company, we trust that
you will find no difficulty in checking.

Assuring you of our best attention to the
matter, we are,

Yours faithfully,
for MALAYAWATA STEEL BERHAD

Sgd.
Ting Bui Ho

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell, K.L.

" Business Dept.,
Prai Office.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 21

Letter,
Appellants to
Ng Kong Hooi
Construction

17th September
1968

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EXHIBIT

EXHIBIT "A"

"A"

LETTER, APPELLANTS TO NG KONG
HOOI CONSTRUCTION - 18TH SEPTEMBER 1968

Plaintiffs
agreed bundle
of documents

MALAYAWATA STEEL BERHAD,
5th Floor,
Bangunan Bumiputra,
21 Jalan Malacca,
Kuala Lumpur.

Page 22

164/5/5Lc

Letter,
Appellants to
Ng Kong Hooi
Construction

18th September, 1968

10

18th September
1968

Messrs. Ng Kong Hooi Construction,
561, Jalan Bukit Bintang,
Kuala Lumpur. (Attention: Mr. Ooi Ghee Him)

Dear Sirs,

Deformed Bars for Radio House

We refer to our yesterday's telephone
conversation in which you have requested us to
send all the invoices to your Company for
checking, and thereafter you will forward
immediately the duplicate invoices to the PWD
Headquarters to arrange deduction from your
progress payments.

20

We confirm we have agreed to this arrangement
and are pleased to note that you have also
promised to submit the duplicate invoices to the
PWD as soon as you have completed the checking and
will copy us the letter addressed to the PWD
indicated therein the amount to be deducted from
your progress payments.

30

In view of this arrangement, please ignore our
letter of yesterday's date addressed to you.

Assuring you of our best co-operation in this
matter, we are,

Yours faithfully,
for MALAYAWATA STEEL BERHAD

Sgd.
Ting Buoï Ho

40

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R., Jalan Maxwell, K.L.
" " Business Dept., Prai Office.

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 20TH SEPTEMBER 1968

NG KONG HOOI CONSTRUCTION
Jalan Bukit Bintang,
K. Lumpur.

NKH/326/68

Date 20th September, 1968.

10

M/s. Malayawata Steel Berhad,
5th Floor, Bangunan Bumiputra,
21, Jalan Melaka,
Kuala Lumpur.

Attention: Mr. Ting Buoi Ho.

Dear Sirs,

Deformed Bars for Radio House

20

We refer to your letter reference KL/5/8Lc
of 18th instant in respect of the above matter
and to confirm the contents stated therein.

Yours faithfully,

Sgd.

(OOI GHEE HIM)

Administrative Officer.

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
Kuala Lumpur.

30

c.c. M/s. Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
Butterworth.

OGH/LKD/lsk.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

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Letter,
Ng Kong Hooi
Construction
to Appellants

20th September
1968

EXHIBITEXHIBIT "A"

"A"
Plaintiffs
agreed bundle
of documents

Page 24

Letter,
Ng Kong Hooi
Construction
to P.W.D.

9th November
1968

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 9TH NOVEMBER, 1968

NKH/1011/68

9th November, 1968

Pengarah Kerja Raya,
Jabatan Kerja Raya,
Jalan Maxwell,
Kuala Lumpur.

Dear Sir,

Re: Deformed Bars - Radio House

Further to our letter of the 13th November, 1968 addressed to Messrs. Malayawata Steel Berhad, copy to you, we are pleased to enclose herewith certified copies of Invoices for your retention and necessary action

The total amount of deformed bars received at site as Invoices A(287), (A)301, (A)307, (A)327, (A)337, (A)344 and (A)366 totalled 449.591 L/Tons valued at \$165,813.30.

We wish to state that on the above steel you have already made a payment of \$108,767.00.

We will be sending you our 2nd batch of certified Invoices in a few days to enable payment to be made to Messrs. Malayawata Steel Berhad.

Yours faithfully,

(OOI GHEE HIN)
Manager

Encl:

- c.c. Assistant Director of Public Works
(Building) P.W.D. Hq., K. Lumpur.
- c.c. Senior Treasury Accountant,
J.K.R. Hq. K. Lumpur.
- c.c. M/s. N.J. Pappas & Associates, K. Lumpur.

OGH/1sk

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EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 18th NOVEMBER 1968

NG KONG HOOI CONSTRUCTION
Jalan Bukit Bintang,
K. Lumpur.

1053/6C

Date 18th November, 1968.

Pengarah Kerja Raya,
Jabatan Kerja Raya,
Jalan Maxwell,
Kuala Lumpur.

Dear Sir,

Re: Deformed Bars - Radio House

Further to our letter of 9th November, 1968,
we forward herewith the 2nd batch of certified
copies of Invoices Nos. (A)624, (A)641, (A)691,
(A)705, (A)715, (A)720 and (A)727 totalling
441,214 L/Tons valued at \$162,846.80.

The above steel had been delivered to Site.

Yours faithfully,

Sgd.
(OOI GHBE HIM)
Manager.

Encl:

c.c. Assistant Director of Public Works
(Building) P.W.D. Hq., K. Lumpur.

c.c. Senior Treasury Accountant,
J.K.R. Hq. K. Lumpur.

c.c. M/s. N.J. Pappas & Associates, K. Lumpur.

c.c. M/s. Malaywata Steel Berhad, K.L.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

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Letter,
Ng Kong Hooi
Construction
to P.W.D.

18th November
1968.

EXHIBITEXHIBIT "A"

"A"

LETTER, APPELLANTS TO P.W.D.
- 21st NOVEMBER 1968

Plaintiffs

agreed bundle
of documents

Pengarah Kerja Raya,
 Jabatan Kerja Raya,
 Jalan Maxwell,
 Kuala Lumpur.

21st November, 68

Page 26

Letter,
 Appellants
 to P.W.D.

Tuan,

Re: Deformed Bars for Radio House

10

21st November
 1968

Stated below are particulars regarding the High
 Tensile Deformed Bars delivered to Ng Kong Hooi
 Construction for Radio House:

<u>Invoice No.</u>	<u>Date</u>	<u>Quantity (L/tons)</u>	<u>Amount</u>
(A) 287	9/8/68	35.332	£12,893.23
(A) 301	10/8/68	65.256	23,798.85
(A) 307	11/8/68	63.676	23,279.12
(A) 327	13/8/68	64.346	23,903.25
(A) 337	14/8/68	57.006	20,799.91
(A) 344	15/8/68	32.124	12,415.28
(A) 366	16/8/68	131.851	48,723.66
(A) 624	17/8/68	68.321	24,355.07
(A) 641	19/9/68	106.882	38,702.92
(A) 691	25/9/68	64.264	24,083.39
(A) 705	26/9/68	66.701	25,538.53
(A) 715	28/9/68	36.012	13,377.74
(A) 720	29/9/68	63.022	23,411.41
(A) 727	30/9/68	36.012	13,377.74
(A) 770	7/10/68	29.093	10,506.11
(A) 958	29/10/68	31.439	11,207.37
(A) 983	31/10/68	29.343	10,460.19
(A) 984	31/10/68	29.343	10,460.19
		<hr/>	<hr/>
		1,010.023	£ 371,293.96
		<hr/>	<hr/>

20

30

Less Payment Received on
 24/10/68

108,767.00

 £ 262,526.96

Though we understand you are only in a position.

to settle the above after you have received the Certified Invoice from Ng Kong Hooi Construction, we are of the opinion that meanwhile you should be kept informed of relevant details.

Thank you.

Yang benar,

Sgd.

Malayawata Steel Ltd.

c.c. Our Kuala Lumpur Office

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 26

Letter,
Appellants
to P.W.D.

21st November
1968

(Continued)

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

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Letter, P.W.D.
to Ng Kong
Hooi Construc-
tion

19th December
1968

EXHIBIT "A"

LETTER, P.W.D. TO NG KONG HOOI
CONSTRUCTION - 19th December 1968

19th December 1968

315/229/Q6/Pt.3

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur.

PROGRESS PAYMENT NO.7
CONTRACT NO. JKR/PER/IP/160 OF 1967

10

The above mentioned payment consisted of

Work done	₹ 9,900/-
Materials on Site (steel)	₹109,920/-
	<hr/>
TOTAL:	₹119,820/-
	<hr/> <hr/>

The sum of ₹109,920/- is for the steel
supplied to you by Messrs. Malayawata
Steel Limited and should be due to them (illegible)
you receive this payment.

Saya yang menurut perintah,

Sgd.

b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu,
(H.F. SINGA RAJAH)

20

Messrs. Malayawata Steel Ltd.,
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur.

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 26TH DECEMBER 1968

Our Ref: NKH/1193/68

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jaban Maxwell, 26th December 1968
10 KUALA LUMPUR.

Dear Sir,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium

We wish to refer you to our letter of 9th instant and to your reply of 10th December, 1968 informing us that a progress payment of \$119,820/- would be made to us and on the 19th December, 1968 a cheque for the same amount was made to us through the Southern Bank Berhad. A Scrutiny of both letters indicated that the payment was for works done and act for materials on site and so we have certain arrangements with our Bank, the payment has fully expended.

It was after receiving your letter of 19th December, 1968 that we came to know that \$109,920/- was actually due to Messrs. Malayawata Steel Berhad.

30 As agreed from our past correspondence that all payments of steel would be made direct to M/s. Malayawata Steel Berhad, we shall be obliged if all payments for steel in future would be made in accordance with the agreed arrangement.

In the meantime, we request that you send your T.A.Q.S. to measure our works done and credit our amount to M/s. Malayawata Steel Berhad to make up the sum of \$109,920/- in order to rectify the error which have arisen due to an oversight. For easy reference, we attach herewith photostat copies of
40 the letters mentioned above.

Yours faithfully,

(OOI GHEE HIN)
Manager

Encs:

c.c. M/s. Malayawata Steel Berhad,
Bank Bumiputra Building, Jalan Melaka,
Kuala Lumpur.

OGH/lsk

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

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Letter,
Ng Kong Hooi
Construction
to P.W.D.

26th December
1968

EXHIBIT"A"

Plaintiffs
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Page 29 & 30

Letter,
Appellants
to P.W.D.

27th December
1978

EXHIBIT "A"

LETTER, APPELLANTS TO P.W.D.
- 27th December 1968

MALAYAWATA STEEL BERHAD

5th Floor, Bangunan Bumiputra
21, Jalan Malacca,
Kuala Lumpur

27th December 1968

Penolong Pengarah Kerja Raya
(Ukor Bahan),
Ibu Pejabat, J.K.R.
Jalan Maxwell,
KUALA LUMPUR

10

Dear Sir,

Malaysian Broadcasting Centre
Radio House & Auditorium,
Kuala Lumpur, Progress Payment
No.7, Contract No.JKR/PER/IP/160
of 1967

Ng Kong Hooi

20

We refer to your letter No.(22)dlm.PKR.
B15/229/Q6/Pt.3 of 19th December 1968 addressed
to M/s Ng Kong Hooi Construction Co. Kuala
Lumpur in connection with a payment of \$119,820/-
made to (illegible) of which \$109,920/- should be
paid to us direct in respect of steel supplied
to the contractors.

We also refer to M/s. Ng Kong Hooi
Construction's letter to us of 14/12/48
ref:NKH/1193/68, from which it is obvious that
the amount of \$119,820/- has been credited to
their account with Southern Banking Berhad.
Photostat copies of the above 2 letters are
attached for your easy reference.

30

As a result of an oversight by your Dept.,
a sum of \$109,920/- due to us has been wrongly
credited to the account of M/s. Ng Kong Hooi
Construction Co. we shall therefore be obliged
if you will kindly instruct M/s. Ng Kong Hooi
Construction Co. to issue us their cheque for
this amount immediately. Failing this, we shall

40

be grateful if you will (illegible) that the sum of \$109,920/- is deducted from the next progress payment due to M/s. Ng Kong Hooi Construction Co. and that this sum is credited to us direct plus any further sums that may be due to us for steel supplied to these contractors.

10

In an interview with Mr. Singa Rajah of your Dept. we were given to understand that the next progress payment due to be made to M/s Ng Kong Hooi Construction Co. will be in early January, 1969.

Yours faithfully,

MALAYAWATA STEEL BHD.

Sgd.

.....

TAN SRI SYED JA'AFAR ALBAR
Manager
Kuala Lumpur Office

C.C. M/S Ng Hong Hooi

Prai Office

EXHIBIT

"A"

Plaintiffs
agreed bundle
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Pages 29 & 30

Letter,
Appellants
to P.W.D.

27th December
1968

(cont'd)

EXHIBIT

EXHIBIT "A"

"A"

LETTER, P.W.D. to NG KONG HOOI
CONSTRUCTION - UNDATED

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IBU PEJABAT,
NEGERI TANAH MELAYU,
(P.W.D, Federal Headquarters
Jalan Maxwell,
KUALA LUMPUR.

Page 31

Letter,
P.W.D. to
Ng Kong Hooi
Construction
undated

(21) dlm. PKR. B15/289/Q6/PT.3.

10

Messrs. Ng Kong Hooi Construction,
No. 56A Bukit Bintang,
KUALA LUMPUR.

Tuan2,

Malaysian Broadcasting Centre -
Radio House and Auditorium, Kuala
Lumpur

In reply to your letter dated 9.12.1968 I
should like to mention that the quantity Surveyor
had already prepared a progress payment certificate
amounting to \$119,820/- and a copy of his letter
dated 4.12.68 has been sent to you.

20

Saya yang menurut perintah,

Sgd. L. Chin Yun Howe, JBM
.....
b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu,
(L. CHIN YUN HOWE, JBM)

30

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 9th December 1968

NKH/1138/68

9th December, 68

Penolong Pengarah Kerja Raya
(Ukor Bahan),
Ibu Pejabat, J.K.R.
Jalan Maxwell,
KUALA LUMPUR

10 Dear Sir,

8th Progress Payment for Malaysian
Broadcasting Centre - Radio House
& Large Auditorium, Bukit Putri,
Kuala Lumpur

We shall be obliged if you could send your T.A. Q.S. to our Site to measure our works done. Our Site Engineer has been instructed to give him all the assistance he needs.

20 We have to refer to your Circular informing us that all progress payments should be submitted to you before the 15th or at the latest before the 20th instant for payment to be made this year.

We shall be obliged if arrangement could be made to pay us before the 20th as we have to pay our labourers before the Hari Raya Holidays and all other expenses incurred.

Yours faithfully,

Sgd.

30

(OOI GHEE HIM)
Manager

OGH/1 sk.

EXHIBIT

"A"

Plaintiffs
agreed bundle
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Letter, Ng
Kong Hooi
Construction
to P.W.D.

9th December
1968

EXHIBIT

"A"

Plaintiffs
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Page 33

Letter,
Ng Kong Hooi
Construction
to P.W.D.

31st December
1968

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 31st December 1968

NG KONG HOOI CONSTRUCTION

Jalan Bukit Bintang,
K. Lumpur Tel. 28021
28113

NKH/1206/68

31st December, 1968

Penolong Pengarah Kerja Raya
(Ukor Bahan),
Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell,
KUALA LUMPUR.

10

Dear Sir,

Deformed Bars - Radio House

Further to our letter of 18th November,
1968, we forward herewith the 3rd batch of
certified copies of Invoices Nos. (A)770,
(A)933, (A)958 and (A)984 totalling 119.218
L/Tons valued at \$42,633.86.

20

The above steel has been delivered to
Site. Please make payment direct to Messrs.
Malayawata Steel Berhad.

Yours faithfully,

Sgd.

(OCI GHEE HIM)
Manager

Encls:

c.c. M/s Malayawata Steel Berhad,
5th Floor, Bank Bumiputra Building,
Jalan Melaka,
Kuala Lumpur

30

GM/lsk

EXHIBIT "A"

LETTER, P.W.D. TO PAPPAS &
ASSOCIATES - 15th January 1969

JABATAN KERJA RAYA

Ibu Pejabat,
Negeri Tanah Melayu
(P.W.D. Federal Headquarters)
Jalan Maxwell,
KUALA LUMPUR.

15hb. Januari, 1969

10

(27)dlm.PKR.B15/229/Q6/Pt.3

Messrs. M.J.Pappas & Associates,
20 Jalan 16/5,
Petaling Jaya,
Selangor

Progress Payment No.8
Contract No.JKR/PER/IP/160 of 1967

20

I forward herewith 7 copies of the above
for the sum of \$141,450.00 for your approval.

Please forward 6 copies after approval to
Assistant Director (Buildings), P.W.D.
Headquarters, Jalan Maxwell, Kuala Lumpur.

Saya yang yang menurut perintah

Sgd.

b.p. Pengarah Kerja Raya,
Negeri Tanah Melayu
(H.F. SINGA RAJAH)

30

c.c.

M/s Ng Kong Hooi Const.,
5th Floor Bangunan Bank Bumiputra,
21 Jalan Melaka,
Kuala Lumpur.

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Letter,
P.W.D. to
Pappas &
Associates

15th January
1969

EXHIBIT

"A"

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Page 35

Letter, Ng
Kong Hooi
Construction
to P.W.D.

16th January
1969

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 16th January 1969

NG KONG HOOI CONSTRUCTION

56A Jalan Bukit Bintang,
K.Lumpur Tel. 28021
28113

NKH/45/69

16th January, 1969

Penolong Pengarah Kerja Raya
(Ukor Bahan),
Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell,
KUALA LUMPUR.

10

Dear Sir,

Re: Deformed Bars - Radio House &
Large Auditorium, Bukit Putri,
K.Lumpur

Further to our letter of 31st December,
1968, we forward herewith the 4th batch of
certified copies of Invoices Nos. (B)212,
(B)237, (B)243, (B)293, (B)316, (B)335, (B)355,
(B)365, (B)387, (B)403, (B)438, (B)477, (B)508
and (B)532 totalling 419.916 L/Tons valued at
\$155,696.68.

20

The interim amount payable to Malayawata
Steel Berhad would be the sum total of amounts
mentioned in this letter and that of the 31st
December, 1968.

Please make this payment direct to Messrs.
Malayawata Steel Berhad as the 8th Progress
Payment for the month of January, 1969.

30

Yours faithfully,
Sgd.

(OOI GHEE HIM)

Encls.

Manager

c.c. M/s Malayawata Steel Berhad,
5th Floor, Bank Bumiputra Building,
Jalan Melaka,
Kuala Lumpur.

EXHIBIT "A"

LETTER, APPELLANTS TO NG
KONG HOOI CONSTRUCTION -
2nd July 1968

EXHIBIT

"A"
Plaintiffs
agreed bundle
of documents

Pages 36 & 37

Letter,
Appellants
to Ng Kong
Hooi
Construction

2nd July
1968

MALAYAWATA STEEL BERHAD

KUALA LUMPUR OFFICE

5th Floor, Bangunan Bank
Bumiputra
21 Jalan Melaka

Telephone: 299461-3

Telegraphic Address:
"BESIBAJA" KUALA LUMPUR

10

NYS/BUS-74/0059/68

2nd July 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur.

Dear Sirs,

Re: Deformed Bars for Radio House

20

Thank you for your letter dated 25th June
1968 in respect of the above-mentioned deformed
bars.

As stated in our letter to the Ministry
of Commerce and Industry of 11th instant, a
total reduction of \$15,007.20 for the 1,110 tons
of the deformed bars, i.e. \$13.20 per long tons
has been agreed.

Therefore, details of our offer for the
deformed bars are now as follows :

30

- 1) Commodity: High Tensile Deformed Bars.
- 2) Specification: High Yield Stress:
min. 55,000 lbs./ins²
Ultimate Tensile Strength:
min. 75,000 lbs./ins²
Other Mechanical and
Chemical properties are
not lower than ASTM/A15.

EXHIBIT

"A"
 Plaintiffs
 agreed bundle
 of documents
 Pages 36 & 37
 Letter,
 Appellants
 to Ng Kong
 Hooi
 Construction
 2nd July 1968
 (cont'd)

3) Quantity: 40' Straight.

D3/4"	...	200 tons
D1/2"	...	350 tons
D5/8"	...	120 tons
D3/4"	...	80 tons
D7/8"	...	80 tons
D 1"	...	80 tons
D 1 1/8"	...	200 tons
		1,110 tons

4) Price:

10

D 3/8"	¥386.48 per long ton	(delivered)
D 1/2"	¥371.48 per long ton	(delivered)
D5/8"-D1"	¥356.48 per long ton	(delivered)
D 1 1/8"	¥371.48 per long ton	(delivered)

5) Payment Terms:

(i) Irrevocable Letter of Credit 120 days sight to be opened 7 days before your required date of first delivery. L/C should stipulate "Partial Shipment permitted" with one month validity. 20

or

(ii) J.K.R. Guarantee with 90 days credits.

6) Delivery: From July 1968 onwards. The delivered quantity for each consignment should not be less than 25 tons. 30

We look forward to being favoured with your esteemed order soon.

Yours faithfully,
 MALAYAWATA STEEL LTD.

Sgd.
 K.SANO

Acting Manager, Business Department.

c.c. Our K.L.Office.

40

/gal.

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 18th January 1969

NG KONG HOOI CONSTRUCTION

56A Jalan Bukit Bintang,
K.Lumpur Tel. 28021
28113

NKH/60/69

18th January, 1969

Penolong Pengarah Kerja Raya
(Ukor Bahan),
Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell,
KUALA LUMPUR

Dear Sir,

Re: Progress Payment No.9 - Radio House
and Large Auditorium, Bukit Putri,
K.Lumpur

We are in receipt of your letter reference
(27)dlm.PKR.B15/229/Q6/Pt.3 of 15th January, 1969
and note that you have recommended the payment of
~~RM~~141,450/- as our 8th Progress Payment for the
credit of Messrs. Malayawata Steel Berhad on the
request of our letter of 26th December, 1968.

On going through our records, we note that
Messrs. Malayawata Steel Berhad has extended to
us 90 days credit for steel delivered to us and
the latest consignment completely delivered to Site
on 10th January, 1969 becomes due and payable in
the middle of April, 1969. The position being as
it is, we shall be obliged if you do not make any
further payment for the credit of Messrs. Malayawata
Steel Berhad until you receive our confirmation.
We will, of course, notify you 1 week before payment
becomes due for payment to Messrs. Malayawata
Steel Berhad to enable you to prepare the Statement.
A photostat copy of Messrs. Malayawata Steel Berhad's
letter is enclosed herewith for your information.
Our letter reference NKH/45/69 of 16th January, 1969
can therefore be ignored by you.

As the 8th Progress Payment for the month of

EXHIBIT

"A"

Plaintiff's
agreed bundle
of documents

Pages 38 & 39

Letter, Ng
Kong Hooi
Construction
to P.W.D.

18th January
1969

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 38 & 39

Letter, Ng
Kong Hooi
Construction
to P.W.D.

18th January
1969

(cont'd)

January 1969 has already been recommended, we shall be obliged if you will send your T.A.Q.S. on 1st February, 1969 to measure our works and all materials at Site for the 9th Progress Payment to be made to us for the month of February, 1969.

As all accounts, wages and loans to labourers have to be settled and paid before the 10th February, 1969 in view of the Chinese New Year, which is the most celebrated affair affecting most of our suppliers, staff and workmen, we shall be obliged if payment can be effected before the 10th February, 1969 as you will no doubt appreciate that in a project of this magnitude co-operation from all parties connected with it is most essential.

10

We shall be obliged to receive your confirmation that our proposal is acceptable to you within the next few days.

We also forward herewith details for the electrical works executed for payment. Please include this in our 9th Progress Payment.

20

Yours faithfully,

Sgd.

(NG KONG HOOI)

Encls:

c.c. M/s N.J.Pappas & Associates, K.L.

c.c. M/s Malayawata Steel Berhad, K.L.

OGH/NKH/lsk.

EXHIBIT "A"

LETTER, APPELLANTS TO P.W.D.
28th January 1969

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

28th January, 1969

Page 40

Pengarah Kerja Raya,
Ibu Pejabat,
Jabatan Kerja Raya,
Jalan Maxwell,
Kuala Lumpur

Utok Perhatian:
Mr.L.Chin Yun Howe

Letter,
Appellants
to P.W.D.

28th January
1969

10 Dear Sir,

M/s Ng Kong Hooi Construction
56A Jalan Bukit Bintang, Kuala Lumpur
Deformed Bars for Radio House Project

We enclose herewith a copy of the letter we have today written to M/s. Ng Kong Hooi Construction, Kuala Lumpur, which is self-explanatory.

20 We are a little disturbed that Ng Kong Hooi Construction should at this stage choose to alter the agreement made between themselves and ourselves, and approved by you as per your letter of the 8th August, 1968, addressed to M/s Ng Kong Hooi Construction, Ref: (278) d1m. PER.B15/229/Q6.

30 As you can see, we have delivered steel bars to these people for the above project, to the value of over \$400,000/- and even taking into account the expected payment of \$141,450/- from the J.K.R. (Progress Payment No.8), there still remains a balance of over \$276,000/-, covering goods supplied to these people nearly 3 months ago.

We shall be obliged if you will kindly ensure that M/s Ng Kong Hooi Construction abide by the agreement entered into and confirmed by you and the Treasury, and that the J.K.R. continue with their present arrangement of paying us direct any monies due to us whenever any Progress Payment is due to be made to Ng Kong Hooi Construction.

40 Yours faithfully,
Sgd. Assistant Manager

c.c.Our Kuala Lumpur Office.

Assistant Director (Buildings),
J.K.R., H.Q., Kuala Lumpur.

Senior Treasury Accountant,
J.K.R., H.Q. Kuala Lumpur.

Messrs. H.J.Pappas & Associates
20 Jalan 16/5, Petaling Jaya.

50 Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, Jalatan Kerja Raya,
Jalan Maxwell, Kuala Lumpur

Permanent Secretary,
Ministry of Information & Broadcasting, Kuala Lumpur
Messrs. Ng Kong Hooi Construction, Kuala Lumpur

EXHIBIT

"A"
Plaintiffs
agreed bundle
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Pages 41 & 42

Letter,
Appellants to
Ng Kong Hooi
Construction

28th January
1969

EXHIBIT "A"

LETTER, APPELLANTS TO NG KONG
HOOI CONSTRUCTION - 28th January
1969

28th January, 1969

A.R. REGISTERED

Messrs. Ng Kong Hooi Construction,
No.56A Jalan Bukit Bintang,
Kuala Lumpur.

Dear Sirs,

10

Progress Payment No.9 - Radio House
and Large Auditorium, Bukit Putri,
K. Lumpur

We refer to your letter of the 18th
January, 1969, addressed to the Penolong
Pegarah Kerja Raya (Ukor Bahan), Ibu
Pejabat, Jabatan Kerja Raya, Jalan Maxwell,
Kuala Lumpur, in connection with progress
payment due to you on the above project.

We are surprised at the contents of your 20
letter as we have never agreed to give you 90
days' credit for steel delivered to you. If
you will refer to past correspondence, you
will find that in our letter of the 2nd July,
1968, Ref: NYS/BUS-74/0059/68, we offered
you the following payment terms :-

(i) Irrevocable Letter of Credit 120
days sight, to be opened 7 days
before your required date of first
delivery. L/C should stipulate 30
"partial shipment permitted" with
one month validity.

(ii) J.K.R. Guarantee with 90 days' credit.

You were unable to meet either of the
above terms.

Subsequently, it was agreed that we would
supply you steel, for this project on your
authorising J.K.R. to deduct the amount of the
value of the steel we deliver to you from any
interim payment due to you, and that any amount 40
due to us for material supplied should be
paid direct to us. In this connection, please
refer to your letter, Ref: NKH/616/68, dated
20th July, 1968, addressed to us, and to
your letter of the same date, Ref: NKH/617/68,
addressed to the Penolong Pegarah Kerja Raya
(Ukor Bahan), Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell Kuala Lumpur, confirming this
arrangement.

Subsequently, on the 8th August, 1968, the J.K.R. in their letter, Ref:(278) dlm.PKR. B15/229/Q6, addressed to you with a copy to us, confirmed that the arrangement was approved by the Treasury, and that payment would be made on the basis of invoices from this office, certified by you.

10 We are therefore a little distressed at your having written to the J.K.R. requesting deferrment of payment due to us, without even the courtesy of having consulted us first in the matter.

According to our records, a total of \$418,223.64 is due to us, representing steel bars delivered to you from the 15th August to the 28th December, 1968. Against this sum, we are expecting payment of \$141,450.00 from the J.K.R. This will leave a balance of \$276,773.64 some of these bills are already over 3 months old.

20 We understand from the J.K.R. that payment made to us represents only 75% of the value of the goods delivered to you in accordance with our invoices certified by you and submitted to the J.K.R. You will therefore see that on all deliveries made to you, we are getting only 75% of the value of the steel bars, and we presume the balance of 25% will only be paid to us when the project is completed. We would like to have your advices on this point.

30 We would like to repeat that payment made to us direct by the J.K.R. is in respect of materials already supplied to you, and we therefore feel it is unethical for you to request the J.K.R. to delay payment to us, which is in contradiction to the agreement made between your Company and ourselves.

40 We shall therefore be obliged if you will kindly write to the J.K.R., cancelling your letter of the 18th January, 1969, and confirming that the agreement made under your letter of the 20th July, 1968, Ref: NKH/617/68 to the J.K.R. still stands. Please send us a copy of your letter to the J.K.R.

We hope that we will have no further cause for complaint in the future.

Yours faithfully,

c.c. Our Kuala Lumpur Office

Assistant Director (Buildings)
J.K.R., H.Q. Kuala Lumpur

50 Senior Treasury Accountant,
J.K.R., H.Q., Kuala Lumpur.

Messrs. H.J.Pappas & Associates,
20 Jalan 16/5, Petaling Jaya.

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat Jabatan Kerja Raya,
Jalan Maxwell, Kuala Lumpur

Permanent Secretary,
Ministry of Information & Broadcasting, Kuala Lumpur

Mr.L.Chin Yun Howe,
Pengarah Kerja Raya

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 41 & 42

Letter,
Appellants
to Ng Kong
Hooi
Construction

28th January
1969

(cont'd)

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 43 & 44

Letter, Ng
Kong Hooi
Construction
to Appellants

1st February
1969

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 1st February 1969

NG KONG HOOI CONSTRUCTION

56A Jalan Bukit Bintang,
K.Lumpur Tel. 28021
28113

NKH/118/69

1st February, 1969

M/s Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O.Box No.60,
BUTTERWORTH.

10

Dear Sirs,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium

We are in receipt of your letter of 28th
January, 1969 and to state that we do not find
your letter amusing at all.

You stated in your letter that it was agreed
that you supply us the steel on our authorisation 20
to J.K.R. to deduct the amount from any interim
payment due to us and if this procedure does not
constitute a guarantee, then we are at a loss
what will.

Nevertheless, we are of the opinion that
you are taking too serious a view of what is to
us a normal and reasonable letter.

We understand that you will be receiving
your 2nd progress payment of \$141,450/- in a few
days time and as such we will request J.K.R. to 30
make another payment to you in March instead of
in April. Copy of this letter to J.K.R. consti-
tute our request that your next progress payment
is in March.

You will appreciate that we have finalised
our Irrevocable Letter of Credit with our Bank in
respect of the importation of steel from Japan
and we are forced to cancel the arrangement as a
result of local intervention which resulted in
the stagnation of our works for a period of 7½ 40
months whilst waiting for the authorities to sort
out whether or not to use local steel thus

causing us innumerable losses and time. The party who should be distressed would naturally be us and we cannot understand why you should at all be disturbed.

We trust that you are now in a position to appreciate that we are a reasonable lot of people and not as you have visualised.

Yours faithfully,

Sgd.

(NG KONG HOOI)

10

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 43 & 44

Letter, Ng
Kong Hooi
Construction
to Appellants

1st February
1969

(cont'd)

c.c. Pen. Pengarah Kerja Raya (Bangunan)
J.K.R., HQ., Jalan Maxwell, K.Lumpur.

c.c. Senior Treasury Accountant,
J.K.R., HQ., Jalan Maxwell, K.Lumpur

c.c. M/s N.J.Pappas & Associates,
20 Jalan 16/5,
Petaling Jaya.

c.c. Pen. Pengarah Kerja Raya (Ukor Bahan),
J.K.R., HQ., Jalan Maxwell, K.Lumpur.

20

c.c. Permanent Secretary,
Ministry of Information & Broadcasting, K.Lumpur.

c.c. Mr. L.Chin Yun Howe,
Pengarah Kerja Raya (Ukor Bahan),
J.K.R., H.Q., Jalan Maxwell, K.Lumpur

NKH/OGH/lsk.

EXHIBIT

EXHIBIT "A"

"A"

LETTER, APPELLANTS TO NG KONG HOOI
CONSTRUCTION - 1ST MARCH 1969

Plaintiffs
agreed bundle
of documents

Messrs. Ng Kong Hooi Construction, 1st March, 1969
No. 56-A. Jalan Bukit Bintang,
Kuala Lumpur.

Page 45

Dear Sirs,

Letter,
Appellants
to Ng Kong Hooi
Construction

Malaysian Broadcasting Centre
Radio House - Large Auditorium

10

1st March 1969

We thank you for your letter of the 1st
February, 1969. Our letter of the 28th January,
1969 was not meant to be amusing.

We have to take a serious view of the situation
because the sum involved is very substantial. Your
outstanding account as at the 31st January, 1969,
after deduction of \$141,450.00 paid to us by the
J.K.R. in February, is \$276,773.64, some of which
are for goods supplied to you as early as September,
1968 - over four months old.

20

Your authority to the J.K.R. to deduct the
amount due to us from any interim payment due to us
does not constitute a guarantee as the J.K.R. do
not underwrite your debt.

We only ask that if you wish to make any
alterations to any existing arrangement, you should
consult us or inform us, and not write direct to
the J.K.R. without our prior knowledge.

30

We believe that you have requested the J.K.R.
to make another payment to us in March, and we look
forward to receiving this payment. Please advise
what the sum is likely to be.

Yours faithfully,

(MALAYAWATA STEEL LTD.)

C.C.
Pen. Pengarah Kerja Raya (Bangunan)
J.K.R., H.Q., Jalan Maxwell, K.L.

40

Senior Treasury Accountant,
J.K.R. H.Q., Jalan Maxwell, K.L.

C.C.
M/s. N.J. Pappas & Associates,
20, Jalan 16/5,
Petaling Jaya.

Pen. Pengarah Kerja Raya,
(Ukor Bahan),
J.K.R. H.Q.,
Jalan Maxwell, K.L.

10 Permanent Secretary,
Ministry of Information & Broadcasting,
K.L.

Mr. L. Chin Yun Howe,
Pengarah Kerja Raya
(Ukor Bahan),
J.K.R. H.Q.,
Jalan Maxwell, K.L.

EXHIBIT

"A"

Plaintiffs
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of documents

Page 45

Letter,
Appellants
to Ng Kong Hooi
Construction

1st March 1969

(Continued)

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 46

Letter, Ng
Kong Hooi
Construction
to Appellants

7th March
1969

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 7th March 1969

NG KONG HOOI CONSTRUCTION

56A Jalan Bukit Bintang,
K.Lumpur Tel. 28021
28113

NKH/197/69

7th March, 1969

M/s Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH.

10

Dear Sirs,

MALAYSIAN BROADCASTING CENTRE
Radio House & Large Auditorium

We thank you for your letter of 1st March, 1969 and to inform you that the amount of payment will depend on how much work has been executed since the last payment. The amount due will have to be measured by J.K.R.

20

A copy of this letter to J.K.R. will serve as our request for them to measure the works and to credit payment to you direct.

We trust that this arrangement is agreeable by you and hope that you do not feel too badly over the slight misunderstanding which do occur in the usual conduct of business.

Yours faithfully,
Sgd.

(OOI GHEE HIM)
Manager

30

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan)
c.c. Penolong Pengarah Kerja Raya (Bangunan)
c.c. M/s N.J.Pappas & Associates
c.c. Senior Treasury Account, P.W.D. HQ., K.L.
c.c. Permanent Secretary,
Ministry of Information & Broadcasting, K.L.
c.c. Pengarah Kerja Raya (Ukor Bahan)
Attention: Mr. L.Chin Yun Howe

OGH/lsk

EXHIBIT "A"

LETTER, P.W.D. TO PAPPAS &
ASSOCIATES - 25th March 1969

(37) dlm. PKR.B15/229/Q6 25th March, 1969

Messrs. N.J.Pappas & Associates,
20 Jalan 16/5, Petaling Jaya,
Selangor.

Tuan2,

Progress Payment No.10
Contract No.JKR/PER/IP/160/1967

I forward herewith 7 copies of the above
for the sum of \$45,000/- for your approval.

Please forward 6 copies after approval to
Assistant Director of Public Works (Buildings),
P.W.D. Hqrs., Jalan Maxwell, Kuala Lumpur.

Saya yang menurut perintah,
Sgd.

b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu
(H.F. SINGA RAJAH)

c.c. Messrs. Ng Kong Hooi Construction,
56A 1st Floor,
Jalan Bukit Bintang, K.L.

" Malayawata Steel Berhad,
5th Floor Bangunan Bank
Bumiputra, 21 Jalan Melaka, K.L.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 47

Letter, P.W.D.
to Pappas &
Associates

25th March
1969

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EXHIBIT

EXHIBIT "A"

"A"

LETTER, APPELLANTS TO P.W.D. -
11TH APRIL 1969

Plaintiffs
 agreed bundle
 of documents

Pengarah Kerja Raya (Ukur Bahan), 11th April,
 J.K.R., H.Q., 1969
 Jalan Maxwell,

Pages 48 to 50

KUALA LUMPUR. Untuk Perhatian: Mr. L. Chin
 Yun Howe

Letter,
 Appellants to
 P.W.D.

Dear Sir,

10

11th April 1969

M/S. Ng Kong Hooi Construction
 No. 56A, Jalan Bukit Bintang, K.L.,
Deformed Bars for Radio House Project

Our representatives visited the Radio
 House worksite yesterday and found that the
 work had come to a complete standstill.

On investigations, we were informed that
 there was some trouble with the concrete mix,
 and that until this trouble is resolved, the
 work cannot proceed.

20

We are a little disturbed at the state of
 affairs in respect of this contract.

If you will refer to your letter of the
 8th August, 1968, reference (278)dlm PKR.
 B15/229/Q6, addressed to Messrs. Ng Kong Hooi
 Construction, Kuala Lumpur, you and the
 Treasury approved the form of payment to us
 for steel supplied to this contractor for the
 above project as deduction from Progress
 Payment due to Ng Kong Hooi Construction. It
 was also agreed that Ng Kong Hooi would certify
 all our bills and pass these to your Department,
 so that the contrary authority for payment can
 be made.

30

Between the period August, 1968 to December
 1968 we delivered a total of 1,458.890 metric
 tons = 1,429.939 long tons high tencils steel
 deformed bars to the Radio House worksite as
 follows:-

40

August, 1968	456.807 M/tons
September, 1968	248.296 M/tons
October, 1968	221.132 M/tons
November, 1968	61.374 M/tons
December, 1968	<u>265.281 M/tons</u>
	<u>1,459.790 M/tons =</u>
	1,429.939 L/Tons

The total value of these 1,429.939 long tons of steel bars is \$526,990.64. We were supposed to receive 756 of the value of the steel bars, which is \$395,242.98. In actual fact, up to date we received only 2 payments as follows :-

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 48 to 50

Letter,
Appellants to
P.W.D.

11th April 1969

(Continued)

<u>Date</u>	<u>Amount</u>
24th October, 1968	\$108.767/-
12th February, 1968	<u>\$141.450/-</u>
	<u>\$250.217/-</u>

10

We understand that a cheque for \$45,000/- is being prepared for us, being the 10th progress Payment due to the contractor. If this cheque is accounted for, it will make a total payment of \$293,217/- to us. In effect therefore we have been short-paid \$100,003.98/- in respect of materials supplied as far as December, 1968.

20

We fail to understand why there is this short-payment as we understand from Messrs. Ng Kong Hooi Construction that they have certified and passed to you all bills received from us in respect of steel supplied as above.

Looking through our records, we find that in December, 1968, due to an over-sight in our Department, you included as amount of \$109,920/- which should be due to us in respect of materials supplied to the contractor, in your payment to Ng Kong Hooi. This is your 7th Progress Payment to the contractor.

30

Further, we discovered that in February, you made a 9th Progress Payment to the contractor, amounting to \$203,229/- part of which should rightly be paid directly to us in respect of materials supplied to the contractor.

These 2 over-sights have resulted in our being short-paid \$100,025.98/- and today, the amount due to us from this contractor is \$276,773.64/-

40

We are very worried over the situation, especially as the work progress has been very slow since March, 1969, and we shall be glad to know when we can expect further Progress Payments from you in respect of materials supplied to this worksite as far back as

EXHIBIT

December, 1968.

"A"

Yours faithfully,

Plaintiffs
agreed bundle
of documents

c.c.
Penolong Pengarah Kerja Raya (Ukur Bahan)
J.K.R., H.Q., K.L.

Pages 48 to 50

Pen. Pengarah Kerja Raya (Bangunan)
J.K.R. H.Q., Jalan Maxwell, K.L.

Letter,
Appellants to
P.W.D.

Senior Treasury Accountant,
J.K.R., H.Q., Jalan Maxwell, K.L.

10

11th April 1969

(Continued)

Permanent Secretary,
Ministry of Information & Broadcasting, KL

M/s. H.J. Pappas & Associates,
20, Jalan 16/5, Petaling Jaya.

Ng. Kong Hoo Construction,
56A Jalan Bukit Bintang, K.L.

Our K.L. Office

20

EXHIBIT "A"

LETTER, APPELLANTS TO NG KONG HOOI
CONSTRUCTION - 11TH APRIL 1969

11th April, 1969

Messrs. Ng Keng Hooi Construction,
No. 56A, Jalan Bukit Bintang,
Kuala Lumpur.

Dear Sirs,

Malaysian Broadcasting Centre
Radio House & Large Auditorium

We enclose herewith copy of a letter we have today written to the Pengarah Kerja Raya (Unkor Bahan), which is self-explanatory.

We are worried over the position, and shall be grateful if you will kindly take steps to instruct the J.K.R. to make sure substancila Progress Payments to us directly in respect of materials supplied to you for the above project.

When our representatives visited the worksite, as estimate that there are still between 400 to 500 tons of high tencile steel deformed bars at the worksite not yet used. This steel has been lying at the worksite for over 3 months, and we fail to understand why you have called forward this steel so early.

You will appreciate that the bills are now over 3 months old, and that they are now very much overdue for payment.

We shall send you our Debit Note for interest charges in respect of amount outstanding as at todays date, and we shall be glad if you will kindly confirm to us in writing that you have given instructions to the J.K.R. to make sure substancile and more rapid Progress Payments to us within the next few months.

Yours faithfully,

(MALAYAWATA STEEL LIMITED)

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

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Letter,
Appellants to
Ng Kong Hooi
Construction

11th April 1969

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EXHIBIT

"A"	c.c. Pengarah Kerja Raya (Ukor Bahan) (U.P.: Mr. L. Chin Yun Hoon)	
Plaintiffs agreed bundle of documents	Penolong Pengarah Kerja Raya (Ukor Bahan) Penolong Pengarah Kerja Raya (Bangunan)	
Page 51	Senior Treasury Accountant, J.K.R., H.Q., K.L.	
Letter, Appellants to Ng Kong Hooi Construction	Permanent Secretary, Ministry of Information & Broadcasting, Kuala Lumpur.	10
11th April 1969	M/s. H.J. Pappas & Associates, Petaling Jaya. Our K.L. Office.	

EXHIBIT "A"

LETTER, APPELLANTS TO NG KONG HOOI
CONSTRUCTION -26th APRIL 1969

26th April, 69

Messrs. Ng Kong Hooi Construction,
No. 56A, Jalan Bukit Bintang,
Kuala Lumpur.

Dear Sirs,

Radio House
Outstanding Accounts

We refer to discussion in your office on 22nd April, between your Manager, Mr. Ooi Ghee Him and the writer, in connection with your outstanding accounts and our letter to you of the 11th April, 1969.

We understand from Mr. Ooi that you have resolved the question of the concrete mix with the J.K.R. and the consultant engineer, and that work is expected to resume on this project on Thursday, 24th or Friday, 25th April, 1969.

It was agreed :-

- a) That you would request a quantity survey to be made on the 30th April, 1969.
- b) That you would instruct the J.K.R. to make the 11th Progress Payment to us direct towards the settlement of our bills covering materials delivered to you.
- c) That you would request a quantity survey every month, and instruct J.K.R. to make progressive monthly payments to us until your outstanding debt is settled.

Please send us a copy of your letter to J.K.R. for our records.

Yours faithfully,

MALAYAWATA STEEL LTD.

Assistant Manager
Business Department

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 52

Letter,
Appellants to
Ng Kong Hooi
Construction

26th April, 1969

EXHIBIT

"A"

Plaintiffs
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of documents

Page 52

Letter,
Appellants to
Ng Kong Hooi
Construction

26th April, 1969

(Continued)

c.c. Pengarah Kerja Raya (Ukor Bahan),
J.K.R., H.Q., Jalan Maxwell, K.L.
(U.P.: Mr. L. Chin Yun Howe

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan)
J.K.R., H.Q., K.L.

c.c. Penolong Pengarah Kerja Raya (Bangunan),
J.K.R., H.Q., K.L.

c.c. Senior Treasury Accountant, J.K.R., H.Q.,
K.L.

c.c. Permanent Secretary, Ministry of
Information & Broadcasting, K.L.

c.c. M/S. N.J. Pappas & Associates, P.J.

c.c. Our K.L. Office

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO PAPPAS & ASSOCIATES - 28TH APRIL 1969

Our Ref: NKH/379/69
Your Ref: (39) dlm. PKR.B15/229/Q6/Pt. 3

10 M/s. N.J. Pappas & Associates, 28th April, 1969
20, Jalan 16/5,
Petaling Jaya,
Selangor.

Dear Sirs,

Application for 11th Progress Payment

20 We refer to copy letter reference (39) dlm.
PKR.B15/229/Q6/Pt.3 of 24th April, 1969 and to
state that work was generally in progress with
the exception of pouring ready mix concrete until
a definite solution is arrived at.

Nevertheless, we shall be obliged if you
would recommend a progress payment to be made
directly to M/s. Malaywata Steel Berhad.

Yours faithfully,

(OOI GHEE HIM)
Manager

30 c.c.
Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell,
Kuala Lumpur.

M/s. Malaywata Steel Berhad,
KUALA LUMPUR.

Asst. Manager, Business Dept.,
M/s. Malaywata Steel Berhad,
Butterworth.

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"A"

Plaintiffs
agreed bundle
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Letter,
Ng Kong Hooi
Construction
to Pappas &
Associates

28th April 1969

EXHIBITEXHIBIT "A"

"A"
 Plaintiffs
 agreed bundle
 of documents

Page 54

Letter,
 P.W.D. to
 Pappas &
 Associates

3rd May 1969

LETTER, P.W.D. to PAPPAS & ASSOCIATES
 - 3RD MAY 1969

(41) dlm. PKR. B15/229/Q6/Pt 3. 3rd May, 1969

M/s. N.J. Pappas & Associates,
 20, Jalan 16/5,
 Petaling Jaya.

Tuan-Tuan,

PROGRESS PAYMENT NO. 11
CONTRACT NO. JKR/PER/IP/160 of 1967

I forward herewith 7 copies of the above for
 the sum of \$7,155/- for your approval.

2. Please forward 6 copies after approval to
 Assistant Director (Buildings) P.W.D. Headquarters,
 Jalan Maxwell, Kuala Lumpur.

Saya yang menurut perintah,

b.p. Pengarah Kerja Raya,
 Negeri2 Tanah Melayu,

s.k.
 M/s. Ng Fong Hooi Construction.,
 56A, 1st Floor,
 Jalan Bukit Bintang,
 Kuala Lumpur.

Malayawata Steel Berhad,
 5th floor,
 Bangunan Bank Bumiputra,
 21 Jalan Melaka,
 Kuala Lumpur.

10

20

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EXHIBIT "A"

LETTER, P.W.D. TO NG KONG
 HOOI CONSTRUCTION - 14th June
 1969

IBU PEJABAT,
 JALAN MAXWELL,
 KUALA LUMPUR.

23271 K.L.

KLTS: (365)dlm.PKR.
 B15/229/Q6

14.6.1969

EXHIBIT

"A"

Plaintiff's
 agreed bundle
 of documents

Pages 55 & 56

Letter, P.W.D.
 to Ng Kong
 Hooi
 Construction

14th June
 1969

10 Messrs. Ng Kong Hooi Construction,
 No.56A Jalan Bukit Bintang,
 Kuala Lumpur.

Tuan2,

MALAYSIAN BROADCASTING CENTRE
RADIO HOUSE - LARGE AUDITORIUM

I am directed to refer to the meeting held on 12th June, 1969 at the PWD Headquarters. The object of the meeting was to look into the very slow progress of work by the Main Contractor. The meeting was attended by official representatives from the Economic Planning Unit; Ministry of Information and Broadcasting; Messrs. N.J.Pappas & Associates, Public Works Department and the Main Contractor.

2. Mr. Ng Kong Hooi explained that one of the main reasons for the delay was due to his serious financial position. He is finding it difficult to obtain credit facilities from the Banks and the Suppliers of Building Materials. Although this is the entire responsibility of the Contractor, Mr. Ng Kong Hooi requested that if it was in anyway possible for the Government to make payment direct to the suppliers rather than through any Banks. The payment of any money due to the Contractor under the conditions of contract to be paid to the suppliers on the specific instruction of the Main Contractor. The Ministry of Information and Broadcasting and the Public Works Department agreed that in view of the urgency of the Project they will try to get the necessary approval from the Treasury. It was however emphasized and brought to the attention of the Main Contractor that this was only an assistance to enable the contractor to overcome his financial difficulties and is not intended to be a condition precedent to his immediate resumption of work.

3. In order to put up a strong case to the Treasury the Main Contractor shall provide the following details :-

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EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents
Pages 55 & 56
Letter, P.W.D.
to Ng Kong
Hooi
Construction
14th June 1969
(cont'd)

- (1) Name of Building Materials for incorporation in the project that he wishes to purchase under the agreement
- (2) Name of the Suppliers of each of the above mentioned materials.
- (3) The Conditions and Manner in which he wishes the payment to be made to the Suppliers by the Government.

4. Further it was agreed by all parties present, that neither the approval nor the disapproval by the Treasury will in anyway alter, modify or discharge the Main Contractor's obligations under the existing Contract. 10

5. Please reply early.

Saya yang menurut perintah

Sgd.

b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu,
(H.F. SINGA RAJAH) 20

s.k:- Bahagian Peranchang Ekonomi,
Jabatan Perdana Menteri, Kuala Lumpur.

Kementerian Penerangan & Penyiaran,
Kuala Lumpur. (Untuk Perhatian: Setia Usaha)

Kementerian Penerangan & Penyiaran,
Kuala Lumpur. (U/P: Ketua Jurutera
Peranchang)

Messrs. N.J.Pappas & Associates,
20, Jalan 16/5, Petaling Jaya, Selangor 30

Jabatan Kerja Raya, Jalan Maxwell,
Kuala Lumpur.
(U/P: Pen. Pengarah Kerja Raya (Bangunan))

Jabatan Radio (Untuk Perhatian: Pengarah)

KFSR/SF

EXHIBIT "A"

LETTER, APPELLANTS TO NG KONG HOOI
CONSTRUCTION - 1st JULY 1969

Messrs. Ng Keng Hooi Construction, 1st July, 1969
No. 56A, Jalan Bukit Bintang,
Kuala Lumpur.

Dear Sirs,

Radio House - Outstanding Accounts

Our records show that a total amount of
\$224,618.64 is still due to us in respect of
steel bars supplied to you for the above project
from September, 1968 to December, 1968.

On the last payment made to us was on the
27th May, 1969, an amount of \$7,155/- being part
of 11th Progress Payment.

Since then we have heard nothing further from
you regarding further payments against your
outstanding account.

We are pleased to note that work is now in
progress, and we shall be grateful if you will
kindly :-

- a) Request a quantity survey to be made as
quickly as possible.
- b) Instruct the J.K.R. to make the 12th
Progress Payment to us direct towards
settlement of our bills covering
materials delivered to you.
- c) Request for a quantity survey to be made
every month and instruct the J.K.R. to
make progressive monthly payments to us
until your outstanding debt is settled.

We look forward to receiving a substantial
amount within the next fortnight, and we hope that
you will ensure that the overdue account is cleared
as fast as possible as the bills are now well over
6 months old.

Yours faithfully,

(MALAYAWATA STEEL LTD)

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 57

Letter,
Appellants to
Ng Kong Hooi
Construction

1st July 1969

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EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 57

Letter,
Appellants to
Ng Kong Hooi
Construction

1st July 1969

(Continued)

c.c. Pengarah Kerja Raya (Ukor Bahan)
J.K.R., H.Q., K.L.

c.c. Penolong Pengarah Kerja Raya
(Ukor Bahan)
J.K.R., H.Q., K.L.

c.c. Penolong Pengarah Kerja Raya
(Bangunan)
J.K.R., H.Q., K.L.

c.c. Senior Treasury Accountant,
J.K.R. H.Q., K.L.

c.c. Permanent Secretary, Ministry of
Information & Broadcasting, K.L.

c.c. M/s. N.J. Pappas & Associates, P.J.

c.c. Our K.L. Office

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EXHIBIT "A"

LETTER, APPELLANTS TO NG KONG
 HOOI CONSTRUCTION - 23rd July 1969

23rd July, 1969

Messrs. Ng Kong Hooi Construction,
 No.56A Jalan Bukit Bintang,
 Kuala Lumpur.

Dear Sirs,

Radio House - Outstanding Accounts

EXHIBIT

"A"

Plaintiffs
 agreed bundle
 of documents

Pages 58 & 59

Letter,
 Appellants to
 Ng Kong Hooi
 Construction

23rd July
 1969

10 Further to our letter of 1st July, 1969,
 we confirm the writer's discussion with your Mr.
 Ooi Ghee Him in your office on Thursday, 17th
 July, 1969.

When the writer saw Mr. Ooi in your office,
 he had already visited the work site and was
 disappointed to note that the progress of
 construction work was very slow.

20 Mr. Ooi advised the writer that you were
 having some trouble with the concrete mix, and
 also that you were having trouble in getting the
 necessary materials on credit.

Mr. Ooi however advised the writer that you
 have come to an arrangement with the J.K.R. as
 follows :-

- 30
- 1) The target date for completion of the
 whole project has been advanced to
 April, 1970. You promised to send us a
 copy of your progress chart, and we shall
 be glad if you will kindly do this if it
 has not yet been done.
 - 2) You will now employ two teams of workers
 on the project in order to speed up the
 work.
 - 3) The J.K.R. will assist you in getting
 your requirements of materials necessary
 for the work.

Mr. Ooi advised the writer that in view of
 the slow progress, you have not asked the J.K.R.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 58 & 59

Letter,
Appellants to
Ng Kong Hooi
Construction

23rd July
1969

(cont'd)

to carry out a quantity survey, but in any event, you have received advice from them that the 12th Progress Payment amounting to \$1,500/- will be made to you. Mr. Ooi promised to send us your cheque for this 12th Progress Payment immediately this is received by you from the J.K.R. We hope to receive this soon.

It was agreed :-

- 1) That you would request a quantity survey to be made at the end of August, 1969, by which time you expect substantial progress to be made. 10
- 2) That you would instruct the J.K.R. to make 13th Progress Payment to us direct towards settlement of our bills covering materials delivered.
- 3) That you would request for a quantity survey to be made every month, and arrange for Progress Payments to be made to us regularly until your full outstanding account of \$224,618.64 is finally settled. 20

We therefore look forward to receiving a substantial amount towards settlement of your outstanding account early in September, and thereafter we hope that you will make efforts to settle our bills not later than October or November of this year.

Yours faithfully,

MALAYAWATA STEEL LTD. 30

Assistant Manager
Business Department

c.c. Pengarah Kerja Raya (Ukor Bahan), J.K.R.
H.Q., K.L.

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
J.K.R., H.Q., K.L.

cc. Penolong Pengarah Kerja Raya (Bangunan),
J.K.R., H.Q., K.L.

c.c. Senior Treasury Accountant, J.K.R., H.Q., K.L.

c.c. Permanent Secretary, Ministry of Information
& Broadcasting, K.L.

c.c. M/s. N.J.Pappas & Associates, P.J.

cc. Our K.L. Office

KSP/cpc

EXHIBIT "A"

LETTER, APPELLANTS TO NG KONG
 HOOI CONSTRUCTION - 7th August 1969

7th August, 1969

The Manager,
 Ng Kong Hooi Construction,
 No.56-A Jalan Bukit Bintang,
 Kuala Lumpur.

Dear Sir,

EXHIBIT

"A"

Plaintiffs
 agreed bundle
 of documents

Page 60

Letter,
 Appellants to
 Ng Kong Hooi
 Construction

7th August
 1969

10

Radio House - Outstanding Account

Further to our letter of the 23rd July, 1969, we understand that the J.K.R. carried out a quantity survey on the above project on the 31st July, 1969, and they are now in the process of recommending 13th Progress Payment to you as a result of this survey.

20

We trust that as arranged, you will instruct the J.K.R. to make this 13th Progress Payment direct to us towards payment of your outstanding account with us for steel bars supplied to you last year for this project.

Please send us a copy of your letter to the J.K.R. so that we can follow up the matter from our end.

Yours faithfully,
 MALAYAWATA STEEL LTD.

Assistant Manager

Business Department

30

- c.c. Pengarah Kerja Raya (Ukor Bahan) J.K.R.,
H.Q., K.L.
- c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
J.K.R., H.Q., K.L.
- c.c. Penolong Pengarah Kerja Raya (Bangunan)
J.K.R., H.Q., K.L.
- c.c. Senior Treasury Accountant, J.K.R., H.Q., K.L.
- c.c. Permanent Secretary, Ministry of Information
& Broadcasting, K.L.
- c.c. M/s. N.J.Pappas & Associates, P.J.
- c.c. Our K.L. Office

KSP/cpc

EXHIBITEXHIBIT "A"

"A"

LETTER, P.W.D. to NG KONG
HOOI CONSTRUCTIONPlaintiffs
agreed bundle
of documents

(422)d1m. PKR.B15/229/Q6

12hb. Ogos, 1969

Page 61

Messrs. Ng Keng Hooi Construction,
No. 56A, Jalan Bukit Bintang,
KUALA LUMPURLetter,
P.W.D. to
Ng Kong Hooi
Construction

Tuan-Tuan,

10

12th August
1969Malaysian Broadcasting Centre
Contract No. PWD/FED/HQ/160 of 1967
Progress Payment No. 13

I am directed to refer to Malayawata Steel Berhad's letter dated 7th August, 1969 in which you have promised to direct us to make the above payment in favour of Malayawata Steel Berhad.

20

However, your letter dated 30th July, 1969 directs us to make the above payment in favour of Lee Wah Bank Limited Account No. 8481/9.

On 2nd August, 1969 the above payment was made in favour of Lee Wah Bank Limited.

I should be pleased if you could clarify your instructions.

Saya yang menurut perintah,

b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu,
(H.P. SINGA RAJAH)

30

c.c.
Messrs. H.J. Pappas & Associates.

c.c.
Messrs. Malayawata Steel Berhad.

EXHIBIT "A"

LETTER, APPELLANTS TO NG KONG HOOI
CONSTRUCTION - 23RD AUGUST, 1969

Messrs. Ng Kong Hooi Construction,
No. 56A, Jalan Bukit Bintang,
Kuala Lumpur.

23rd August 1969

10 Dear Sirs,

Malaysian Broadcasting Centre
Contract No. PWD/FED/110/160 of 1967
Progress Payment No. 13

We refer to the J.K.R.'s letter to you of the
12th August, 1969, reference (422)dlm. PKR.B15/229/Q6,
in connection with Progress Payment No. 13.

We understand that this payment amounted to
\$6,420/- which was already made direct to you.

20 This is contrary to the agreement made between
us for the supply of steel to you for the above
project. We are very disappointed at the unilateral
action you have taken in directing the J.K.R. to pay
monies due to you directly to your account without
even the courtesy of first consulting us on the matter.

30 We shall be grateful if you will kindly arrange
to send us your cheque for \$6,420/- representing the
amount paid to you under Progress Payment No. 13, and
to instruct the J.K.R. in future to pay any monies due
to you in respect of Progress Payment, directly to us
until your overdue account is cleared.

Please note that unless we receive your cheque for
\$6,420/- in respect of Progress Payment No. 13, by
1st September, 1969, we may be forced to take legal
action to recover any monies due to us for materials
supplied to you.

Yours faithfully,

c.c. Pengarah Kerja Raya (Ukor Bahan)
J.K.R. H.Q. K.L.

40 c.c. Penolong Pengarah Kerja Raya (Ukor Bahan)
J.K.R. H.Q. K.L.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 62

Letter,
Appellants to
Ng Kong Hooi
Construction

23rd August 1969

EXHIBIT

"A"

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agreed bundle
of documents

Page 62

Letter,
Appellants to
Ng Kong Hooi
Construction

23rd August 1969

(Continued)

c.c. Penolong Pengarah Kerja Raya (Bangunan)
J.K.R. H.Q., K.L.

c.c. Senior Treasury Accountant, J.K.R. H.Q.,
K.L.

c.c. Permanent Secretary, Ministry of Information
& Broadcasting, K.L.

c.c. M/s. N.J. Pappas & Associates, P.J.

10

c.c. Our K.L. Office

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 11th September 1969

NG KONG HOOI CONSTRUCTION

56A Jalan Bukit Bintang,
L.Lumpur Tel. 28021
28113

NKH/820/69

11th September, 1969

10 Messrs. Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O.Box 60,
BUTTERWORTH.

Dear Sirs,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium
Progress Payment No.13

20 We acknowledge receipt of your letter of
23rd August, 1969 and to inform you that we
have been utilising monies from our other
projects to pay our workers employed at Radio
House Site for quite sometime and when we applied
for the 13th Progress Payment, we were then not
in a position to continue paying our workers
from other sources and as such we have no
alternative but to request the 13th payment to
be made to us to enable our works at Radio House
to continue as the discontinuance of our works
would automatically cause Government to suspend
our Contract in accordance with the terms
30 contained therein. If this position was to take
place, then we would not be able to settle the
outstanding account with you and it was with the
sincere desire of settling your account that we
have made the move which had unfortunately been
construed as an act of bad faith. We apologise
if we have caused any doubt but wish to give you
our assurance and undertaking that it has always
been our desire to settle the outstanding account
having always bear in our mind the very
40 considerate attitude your organization had so
graciously accorded us.

Nevertheless, as a sign of our sincerity,
we enclose herewith our cheque No: HSBC 122918
for the sum of \$1,500/- as payment to you and
hope you will not treat the issue too seriously.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 63-65

Letter, Ng
Kong Hooi
Construction to
Appellants

11th September
1969

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents
Pages 63-65
Letter, Ng
Kong Hooi
Construction
to Appellants
11th September
1969
(cont'd)

We also wish to inform you that a subsidiary payment would be made to us by the P.W.D. as the initial payment of \$6,420/- reflects "a on the spot assessment" of our payment and whatever extras after measurement would be eventually credited to us and may be described as part of 13th Progress Payment or the 14th Progress Payment and as far as we can anticipate the amount would not be substantial but would to a certain extent enable us to pay for the 2 extra concrete mixers which we have recently acquired in view of the decision to use site mix instead of ready mix concrete as you must be fully aware of the problems we have faced due to the failure of test cubes of ready mixed concrete. 10

We are also pleased to inform you that Government has agreed to be our sponsor for materials to be used for early incorporation in the above project and that we will be able to speed up the progress of the above project from the 15th instant and as such we wish to propose an arrangement by which we will be able to settle your outstanding account as our works continue and hope that you will kindly consider it and let us have your reply in due course. 20

In our future progress payments to the J.K.R. we would request that after the deduction of materials supplied we would ask for the balance to be paid to us to be effected in the following manner :- 30

- (a) An amount to cover the wages of all our employees at site including miscellaneous expenses and minor materials to be paid by us. The amount involved would be worked out each month.
- (b) Whatever balance after deducting for materials and wages would be paid directly to you.
- (c) If the amount made to you by the above arrangement is less than \$15,000/- we will make up the balance directly to you. 40

Since the actual speeding up of the progress of the above project would take effect from the 15th September, 1969, we do not anticipate any substantial payment when measurement is taken on the 1st of October, 1969 and as such we shall be obliged if you will permit us to effect a

payment of say \$5,000/- from the works measured on 1st of October, 1969 and that the proposal as emunerated above be allowed to take effect from the 1st of November, 1969 when the works executed are measured.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 63-65

Letter, Ng
Kong Hooi
Construction
to Appellants11th September
1969

(cont'd)

10 When works are measured by J.K.R. we would ascertain from them the amount to be paid and a letter will immediately be written by us to them settling out the payment to be made to you. A copy of our request will henceforth be made to you to enable you to know at every stage the progress of the works and the amounts to be paid by J.K.R.

By copy of this letter to J.K.R., we wish to confirm that the above proposed arrangement is irrevocable and shall indeed be grateful if our request will meet with your favourable and sympathetic consideration.

Yours faithfully,

20

Sgd. O. Ghee Him

(OOI GHEE HIM)

Manager

Encls:

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan)
J.K.R., H.Q., K.L.

c.c. Penolong Pengarah Kerja Raya (Bangunan)
J.K.R., H.Q., K.L.

c.c. Senior Treasury Accountant, J.K.R., H.Q., K.L.

30 c.c. Permanent Secretary, Ministry of Information
& Broadcasting, K.L.

c.c. M/s N.J.Pappas & Associates, K.L.

c.c. M/s. Malayawata Steel Berhad - K.L.Branch
Office.

OGH/lsk

EXHIBIT

EXHIBIT "A"

"A"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 1ST NOVEMBER 1969

Plaintiffs
agreed bundle
of documents

NG KONG HOOI CONSTRUCTION,
Jalan Bukit Bintang,
K. Lumpur

Page 66

Date 1st October, 1969

Letter,
Ng Kong Hooi
Construction
to P.W.D.

Messrs. Penolong Pengarah Kerja Raya
(Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
KUALA LUMPUR.

10

1st October
1969

Dear Sir,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium
Application for Progress Payment No. 15

20

We shall be obliged if you could send your
representative to site to measure our works for
payment to be made.

We would also be grateful if you could let us
know the amount to be paid to us before you issue
your Certificate so that we could advise you of the
amount to be paid directly by you to Messrs.
Malayawata Steel Berhad. Apart from the proposal put
forward in our letter (copy to you) of 11th September,
1969 it is our intention that an amount more than
£5000 be paid to Messrs. Malayawata Steel
Berhad if possible.

30

The relevant invoices for materials would be
forwarded to you as soon as all are received by us
in the next few days for payment to be made directly
to our suppliers.

Yours faithfully,

(NG KONG HOOI)

c.c. M/s. N.J. Pappas & Associates.
c.c. M/s. Malayawata Steel Berhad, Butterworth.
c.c. M/s. Malayawata Steel Berhad, Kuala Lumpur.

40

NKH/OGH/1sk.

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 8TH OCTOBER 1969

NKH/905/69

NG KONG HOOI CONSTRUCTION
Jalan Bukit Bintang,
K. Lumpur.

Date 8th October, 1969.

10 M/s. Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH.

Dear Sirs,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium

20 Further to our letter of 24th September, 1969
addressed to your solicitors (copy to you) we wish
to inform you that we have today requested J.K.R. to
make a payment of \$6,000/- direct to you from our
15th Progress Payment.

Please also refer to our letter to J.K.R.
(copy to you) dated 1st October, 1969.

We give you our assurance that we will keep
to our proposals to ensure that the outstanding
account is settled to your satisfaction.

Yours faithfully,

30 Sgd.
(OOI GHEE HIM)
Manager.

c.c. M/s. N.J. Pappas & Associates.
c.c. Penolong Pengarah Kerja Raya (Ukor Bahan).
c.c. M/s. Malayawata Steel Berhad,
K.L. Branch Office.

OGH/lsk.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Page 67

Letter,
Ng Kong Hooi
Construction
to Appellants

8th October
1969

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 68 & 69

Letter, Ng
Kong Hooi
Construction
to Appellants'
Solicitors

24th September
1969

EXHIBIT "A"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS' SOLICITORS - 24th
September 1969

NG KONG HOOI CONSTRUCTION

56A Jalan Bukit Bintang,
K.Lumpur Tel. 28021 28113

NKH/866/69

24th September, 1969

Messrs. Allen & Gledhill,
Advocates & Solicitors,
Bangunan Bank Southern,
Bilck No.203, (Tingkat Kedua),
Jalan Beach,
KUALA LUMPUR.

10

Dear Sirs,

Re: Steel Supplied by Messrs.
Malayawata Steel Berhad for
Radio House Project

We acknowledge receipt of your letter
reference LCK/368/69/AT dated 17th September,
1969 informing us that proposals contained in our
letter of 11th September, 1969 are not acceptable
by Messrs. Malayawata Steel Berhad.

20

We appreciate your clients' views as set
forth in your letter but wish to state that our
proposals were first discussed and then made with
Mr. Khoo of Messrs. Malayawata Steel Berhad who
then informed us that there was every likelihood
that our constructive proposals would be
accepted by the board of directors.

30

We also note from your letter that your
clients appreciated our financial position and
as such we feel that your clients may reconsider
their decision once again and accept our proposals
at least on a trial basis for 2 consecutive months
and after that period to revise or to indicate
what further terms your clients would like to
enforce to ensure payment if the trial basis as
proposed do not work out to your clients'
satisfaction.

40

We have dealt at length with Mr. Khoo and
Mr. Ting of Messrs. Malayawata Steel Berhad and
they are fully aware that the above project is

classified as "top priority" and as such the Deputy Prime Minister and the Minister of Information and Broadcasting have both graciously instructed that every assistance should be given to us to enable the project to be completed as early as is possible and as a result arrangement was made whereby Government acted as our guarantor for all building materials supplied for the above project.

EXHIBIT

"A"

Plaintiffs
agreed bundle
of documents

Pages 68 & 69

Letter, Ng
Kong Hooi
Construction
to Appellants'
Solicitors24th September
1969

(cont'd)

10 As your clients have benefited to a very large extent in their operation from the incentives and other assistance from the Government, we are of the view that your clients would not intentionally by any means do things to jeopardise the efforts of the Government insofar as the proposals put forward by us are constructive and as such we shall be obliged if your clients would accept our proposals and by this co-operation show to Government that the assistance and benefits derived as a result of the sound policy of the Government had not been given in vain.

20

We trust that your clients are now fully aware of the importance of the above project and would continue to extend their humane attitude by not imposing any interest as the imposition would be an additional burden and will retard the efforts being put up by us in trying to complete the project in time as instructed by the Ministers referred to above.

30

Yours faithfully,

Sgd.

(NG KONG HOOI)

c.c. Messrs. Malayawata Steel Berhad,
P.O.Box 60, Butterworth.

c.c. Messrs. Malayawata Steel Berhad, Kuala Lumpur.

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R., Jalan Maxwell, K.Lumpur.

40 c.c. Penolong Pengarah Kerja Raya (Bangunan)
Ibu Pejabat, J.K.R. Jalan Maxwell, K.Lumpur.

c.c. Senior Treasury Accountant,
Ibu Pejabat, J.K.R., Kuala Lumpur

c.c. Permanent Secretary, Ministry of Information
& Broadcasting, K.Lumpur.

c.c. Messrs. N.J.Pappas & Associates, K.Lumpur

NKH/OGH/lsk

EXHIBIT

EXHIBIT "A"

"A"

Plaintiffs
agreed bundle
of documents

Pages 70 & 71

Letter,
Appellants'
Solicitors to
Ng Kong Hooi
Construction

17th September
1969

LETTER, APPELLANTS' SOLICITORS TO
NG KONG HOON CONSTRUCTION - 17th
September 1969

ALLEN & GLEDHILL
(Advocates & Solicitors)
PEGUAMBELA DAN PEGUAMCHARA

BANGUNAN BANK SOUTHERN
BILEK No.203 (TINGKAT KEDUA)
JALAN BEACH, PULAU PINANG

10

A.R. REGISTERED

LCK/368/69/AT 17th September, 1969

Messrs. Ng Kong Hooi Construction,
56-A Jalan Bukit Bintang,
Kuala Lumpur.

Dear Sirs,

We act for Messrs. Malayawata Steel Berhad
and your letter to them dated the 11th of
September has been handed over to us with
instructions to reply thereto.

20

As you are, up to date, indebted to our
clients to the extent of \$223,118.64, they
regret that they cannot accept your proposals
contained in your aforesaid letter for the
repayment of your long outstanding account with
our clients. Though our clients appreciate your
present financial position and your difficulty
in settling the aforesaid outstanding account
with our clients, this account would in any
event have to be settled. Our clients have
therefore considered this matter in great length
and a decision has been reached by them whereby
you are allowed to settle the aforesaid
outstanding account as follows :-

30

1. To pay the sum of \$20,370.00 within 5 days
from receipt of this letter.
2. The balance sum of \$202,748.64 to be paid
by monthly instalment of \$20,000.00, the
first of which instalment is to be paid
on the 1st day of October, 1969 and there-
after on the 1st day of each succeeding
month until the whole sum of \$202,748.64
is paid in full.

40

Payment of the monthly instalment of
 \$20,000.00 is to be guaranteed by your
 Banker.

3. In addition to paragraph 2 above, you
 are required to pay interest at the rate
 of 9.6% per annum commencing on the 1st
 day of October on the total amount still
 due and owing by you to our clients until
 the whole sum is repaid in full.

10 The payment of this interest is also to
 be guaranteed by your Banker as in
 paragraph 2 above.

We are instructed by our clients to state
 that their above proposals are final and that
 they are not prepared to entertain any counter
 proposal from you for repayment of the above-
 mentioned sum of \$223,118.64.

20 Take Notice that unless the said sum of
 \$20,370.00 as mentioned in paragraph 1 above
 is paid within the time specified above and
 that you comply with all the other conditions
 of repayment, our clients will institute such
 legal proceedings against you as they may be
 advised without further reference to you.

Yours faithfully,

Sgd. Allen & Gledhill

- c.c. (1) Messrs. Malayawata Steel Berhad,
 P.O.Box 60, Butterworth.
- 30 (2) Messrs. Malayawata Steel Berhad,
 Kuala Lumpur.
- (3) Penolong Pengarah Kerja Raya
 (Ukor Bahan) J.K.R., H.Q., Kuala Lumpur.
- (4) Penolong Pengarah Kerja Raya
 (Bangunan) J.K.R., H.Q., Kuala Lumpur.
- (5) Senior Treasury Accountant,
 J.K.R., H.Q., Kuala Lumpur.
- (6) Permanent Secretary,
 Ministry of Information & Broadcasting,
 Kuala Lumpur.
- 40 (7) M/s. N.J.Pappas & Associates,
 Kuala Lumpur.

EXHIBIT

"A"

Plaintiffs
 agreed bundle
 of documents

Pages 70 & 71

Letter,
 Appellants'
 Solicitors to
 Ng Kong Hooi
 Construction

17th September
 1969

(cont'd)

EXHIBIT

"B"

Plaintiffs
bundle of
documents
agreed upon
at trial but
subject to
interpretation

Page 1

Letter,
Appellants to
Kementerian
Perdagangan dan
Perusahaan

23rd May 1968

EXHIBIT "B"

LETTER, APPELLANTS TO KENENTERIAN
PERDANGAN DAN PERUSAHAAN - 23rd May 1969

MALAYAWATA STEEL BERHAD
5th Floor, Bangunan Bank Bumiputra
21 Jalan Melaka.

23rd May, 1968

Inche Yahaya bin Haji Talib,
Timbalan Pengawal,
Bahagian Perdagangan,
Kementerian Perdagangan dan Perusahaan,
Kuala Lumpur.

10

Dear Sir,

Re: Deformed Bars for Radio House

Further to our discussions with your goodself
on the captioned matter, please be kindly advised
that we are now prepared to reduce our offer
prices by another \$10.00 per L/T, i.e.:

3/8"	\$390.00 per L/T	
1/2"	\$375.00 per L/T	20
5/8" - 1"	\$360.00 per L/T	
1 1/8"	\$375.00 per L/T	

Other terms and conditions are unchanged.

Taking the above prices to compare the
imported bars, the difference between those manu-
factured locally and in Japan will be more or less
10%, which we hope acceptable to the Government.

Your assistance to the above is highly
appreciated.

Yours faithfully,
Sgd.

30

c.c. K.J.Pappas & Associates,
Consulting Architects & Engineers,
c/o Television Malaysia,
Jalan Ampang, Kuala Lumpur
Pen.Pengarah (Gangunan) J.K.R.
Jabatan Kerja Raya, Kuala Lumpur
Pen.Pengarah (Ukor Bahan) J.K.R.
Jabatan Kerja Raya, Kuala Lumpur
M/s Ng Kong Hooi Construction,
56A Jalan Bukit Bintang, Kuala Lumpur.
The Secretary,
Ministry of Information, Kuala Lumpur

40

EXHIBIT "B"

LETTER, APPELLANTS TO KEMENTERIAN
PERDANGAN DAN PERUSAHAAN - 11TH
JUNE 1968

MALAYAWATA STEEL BERHAD
5th Floor,
Bangunan Bumiputra,
21, Jalan Malacca,
Kuala Lumpur

10

Our Ref. KLS/17/04

11th June 1968

Inche Yahaya bin Haji Talib,
Timbalan Pengawal,
Bahagian Perdagangan dan Perusahaan,
KUALA LUMPUR

Tuan,

Re: Deformed Bars for Radio House

20

With reference to our yesterday's discussion and further to our letter of 25th May, and recent telegram, concerning the reduction of the prices for the captioned goods, we are pleased to inform you that we have agreed to further reduce our prices by another \$1.52 per long ton. Now the total reduction agreed on these three occasion amounts to \$15,007.20 for the 1,110 tons of deformed bars required for Radio House, that is \$13.52 per long ton. Therefore, the prices are as follows:-

30

3/8"	\$386.48 per L/T
1/2"	\$371.48 " "
5/8" - 1"	\$356.48 " "
1 1/8"	\$371.48 " "

Other terms and conditions remain unchanged.

Looking forward to hearing from you and thanking you for your assistance, We remain,

Yours faithfully,

Sgd.

Tan Kim Yeow

Joint-Managing Director.

40

c.c. Business Dept., Prai Office.

EXHIBIT

"B"

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

Page 2

Letter,
Appellants to
Kementerian
Perdagangan dan
Perusahaan

11th June 1968

EXHIBIT

EXHIBIT "B"

"B"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 13TH JULY 1968

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

NG KONG HOOI CONSTRUCTION
Jalan Bukit Bintang,
K. Lumpur

NKH/599/68 Date 13th July, 1968

10

Page 3

Messrs. Malayawata Steel Berhad,
P.O. Box 60,
Prai, Province Wellesley,
BUTTERWORTH.

Letter,
Ng Kong Hooi
Construction
to Appellants

Dear Sirs,

Re: Deformed Bars for Radio House

13th July 1968

We thank you for your letter of 2nd July,
1968 in respect of the above matter and to inform
you that we will write to you as soon as
clarification is received from the Consultant,
Messrs. N.J. Pappas & Associates,

20

We remain,

Yours faithfully,

Sgd.
(NG KONG HOOI)

c.c. M/s. Malayawata Steel Berhad,
Bank Bumiputra Building,
Jalan Melaka,
Kuala Lumpur.

30

NKH/lsk.

EXHIBIT "B"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 12TH AUGUST 1968

NG KONG HOOI CONSTRUCTION
Jalan Bukit Bintang,
K. Lumpur.

NKH/697/68 Date 12th August, 1968

Messrs. Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH.

Dear Sirs,

Re: Supply of Deformed Bars for
Radio House Project

This is to inform you that we can only
acknowledge the quantities of the above steel
with actual delivery to our work site at the
proposed Radio House, Bukit Putri, Kuala Lumpur.

The quantities are to be based in the number
of standard length of 40 ft. as well as the
standard weight as specified and also to be effected
with one of the signatures of our two authorized person
as follows:-

- (1) Specimen signature of Mr. Ng Hong Wah.....
.....
- or (2) Specimen signature of Mr. San Fook
Choon.....

We trust the above statement is in order.

Yours faithfully,

Sgd.
(LIM KOH DEN)
Engineer.

NG KONG HOOI CONSTRUCTION
96-A, 1st Floor, Jalan Bukit Bintang
KUALA LUMPUR.

c.c. M/s. Malayawata Steel Bhd., K.L.
c.c. Federal Rail Transport Agency Ltd., K.L.
Attention: Mr. Kow Seak Chu.
c.c. Site Engineer, Ng Hong Wah.

LKD/1sk.

EXHIBIT

"B"

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

Page 4

Letter,
Ng Kong Hooi
Construction
to Appellants

12th August
1968

EXHIBIT

EXHIBIT "B"

"B"
 Plaintiffs
 bundle of
 documents
 agreed upon
 at trial but
 subject to
 interpretation

LETTER, APPELLANTS TO NG KONG
 HOOI CONSTRUCTION - 22nd August 1968

MALAYAWATA STEEL BERHAD
 5th Floor, Bangunan Bumiputra
 21 Jalan Malacca,
 Kuala Lumpur.

Page 5

Ref: KL/S/5Lc

22nd August, 1968

Letter,
 Appellants
 to Ng Kong Hooi
 Construction

Mr. Ng Kong Hooi,
 Ng Kong Hooi Construction,
 56A Jalan Bukit Bintang,
 Kuala Lumpur.

10

22nd August
 1968

Dear Sir,

Deformed Bars for Radio House

We refer to your letter NKH/689/68 dated
 10th August, 1968 and are pleased to note that
 the Jabatan Kerja Raya has agreed to deduct from
 your progress payments the value of deformed
 steel bars and pay direct to Malayawata Steel
 Berhad.

20

As ordered in your letter NKH/630/68 of
 25th July, 1968 for 1,200 L/Tons of High Tensile
 Deformed Bars, we have delivered accordingly
 part of your Order and hereby we enclose the
 relevant Invoices etc. as follows :-

Invoice	Delivery Order	Delivery Slip	Cert. of Inspection
(A) 287	DA1185	2015	Q-048 to 054
(A) 301	DA1202	2024 & 2025	Q-072 to 074
(A) 307	DA1212	2035 & 2036	Q-083 & 084
(A) 327	DA1278	2057 & 2058	R021 & 022

30

The total amount of the above four Invoices
 is ~~8~~83,974.45. Kindly arrange with the Jabatan
 Kerja Raya to deduct the amount from your
 progress payments.

Thank you.

Yours faithfully,
 for MALAYAWATA STEEL BERHAD
 Sgd. Ting Buoï Ho

40

Ting Buoï Ho

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan)
 J.K.R., Kuala Lumpur.

c.c. Sales Section, Prai Office.

EXHIBIT

EXHIBIT "B"

"B"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 3RD OCTOBER 1968

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur.

Date 3rd October, 1968

NKH/872/68

10

Page 7

M/s. Malayawata Steel Berhad,
5th Floor, Bangunan Bumiputra,
21, Jalan Melaka,
Kuala Lumpur.

Letter, Ng Kong
Hooi Construction
to Appellants

Attention: Mr. Ting Buoi Ho.

3rd October 1968

Dear Sirs,

Deformed Bars - Radio House

We refer to the telephone conversation between
your Mr. Ting and our Mr. Lim of 2nd instant when
we were advised that a balance of 9 tons of steel
from our order of 14th September, 1968 has still not
been transported by rail and since it is not
economical to transport a small amount, we hereby
place with you a further order of the undermentioned
size of steel and we hope that you can deliver them
to us as soon as possible.

20

5/8" ø ... 20 Tons.

Yours faithfully,

30

Sgd.
(OOI GHEE HIM)
Administrative Officer

c.c. M/s. Malayawata Steel Berhad,
Prai, Butterworth,
P.O. Box 60,
BUTTERWORTH.

OGH/LKD/1sk.

EXHIBIT "B"

LETTER, APPELLANTS TO NG KONG HOOI
CONSTRUCTION - 5TH OCTOBER 1968

MALAYAWATA STEEL BERHAD
5th Floor, Bangunan Bumiputra,
21, Jalan Malacca,
Kuala Lumpur.

Our Ref: KL/S/5Lc 5th October, 1968

10 Messrs. Ng Kong Hooi Construction,
56A, Jalan Bukit Bintang,
KUALA LUMPUR. Attention: Mr. Ooi Ghee Him)

Dear Sirs,

Deformed Bars for Radio House

20 We thank you very much for your letter
NKH/872/68 of 3rd October, 1968 in which you
have ordered 20 tons of 5/8" High Tensile Deformed
Bars (MYCON-60). We are now making arrangement
for the delivery of the steel and hope that you will
receive it soon.

Your full co-operation in this matter has been
greatly appreciated.

Yours faithfully,
for MALAYAWATA STEEL BERHAD

Sgd.
Tin Buoi Ho

30 c.c. Business Dept.,
Prai

EXHIBIT

"B"

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

Page 8

Letter,
Appellants to
Ng Kong Hooi
Construction

5th October
1968

EXHIBIT

EXHIBIT "B"

"B"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 28TH OCTOBER 1968

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur.

NKH/971/68 Date 28th October, 1968

10

Page 9

M/s. Malaywata Steel Berhad,
5th Floor, Bangunan Bumiputra,
21, Jalan Melaka,
Kuala Lumpur.

Letter,
Ng Kong Hooi
Construction
to Appellants

Attention: Mr. Ting Buoï Ho.

28th October
1968

Dear Sirs,

Re: Deformed Steel Bars for Radio
House Project, Bukit Putri,
Kuala Lumpur.

20

We refer to the telephone conversation
between your Mr. Ting and our Mr. Lim of even
date and to place our order for 90 Tons 1" ø
bars and shall be obliged if the deformed bars
can be delivered within the next 2 days.

Yours faithfully,

Sgd.
(OOI GHEE HIM)
Manager

30

c.c. M/s. Malaywata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH.

OGH/lsk.

EXHIBIT "B"

LETTER, APPELLANTS TO NG KONG HOOI
CONSTRUCTION - 24TH DECEMBER 1968

24th December, 68

Messrs. Ng Kong Hooi Construction,
56-A, 1st Floor,
Jalan Bukit Bintang,
Kuala Lumpur.

Dear Sirs,

Radio House - Steel
Progress Payment No. 7
Contract No. JKR/PER/IP/160 of 1967

According to arrangements made between yourselves J.K.R. and ourselves, J.K.R. will pay us direct for all steel delivered to you against the above contract.

In November we received our payment direct.

In December, due to an oversight, the J.K.R. included an amount of \$109,920/- due to us in their cheque to you for \$119,820/-. In this connection please refer to J.K.R. letter to you of the 19th December, 1968 ref. No. (22) dlm. PKR. B15/229/Q6/PC.3. We understand that this cheque was collected by you from the Treasury on the 19th December, 1968 and as \$109,920/- is due to us, we shall be grateful if you will kindly send us your cheque for this amount by return.

Yours faithfully,

c.c. Our K.L. office
KSP/bck

Malayawata Steel Berhad

Acting Manager

Business Department

EXHIBIT

"B"

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

Page 10

Letter,
Appellants to
Ng Kong Hooi
Construction

24th December
1968

EXHIBIT

EXHIBIT "B"

"B"

LETTER, P.W.D. TO PAPPAS &
ASSOCIATES - 3rd JULY 1969

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

3hb. Julai 69.
(45) dlm. PKR. B15/229/Q6/Pt.3.

Messrs. N.J. Pappas & Associates,
20 Jalan 16/5 Petaling Jaya,
Selangor.

10

Page 11

Tuan2,

Letter,
P.W.D. to
Pappas &
Associates

Progress Payment No. 12
Contract No. JKR/PER/IP/160 of 1967

I forward herewith 7 copies of the above for
the sum of \$1,500/- for your approval.

3rd July 1969

Please forward 6 copies after approval to
Assistant Director (Buildings) P.W.D. Headquarters,
K. Lumpur.

20

Saya yang menurut perintah,

Sgd.
b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu.
(H.F. SINGA RAJAH)

HFSR/ML.

s.k. Messrs. Ng Kong Hooi Construction, 56A
Jalan Bukit Bintang, K. Lumpur.

EXHIBIT "B"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 11TH JULY 1969

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur.

NKH/580/69

Date 11th July, 1969.

10

M/s. Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH.

Dear Sir,

Radio House - Outstanding Account

20

We refer to your letter of 1st July, 1969 and to inform you that due to the recent disturbance, the rate of progress at the above site has been slowed down and as such no payment was requested by us until substantial amount of work had been achieved.

We have now received a letter from P.W.D. stating that a progress payment of \$1,500/- has been made despite the fact that we have not asked for payment. A copy of the letter referred to is enclosed for your perusal.

30

From the enclosed letter, you can be convinced that we will definitely ask for progress payment when substantial work has been achieved and as such we request that you will bear with us for a little while longer.

Yours faithfully,

Sgd.
(NG KONG HOOI)

NKH/OGH/1sk.

Encls:

EXHIBIT

"B"

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

Page 12

Letter,
Ng Kong Hooi
Construction
to Appellants

11th July 1969

EXHIBIT

EXHIBIT "B"

"B"

LETTER, APPELLANTS TO NG KONG
HOUI CONSTRUCTION - 24TH JULY 1969

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

24th July, 69

Messrs. Ng Kong Hooi Construction,
No. 56A, Jalan Bukit Bintang,
Kuala Lumpur.

10

Dear Sirs,

Radio House - Outstanding Account

Page 13

Letter,
Appellants to
Ng Kong Hooi
Construction

We thank you for your letter of the 11th
July, 1969, reference NKH/580/69.

24th July 1969

As agreed during discussion between your Mr.
Ooi and the writer, you will send us your cheque
for \$1,500/- immediately payment is received by
you from the J.K.R. in respect of 12th Progress
Payment referred to in your letter under reply.

20

Yours faithfully,

MALAYAWATA STEEL LTD.

c.c. Our K.L. office

KSP/cpc

Assistant Manager

Business Department

EXHIBIT "B"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 15TH SEPTEMBER 1969

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur

NKH/830/69 Date 15th September, 1969

M/s. Malayawata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH Attention: Mr. Khoo

Dear Sirs,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium

We refer you to our letter reference NKH/820/69 and to inform you that we have received a statement from the P.W.D., approving a payment of \$15,246.00 being a subsidiary payment to the sum of \$6,420/- although described as the 14th Progress Payment and dealt with in paragraph 3 of our letter under reference.

This amount will go towards the payment of the 2 extra Concrete Mixers we have obtained to speed up the work.

Yours faithfully,

Sgd.
(OOI GHEE HIM)
Manager.

c.c. M/s. Malayawata Steel Berhad,
Bank Bumiputra Building,
21, Jalan Melaka,
Kuala Lumpur.

OGH/1sk.

EXHIBIT

"B"

Plaintiffs
Bundle of
documents
agreed upon
at trial but
subject to
interpretation

Page 14

Letter,
Ng Kong Hooi
Construction
to Appellants

15th September
1969

10

20

30

EXHIBIT

"C"
32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O. Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461/3

No.(A)287

9th August, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -

Commodity: H.T. Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per		Amount		Delivery Order		Remarks
		M/T	L/T	L/T	¢	¢	¢	No.	Date	
MYCON 60	D3/8" x 40'	5.100	5.019	386	48	1,939	74	DA 1185	9/8/1968	To Radio House Site Bukit Putri, Kuala Lumpur
MYCON 60	D1/2" x 40'	5.082	5.002	371	48	1,858	14	DA 1185	9/8/1968	
MYCON 60	D5/8" x 40'	5.103	5.022	356	48	1,790	24	DA 1185	9/8/1968	
MYCON 60	D3/4" x 40'	5.187	5.105	356	48	1,819	83	DA 1185	9/8/1968	
MYCON 60	D7/8" x 40'	5.194	5.112	356	48	1,822	33	DA 1185	9/8/1968	
MYCON 60	D 1" x 40'	5.324	5.240	356	48	1,867	96	DA 1185	9/8/1968	
MYCON 60	D1 1/8"x40'	4.910	4.832	371	48	1,794	99	DA 1185	9/8/1968	
		35.900	35.332			12,893	23			

(Total: Dollars Twelve thousand eight hundred ninety-three and Cents
twenty-three only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O.E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O. Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(A) 301

10th August 1968

Messrs. Ng Kong Hooi Construction,
50A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -

Commodity: H.T. Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per		Amount		Delivery Order		Remarks
		M/T	L/T	L/T	¢	¢	¢	¢	No.	
MYCON 60	D7/8" x 40'	15.062	14.824	356	48	5,284	46	DA 1202	10/8/1968	To Radio House Site, Bukit Putri, Kuala Lumpur
MYCON 60	D 1" x 40'	14.907	14.672	356	48	5,230	27	DA 1202	10/8/1968	
MYCON 60	D 1 1/8" x 40'	36.334	35.760	371	48	13,284	12	DA 1202	10/8/1968	
		66.303	65.256			23,798	85			

(Total: Dollars Twenty-three thousand seven hundred and ninety-eight
and Cents eighty-five only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT

"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT

"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O. Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No. (A)307

11th August, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur.

Your Order -

Commodity: H.T. Deformed Bars

Terms: As agreed

Specific- cation	Size	Quantity		Price per		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D3/4" x 40'	25.417	25.016	356	48	8.917	70	DA1212	11/8/1968	To Radio House Site, Bukit Putri Kuala Lumpur
MYCON 60	D 1 1/8"x40'	39.280	38.660	371	48	14,361	42	DA1212	11/8/1968	
		84.697	63,626			23,279	12			

(Total: Dollars Twenty-three thousand two hundred seventy-nine
and Cents twelve only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O. Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur No.(A) 327
TEL: 299461-3

12th August, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -

Commodity: H.T. Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D1/2" x 40'	45.738	45.016	371	48	16,722	54	DA 127	13/8/1968	To Radio House Site, Bukit Putri, Kuala Lumpur
MYCON 60	D1 1/8"x40'	19.640	19.330	371	48	7,180	71	DA 127	13/8/1968	
		65,378	64,246			23,903	25			

(Total: Dollars Twenty-three thousand nine hundred and three
and Cents twenty-five only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT

"C"
32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O. Box 60
Butterworth, Province Wellesley
TEL: 32141-8
KUALA LUMPUR OFFICE:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(A)337

14th August, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur.

Your Order -

Commodity: H.T. Deformed Bars

Terms: As agreed

Specific- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D1 1/8" x 40'	32.408	31.894	371	48	11,847	98	DA 1290	14/8/1968	To K.I.
MYCON 60	D5/8" x 40'	25.515	25.112	356	48	8,951	93	DA 1290	14/8/1968	To K.I.
		57.923	57.006			20.799	91			

(Total: Dollars Twenty thousand seven hundred and ninety-nine
and Cents ninety-one only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O. Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(A) 344

15th August, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur.

Your Order -
Commodity: H.T. Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D5/8" x 40'	32.640	32.124	386	48	12,415	28	DA 1298	15/8/1968	To Radio House Site, Bukit Putri, Kuala Lumpur

(Total: Dollars Twelve thousand four hundred and fifteen
and Cents twenty-eight only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT

"C"

32 Invoices
Issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No. (A) 366

16th August, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur.

Your Order -
Commodity: H.T. Deformed Bars

Terms: As agreed

Specific- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60 D3/8" x 40'		22.950	22.587	386	48	8,729	42	DA 1315	16/8/1968	To Radio House Site, Bukit Putri, Kuala Lumpur
MYCON 60 D5/8" x 40'		40.314	39.677	356	48	14,144	06	DA 1315	16/8/1968	
MYCON 60 D1 1/8"x40'		70.704	69.587	371	48	25,850	18	DA 1315	16/8/1968	
		133.968	131.851			48,723	66			

(Total: Dollars Forty-eight thousand seven hundred twenty-three
and Cents sixty-six only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT "C"

33 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAJ)
P.O. Box 60
Butterworth, Province Wellesley
TEL: 32147-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(A)524

EXHIBIT"C"

33 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

17th September, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur.

Your Order -
Commodity: High Tensile Deformed Bars Terms: As agreed

Specific- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D7/8" x 40'	34.280	33.738	356	48	12,026	92	DA 1578	17/9/68	To Kuala Lumpur
MYCON 60	D 1" x 40'	35.138	34.583	356	48	12,329	15	DA 1578	17/9/68	To Kuala Lumpur
		69.418	68.321			24,355	07			

(Total: Dollars Twenty-four thousand three hundred fifty-five
and Cents seven only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Report.

E. & O. E.

EXHIBIT

"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL:299461-3

No.(A)641

19th September, 1968

Messrs. Ng Kong Hooi Construction
56A Jalan Bukit Bintang,
Kuala Lumpur.

Your Order -

Commodity: High Tensile Deformed Bars

Terms: As agreed

Specific- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D 5/8" x 40'	15.309	15.067	356	48	5,371	08	DA 1594	19/9/68	To Kuala Lumpur
MYCON 60	D 3/4" x 40'	40.978	40.331	356	48	14,377	19	DA 1594	19/9/68	To Kuala Lumpur
MYCON 60	D 7/8" x 40'	6.233	6.135	356	48	2,187	00	DA 1594	19/9/68	To Kuala Lumpur
MYCON 60	D 1" x 40'	5.324	6.240	356	48	1,887	96	DA 1521	19/9/68	To Kuala Lumpur
MYCON 60	D1 1/8"x40'	40.753	40.109	371	48	14,899	69	DA 1594	19/9/68	To Kuala Lumpur
		108.597	106.882			38,702	92			

(Total: Dollars Thirty-eight thousand seven hundred two and
Cents ninety-two only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32147-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No. (A)691

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

25th September, 1968

Messrs. Ng Kong Hooi Construction
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -
Commodity: High Tensile Deformed Bars Terms: As agreed

Specific- cation	Size	Quantity		Price per		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D3/8" x 40'	39.780	39.152	386	48	15,131	48	DA 1640	25/9/68	To Kuala Lumpur
MYCON 60	D5/8" x 40'	25.515	25.112	356	48	8,951	93	DA 1640	25/9/68	To Kuala Lumpur
		65.295	64.264			24,083	39			

(Total: Dollars twenty-four thousand eighty-three and Cents
thirty-nine only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT

"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(A)705

26th September, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -

Commodity: High Tensile Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D3/8" x 40'	51.510	50.696	386	48	19,592	99	DA 1652	26/9/68	To Kuala Lumpur
MYCON 60	D1/2" x 40'	16.262	16.005	571	48	5,945	54	DA 1652	26/9/68	To Kuala Lumpur
		57.772	66.701			25,538	53			

(Total: Dollars twenty-five thousand five hundred thirty-eight
and Cents fifty-three only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No. (A)715

28th September, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -

Commodity: High Tensile Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		
		M/T	L/T	₹	¢	₹	¢	No.	Date	Remarks
MYCON 60	D1/2" x 40'	36.590	58.012	371	48	13,377	74	DA 1073	28/9/68	To Kuala Lumpur

(Total: Dollars thirteen thousand three hundred seventy-seven
and Cents seventy-four only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT

"C"
32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No. (A)720

29th September, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -
Commodity: High Tensile Deformed Bars Terms: As agreed

Specific- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D1/2" x 40'	64.034	63.022	371	48	23,411	41	DA 1674	29/9/68	To Kuala Lumpur

(Total: Dollars twenty-three thousand four hundred eleven
and Cents forty-one only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT "C"

37 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O. Box 60
Butterworth, Province Wellesley
TEL: 32147-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(A)727

EXHIBIT"C"

37 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

30th September, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -

Commodity: High Tensile Deformed Bars Terms: As agreed

Specific- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D1/2" x 40'	36.590	36.012	377	48	13,377	74	DA 1675	30/9/68	To Kuala Lumpur

(Total: Dollars thirteen thousand three hundred seventy-seven
and Cents seventy-four only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBITEXHIBIT "C"

"C"
32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O. Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(A)770

7th October, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -
Commodity: High Tensile Deformed Bars Terms: As agreed

Specific- ation	Size	Quantity		Price per		Amount		Delivery Order		
		M/T	L/T	₹	¢	₹	¢	No.	Date	Remarks
MYCON 60 D1/2" x 40'		9.148	9.003	371	48	3,344	43	DA 1722	7/10/68	To Kuala Lumpur
MYCON 60 D5/8" x 40'		20.412	20.090	356	48	7,161	68	DA 1722	7/10/68	To Kuala Lumpur
		20.560	29.093			10,506	11			

(Total: Dollars ten thousand five hundred six and
Cents eleven only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(A)958

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

29th October, 1968

Messrs. Ng Kong Hooi Construction,
56a Jalan Bukit Bintang,
Kuala Lumpur.

Your Order - High Tensile Deformed Bars Terms: As agreed
Commodity:

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60 D 1" x 40'		31.944	31.439	356	48	11,207	37	DA 1907	29/10/68	To Kuala Lumpur

(Total: Dollars eleven thousand two hundred seven and
Cents thirty-seven only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT

"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(A)983

31st October, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -

Commodity: High Tensile Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
Mycon 60 D1" x 40'		29.814	29.342	356	48	10,460	19	DA1919	31/10/68	To Kuala Lumpur

(Total: Dollars ten thousand four hundred sixty and
Cents nineteen only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(A)984

31st October, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -
Commodity: High Tensile Deformed Bars Terms: As agreed

Specifi- cation	Size	Quantity		Price per		Amount		Delivery Order		
		M/T	L/T	₹	¢	₹	¢	No.	Date	Remarks
Mycon 60 D1" x40'		29.814	29.343	356	48	10,460	19	DA 1909	31/10/68	To Kuala Lumpur

(Total: Dollars ten thousand four hundred sixty and
Cents nineteen only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT

EXHIBIT "C"

"C"
32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B)212

28th November, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order Letter NKH/1094/68
Commodity: High Tensile Deformed Bars Terms: As agreed

Specific- cation	Size	Quantity		Price per		Amount	Delivery Order			
		M/T	L/T	₹	¢		No.	Date	Remarks	
MYCON 60	D1/2" x 40'	30.492	30.010	371	48	11,148 11	DA	2176	28/11/68	To Kuala Lumpur

(Total: Dollars eleven thousand one hundred forty-eight
and Cents eleven only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B)257

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

30th November, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Letter NKH/1094/68

Commodity: High Tensile Deformed Bars Terms: As agreed

Specific- ation	Size	Quantity		Price per		Amount		Delivery Order		
		M/T	L/T	₹	¢	₹	¢	No.	Date	Remarks
MYCON-60	D3/8" x 40'	15.300	15.058	388	48	5,819	62	DA 2186	30/11/68	To Kuala Lumpur
MYCON-60	D7/8" x 40'	15.582	15,336	350	48	5,468	(Niligible)	DA 2186	30/11/68	To Kuala Lumpur
		30.882	30.394			11.286	60			

(Total: Dollars eleven thousand two hundred eighty-six and
Cents sixty only)

MALAYAWATA STEEL LTD.

SGD.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT

"C"
32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B)243

2nd December, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order: NKH/1094/68

Commodity: High Tensile Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		
		M/T	L/T	₹	¢	₹	¢	No.	Date	Remarks
MYCON-60	D5/8" x 40'	15.309	15.067	356	48	5,371	08	DA 2205	2/12/68	To Kuala Lumpur
MYCON-60	D1" x 40'	15.972	15.720	356	48	5,603	87	DA 2205	2/12/68	To Kuala Lumpur
		31.281	30.787			10,974	95			

(Total: Dollars ten thousand nine hundred seventy-four
and Cents ninety-five only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Services Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No. (B) 299

6th December, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your letter NKH/1094/68

Commodity: High Tensile Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON-60	D7/8" x 40'	16.621	16.358	356	48	5,831	30	DA 2267	6/12/68	To Kuala Lumpur
MYCON-60	D 1" x 40'	15.972	15.720	356	48	5,603	87	DA 2267	6/12/68	To Kuala Lumpur
		32.593	32.078			11,435	17			

(Total: Dollars eleven thousand four hundred thirty-five and
Cents seventeen only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT

"C"
32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICE ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B) 316

8th December, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order: -

Commodity: High Tensile Deformed Bars Terms: As agreed

Specific- ation	Size	Quantity		Price per L/T		Amount		Delivery Order		
		M/T	L/T	₹	¢	₹	¢	No.	Date	Remarks
MYCON-60	D1/2" x 40'	16.262	16.005	371	48	5,945	54	DA 2282	4/12/68	To Kuala Lumpur

(Total: Dollars five thousand nine hundred forty-five
and Cents fifty-four only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager,

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B) 335

10th December, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order NKH/1094/68
Commodity: High Tensile Deformed Bars

Specifi- cation	Size	Quantity		Price per		Amount		Delivery Order		
		M/T	L/T	L/T	¢	¢	¢	¢	No.	Date
MYCON 60	D3/8" x 40'	36.720	36.140	356	48	13,967	39	DA 2285	10/12/68	To Kuala Lumpur

(Total: Dollars thirteen thousand nine hundred sixty-seven
and Cents thirty-nine only)

MALAYAWATA STEEL LTD.

Sgd.

Assistant Manager

Business Department

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT

"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No. (B)355

12th December, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order: NKH/1094/68

Commodity: High Tensile Deformed Bars Terms: As agreed

Specification	Size	Quantity		Price per		Amount		Delivery Order		
		M/T	L/T	₹	¢	₹	¢	No.	Date	Remarks
TYCON-60	D5/8" x 40'	33.680	33.148	356	48	11,816	60	DA 2323	12/12/68	To Kuala Lumpur

(Total: Dollars eleven thousand eight hundred sixteen and
Cents sixty only)

MALAYAWATA STEEL LTD.

Sgd.

Administrative Assistant

Sales Section

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOON CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B)365

12th December, 1968

Messrs. Ng Kong Hoon Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order -
Commodity: High Tensile Deformed Bars Terms: As agreed

Specifi- cation	Size	Quantity		Price per		Amount	Delivery Order			
		M/T	L/T	₹	¢		₹	¢	No.	Date
MYCON-60	D1/8" x 40'	15.246	15.005	371	48	5,574	06	DA 2537	11/12/68	To Kuala Lumpur
MYCON-60	D3/4" x 40'	2.075	2.042	356	48	727	93	DA 2537	11/12/68	To Kuala Lumpur
		17.321	17.047			6,301	99			

(Total: Dollars six thousand three hundred one and Cents
ninety-nine only)

MALAYAWATA STEEL LTD.

Sgd.

Administrative Assistant

Sales Section

N.B. Payment by cheque should be crossed and made to Malayawata Steel
Limited. No receipt for payment is valid unless on the Company's
Official Receipt.

E. & O. E.

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hoon
Construction

EXHIBIT

"C"
32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA PESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B)387

14th December, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order: NKH/1094/68

Commodity: High Tensile Deformed Bars

Terms: As Agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		
		M/T	L/T	₹	¢	₹	¢	No.	Date	Remarks
MYCON-60	D3/8" x 40'	23.460	23.089	386	48	8,923	44	DA 2342	14/12/68	To Kuala Lumpur
MYCON-60	D5/8" x 40'	11.736	11.551	356	48	4,117	70	DA 2342	14/12/68	To Kuala Lumpur
		35.196	34.640			13,041	14			

(Total: Dollars thirteen thousand forty-one and Cents
fourteen only)

MALAYAWATA STEEL LTD.

Sgd.

Administrative Assistant

Sales Section

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E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No. (B)403

17th December, 1968

Messrs. Ng Kong Hooi Construction,
50A Jalan Bukit Bintang,
Kuala Lumpur

Your Order: NKH/1094/68

Commodity: High Tensile Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON-60	D3/4" x 40'	8.299	8.268	356	48	2,911	73	DA 2370	17/12/68	To Kuala Lumpur
MYCON-60	D7/8" x 40'	8.310	8.179	356	48	2,915	65	DA 2370	17/12/68	" "
MYCON-60	D 1" x 40'	18.634	18.540	356	48	6,537	84	DA 2370	17/12/68	" "
		35.243	34.987			12,365	22			

(Total: Dollars twelve thousand three hundred sixty-five and
Cents twenty-two only)

MALAYAWATA STEEL LTD.

Sgd.

Administrative Assistant

Sales Section

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT

"C"
32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B)438

19th December, 1968

Messrs. Ng Kong Hooi Construction
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order: NKH/1094/68

Commodity: H.T. Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D3/4" x 40'	30.085	29.610	356	48	10,555	37	DA 2408	19/12/68	To Kuala Lumpur

(Total: Dollars ten thousand five hundred fifty-five and
Cents thirty-seven only)

MALAYAWATA STEEL LTD.

Sgd.

Administrative Assistant

Sales Section

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B)477

23rd December, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your Order: NKH/1094/68

Commodity: High Tensile Deformed Bars Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		
		M/T	L/T	₹	¢	₹	¢	No.	Date	Remarks
MYCON 60	D3/8" x 40'	30.600	30.117	386	48	11,639	62	DA 2424	23/12/68	To Kuala Lumpur

(Total: Dollars eleven thousand six hundred thirty-nine
and Cents sixty-two only)

MALAYAWATA STEEL LTD.

Sgd.

Administrative Assistant

Sales Section

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT

"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B)508

26th December, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your letter NKH/1094/68

Commodity: High Tensile Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		Remarks
		M/T	L/T	₹	¢	₹	¢	No.	Date	
MYCON 60	D3/8" x 40'	30.600	30.117	386	48	11,639	62	DA 2447	26/12/68	To Kuala Lumpur

(Total: Dollars eleven thousand six hundred thirty-nine and
Cents sixty-two only)

MALAYAWATA STEEL LTD.

Sgd.

Administrative Assistant

Sales Section

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT "C"

32 INVOICES ISSUED BY APPELLANTS
TO NG KONG HOOI CONSTRUCTION

INVOICE

SHARIKAT MALAYAWATA . BESI WAJA BERHAD
MALAYAWATA STEEL LIMITED (PRAI)
P.O.Box 60
Butterworth, Province Wellesley
TEL: 32141-8
Kuala Lumpur Office:
5th Floor, Bank Bumiputra Building,
Malacca Street, Kuala Lumpur
TEL: 299461-3

No.(B)532

28th December, 1968

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

Your letter NKH/1094/68

Commodity: High Tensile Deformed Bars

Terms: As agreed

Specifi- cation	Size	Quantity		Price per L/T		Amount		Delivery Order		
		M/T	L/T	₹	¢	₹	¢	No.	Date	Remarks
MYCON-60	D3/8" x 40'	35.700	35.136	386	48	13,579	36	DA 2477	28/12/68	To Kuala Lumpur

(Total: Dollars thirteen thousand five hundred seventy-nine
and Cents thirty-six only)

MALAYAWATA STEEL LTD.

Sgd.

Administrative Assistant

Sales Section

N.B. Payment by cheque should be crossed and made to Malayawata Steel Limited. No receipt for payment is valid unless on the Company's Official Receipt.

E. & O. E.

EXHIBIT"C"

32 Invoices
issued by
Appellants
to Ng Kong
Hooi
Construction

EXHIBIT
"D"

Defendants
Agreed
Bundle of
documents
pages 1-3
3 Progress
Payments

EXHIBIT "D"

3 PROGRESS PAYMENTS

(P.W.D.66)

PROGRESS PAYMENT ON CONTRACT

HEAD 103 - RADIO 19.... ESTIMATES
SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE, K.L.
Contractor's Name: MESSRS. NG KONG HOOI CONSTRUCTION
Contract No. JKP/PER/IP/740/1967

Amount \$7,870,013.95

Variations on Contract			10
Additions as per V.O.Nos.	-	\$ -	
Omissions as per V.O.Nos.	-	\$ -	
Nett Additions/Omissions		\$ -	
TOTAL:		<u>\$7,870,013.95</u>	

Date: 6.9.1968

Abstract of value of work done plus 75% of the value of materials on site			
.....To value of work done.....	\$	144,500.00	
75% of the value of materials on site	\$		20
1. Steel bought by Contractor from other sources	\$	160,900.00	
2. Steel bought by Contractor from Malayawata	\$	120,852.57	
	\$	<u>428,252.57</u>	

DEDUCTIONS:-

Liabilities for materials ordered by Public Works Depart- ment	\$		
Materials supplied and paid for	\$		30
Departmental Labour	\$		
Reserve Security 10%	\$	42,825.26	
Previous payments to Contractor	\$	276,660.00	
	\$	<u>319,485.26</u>	
4th Progress Payment recommended	\$	<u>108,767.31</u>	

Sgd.
(QUANTITY SURVEYOR)
P.W.D. HEADQUARTERS

4th Progress Payment approved \$108,767.00 40
Date:

Date 10th Sept. 1978
(illegible)

Sgd.
(RESIDENT ARCHITECT)
N.J.PAPPAS & ASSOCIATES

193.

11hb. Oktober, 1968

EXHIBIT

"D"

(11) d/m.PKR.B15/229/Q6/Pt.3

M/s. N.J.Pappas & Associates,
20 Jalan 16/5,
Petaling Jaya,
SELANGOR

Defendants
Agreed
Bundle of
documents

Pages 1-3

3 Progress
Payments

(cont'd)

Tuan2,

PROGRESS PAYMENT NO.5
CONTRACT NO. JKR/PER/IP/160 of 1967

10 I forward herewith 7 copies of the
above for the sum of ~~80~~80,330.00 for your
approval.

Please forward 6 copies after approval
to Assistant Director (Buildings) P.W.D.
Headquarters, Jalan Maxwell, Kuala Lumpur.

Saya yang menurut perintah,

b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu
(H.F. SINGA RAJAH)

20 M/s Ng Kong Hooi Construction,
56A, 1st Floor, Jalan Bukit Bintang,
KUALA LUMPUR.

HFSR/sd.

EXHIBIT

(P.W.D.66)

"D"

PROGRESS PAYMENT ON CONTRACT

Defendants
Agreed
Bundle of
documents
Pages 1-3
3 Progress
Payments
(cont'd)

HEAD 103 - RADIO 19...ESTIMATES
SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE, K.L.
Contractor's Name: MESSRS. NG KONG HOOI CONSTRUCTION
Contract No. JKP/PER/IP/160/1967
Amount \$7,870,013.95

Variations on Contracts

Additions as per V.O.Nos.	-	\$	-	
Omissions as per V.O.Nos.	-	\$	-	10
Nett Additions/Omissions		\$	-	
TOTAL:			<u>\$7,870,013.95</u>	

Date: 9.10.68

Abstract of value of work done
plus 75% of the value of materials on site

To value of work done	\$	280,470.00	
75% of the value of materials on site			
1. Steel bought by Contractor from other sources	\$	143,175.00	20
2. Steel bought by Contractor from Malayawata	\$	93,939.90	
	\$	517,514.90	

DEDUCTIONS:-

Liabilities for materials ordered by Public Works Department	\$		
Materials supplied and paid for	\$		
Departmental Labour	\$		30
Reserve Security 10%	\$	51,751.49	
Previous payments to Contractor	\$	385,427.00	
	\$	<u>437,178.49</u>	
5th Progress Payment recommended	\$	<u>80,336.41</u>	

Sgd.
(QUANTITY SURVEYOR)
P.W.D.HEADQUARTERS

5th Progress Payment approved \$80,330.00

Date 19 (RESIDENT ARCHITECT) 40
N.J.PAPPAS & ASSOCIATES

(illegible)

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 10th October 1968

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang, K.Lumpur
Tel: 28021
28113

10th October, 1968

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Page 4

Letter, Ng
Kong Hooi
Construction
to P.W.D.
10th October
1968

10 Penolong,
Pengarah Kerja Raya
Ibu Pejabat, J.K.R. (Ukor Bahan)
Jalan Maxwell,
Kuala Lumpur

Dear Sir,

MALAYSIAN BROADCASTING CENTRE

20 With reference to the above project, we
wish to apply for our 5th Progress Payment for
the total amount of Dollars One hundred and
eleven thousand six hundred and forty-two and
cents thirty seven (\$111,642.37) including works
executed and materials at site to date.

We shall be obliged if an early payment
can be made.

Yours faithfully,

(NG KONG HOOI)

Encl: Statement of Payment

EXHIBIT
"D"EXHIBIT "D"

STATEMENT OF ACCOUNT

Defendants
Agreed Bundle
of documentsMALAYSIAN BROADCASTING CENTRE

Page 5

RADIO HOUSE AND LARGE AUDITORIUMStatement
of Account

PRELIMINARIES		17,500.00	
EXCAVATOR		22,000.00	
CONCRETOR			
(a) Concrete (1,662 Y.C.)	66,480.00		
(b) Reinforcement (266 Tons)	148,960.00		
(c) Formwork (118,000)	41,300.00		10
(d) Waterstop (2,870 F.R.)	5,300.00	262,040.00	
HOARDING (PROVISIONAL)		10,000.00	
Variation allowed vide N.J.Pappas & Associates letter ref:(37) Radio/ (illegible) (Arch)/1A of 19.7.68 copy to you:-			
(illegible) 54 - 40 = 14 Tons at \$46.68	653.52		
(do) 63 - 60 = 3 " "	44.16	132.48	
134-110=24 " "	34.46	827.04	
(do) 186-140== 46 " "	44.16	2,031.36	
		<u>3,644.40</u>	
		315,184.40	20
<u>MATERIALS ON SITE (75%)</u>			
70 Tons (Jap) at \$350/- =			
	\$164,500/-		
40 Tons (Local) at \$440/- =			
	26,400/-	190,900.00	143,175.00
<u>MALAYAWATA STEEL</u>			
(illegible) Tons 3/8" ϕ at \$386.48			
	= \$15,459.20		
(illegible) Tons 1/2" ϕ at \$371.48			
	= \$18,574.00		30
(illegible) " (5/8"-1") ϕ at \$356.48			
	= \$39,212.80		
40" (1 1/8") ϕ at \$371.48			
	= \$52,007.20	125,253.20	93,939.90
		<u>93,939.90</u>	
		552,299.30	
DEDUCTIONS: 10% Retention	55,229.93		
Previous Payment	385,427.00	<u>440,656.93</u>	
	Amount due	<u><u>111,642.37</u></u>	

5th PROGRESS PAYMENT

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 13TH NOVEMBER 1968

NG KONG HOOI CONSTRUCTION

Date: 13th November, 1968

10 Penolong Pengarah Kerja Raya,
Ibu Pejabat, J.K.R. (Ukor Bahan),
Jalan Maxwell,
Kuala Lumpur.

Dear Sirs,

Malaysian Broadcasting Centre -
Large Auditorium

20 With reference to the above project, we enclose
herewith our application for the 6th Progress Payment
amounting to Dollars One hundred and twenty two
thousand eight hundred and two and cents sixty one
(\$122,802.61) only for works executed and materials
at site.

We shall be obliged if this matter will receive
your early consideration and approval.

Yours faithfully,

encl:- Statement of Payment.

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Page 6

Letter,
Ng Kong Hooi
Construction
to P.W.D.

13th November
1968

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Page 7

Statement
of AccountEXHIBIT "D"

STATEMENT OF ACCOUNT

MALAYSIAN BROADCASTING CENTRERADIO HOUSE AND LARGE AUDITORIUM

PRELIMINARIES		₹17,500.00	
EXCAVATOR (Previous)	₹22,000.00	22,000.00	
(Auditorium) Footings 720 Y.C.			
540 x ₹2/- plus 180 x ₹3/-			
=	₹1620.00	1,620.00	
CONCRETOR			10
(a) Concrete (2957 Y.C.)	₹118,280.00		
(b) Reinforcement (393 Tons)	220,080.00		
(c) Formwork (133,940 F.S. x 35¢)	46,879.00		
X 25¢	9,500 F.S.	2,375.00	
(d) Waterstop (2870 F.R.)	5,300.00	392,914.00	
HOARDING (PROVISIONAL)		<u>10,000.00</u>	
		₹444,034.00	20
Variation allowed vide N.J.Pappas & Associates' letter reference (37) Radio/5/(Arch)/14 of July, 1968, copy to you :-			
(illegible)	27 Tons x ₹46.68 =	₹1,260.36	
(")	11 Tons x ₹44.16 =	₹485.76	
(")	1" ø 43 " x ₹34.46 =	₹1,481.78	30
(")	24 " x ₹44.16 =	₹1,059.84	4,287.74
<u>MATERIALS ON SITE (75%)</u>			
(illegible)-22 =	448 Tons(Jap) at		
	₹350/- =	₹156,800/-	
"	Tons (local) at		
	₹440/- =	26,400/-	
"	Tons (local ¼" ø		
	at ₹450/- =	4,500/-	
		187,700.00	140,775.00 40
<u>MALAYAWATA STEEL</u>			
13 Tons 3/8" ø @	₹386.48		
	=	₹5,024.24	
39 Tons ½" ø @			
₹371.48 =		14,487.72	
67 Tons (5/8"-1") ø			
@ ₹356.48 =		23,884.16	
116 Tons 1 1/8" ø @			
₹371.48 =	43,091.68	86,487.80	<u>64,865.85</u>
		₹653,962.59	50
DEDUCTIONS: 10% Retention	65,396.26		
PREVIOUS PAYMENTS	465,763.72	<u>531,159.98</u>	
6th Progress Payment		<u>₹122,802.61</u>	
Date: 13th November, 1968			

EXHIBIT "D"

2 PROGRESS PAYMENTS

(P.W.D.66)

PROGRESS PAYMENT ON CONTRACT

HEAD - 103 - RADIO 19.... ESTIMATES
 SUB-HEAD -16 - MALAYSIAN BROADCASTING CENTRE, K.L.
 Contractor's Name. MESSRS. NG KONG HOOI CONSTRUCTION
 Contract No. JKR/PER/IP/160 OF 1967

Amount \$7,870,013.95

10 Variations on Contract

Additions as per V.O.Nos.	-	\$	-
Omissions as per V.O.Nos.	-	\$	-
Nett Additions/Omissions		\$	<u>-</u>
TOTAL:			<u>\$7,870,013.95</u>

Date: 15.11.1968

Abstract of value of work done
 plus 75% of the value of materials on site

To value of work done	\$	389,000.00
75% of the value of materials on site	\$	205,640.00
	\$	<u>594,640.00</u>

DEDUCTIONS:-

Liabilities for materials ordered
 by Public Works Department

\$ -

Materials supplied
 and paid for

\$ -

Departmental Labour

\$ -

Reserve Security 10%

\$ 59,464.00

Previous payments to
 Contractor

\$465,757.00

\$ 525,221.006TH PROGRESS Payment recommended \$ 69,419.00

(QUANTITY SURVEYOR)
 P.W.D. HEADQUARTERS

6TH PROGRESS Payment approved \$69,419.00

(RESIDENT ARCHITECT)
 N.J.PAPPAS & ASSOCIATES

Date:.....19....

PAY ACCOUNT NO.14-024-6
 PUBLIC BANK BERHAD,
 KUALA LUMPUR \$69,419.00

EXHIBIT
"D"

Defendants
 Agreed
 Bundle of
 documents

Pages 8 & 9

2 Progress
Payments

EXHIBIT

(P.W.D.66)

"D"

PROGRESS PAYMENT ON CONTRACT

Defendants
Agreed Bundle
of documents
Pages 8. & 9
2 Progress
Payments
(cont'd)

HEAD 103 - RADIO 19... ESTIMATES
SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE, K.L.

Contractor's Name. MESSRS. NG KONG HOOI
CONSTRUCTION

Contract No. JKR/PER/IP/160 OF 1967

Amount ₹7,870,013.95

Variation on Contract

Additions as per V.O.Nos. - ₹ - 10
Omissions as per V.O.Nos. - ₹ -

Nett Additions/Omissions ₹ -

TOTAL: ₹7,870,013.95

Date: 4.12.66

Abstract of value of work done
plus 75% of the value of materials on site

To value of work done ₹ 400,000.00
75% of the value of materials
on site ₹ 327,775.00

₹ 727,775.00 20

DEDUCTIONS:

Liabilities for materials ordered
by Public Works Department

₹ -

Materials supplied and
paid for ₹ -

Departmental Labour ₹ -

Reserve Security 10% ₹ 72,777.30

Previous Payments

to Contractor ₹535,176.00 ₹ 607,953.50 30

7th Progress Payment recommended ₹ 119,821.50

(QUANTITY SURVEYOR)
P.W.D. HEADQUARTERS

7th Progress Payment approved ₹119,820.00

(RESIDENT ARCHITECT)
N.J.PAPPAS & ASSOCIATES

Date:.....19....

PAY ACCOUNT NO.14-024-6
PUBLIC BANK BERHAD,
KUALA LUMPUR

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 9TH DECEMBER 1968

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur. Tel. 28021
28113

Our Ref: NKH/1138/68 Date 9th December 1968
10 Your Ref:

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
KUALA LUMPUR.

Dear Sir,

7th Progress Payment for Malaysian Broad-
casting Centre - Radio House & Large
Auditorium, Bukit Putri, Kuala Lumpur.

20 We shall be obliged if you could send your
T.A. Q.S. to our Site to measure our works done.
Our Site Engineer has been instructed to give him
all the assistance he needs.

We have to refer to your Circular informing us
that all progress payments should be submitted to you
before the 15th or at the latest before the 20th instant
for payment to be made this year.

30 We shall be obliged if arrangement could be made
to pay us before the 20th as we have to pay our
labourers before the Hari Raya Holidays and all other
expenses incurred.

Yours faithfully,

Sgd: (OOI GHEE HIM)
Manager.

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Page 10

Letter,
Ng Kong Hooi
Construction
to P.W.D.

9th December
1968

Exhibit

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"D"

Defendants
agreed Bundle
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PROGRESS PAYMENT ON CONTRACT

Head 103 - 19 Estimates

Page 11

Sub Head 16 -

Progress
Payments

Contractor's Name

Contract No: Amount \$7,870,013.95

Variations on Contract \$

Additions as per V.O. Nos. - \$ - 10

Omissions as per V.O. Nos. - \$ -

Net Additions/Omissions \$

TOTAL \$7,870,013.95

Date 1.68

Abstract of value of work done
plus 75% of the value of
materials on site

To value of work done 400,000.00

75% of the value of materials
on site 372,775.00

\$ 727,775.00 20

Deductions

Liabilities for materials \$
ordered by Public Works

Materials supplied and \$
paid for

Departmental Labour \$

Reserve Security 10% \$ 72,777.30

Previous payments to \$553,176.00
Contractor \$607,953.30

\$ 119,821.30

7th Progress Report (Sgd.) Illegible 30
Payment Approved (Quantity Surveyor)
P.W.D. Headquarters

\$119,820.00 (Sgd.) Illegible
(Resident Architect)
N.J. Pappas and Associates

Date 7 December 1968
Pay Account No.14-024-6
Public Bank Berhad,
Kuala Lumpur.

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 26TH DECEMBER 1968

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur. Tel. 28021
28113

10 Our Ref: NKH/1193/68 Date 26th December 1968
Your Ref:

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.
Jalan Maxwell,
KUALA LUMPUR

Dear Sir,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium

20 We wish to refer you to our letter of 9th
instant and to your reply of 10th December, 1968
informing us that progress payment of \$119,820/-
would be made to us and on the 19th December, 1968
a cheque for the same amount was made to us through
the Southern Bank Berhad. A scrutiny of both
letters indicated that the payment was for works
done and not for materials on site and as we have
certain arrangements with our Bank, the payment has
fully expended.

30 It was after receiving your letter of 19th
December, 1968 that we came to know that \$109,920/-
was actually due to Messrs. Malayawata Steel
Berhad.

As agreed from our past correspondence that all
payments of steel would be made direct to M/s.
Malayawata Steel Berhad, we shall be obliged if all
payments for steel in future would be made in
accordance with the agreed arrangement.

40 In the meantime, we request that you send your
T.A. Q.S. to measure our works done and credit our
amount to M/s. Malayawata Steel Berhad to make up
the sum of \$109,920/- in order to rectify the

EXHIBIT

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Defendants
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Page 12

Letter,
Ng Kong Hooi
Construction
to P.W.D.

26th December
1968

EXHIBIT

"D"

error which have arisen due to an oversight.
For easy reference, we attached herewith photostat
copies of the letters mentioned above.

Defendants
Agreed Bundle
of documents

Yours faithfully,

Sgd. (OOI GHEE HIM)
Manager.

Page 12

Encls:

Letter,
Ng Kong Hooi
Construction
to P.W.D.

c.c. M/s. Malayawata Steel Berhad,
Bank Bumiputra Building,
Jalan Melaka,
Kuala Lumpur.

10

26th December
1968

(Continued)

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 10TH DECEMBER, 1968

NKH /1138/68

10th December, 1968

10 Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
KUALA LUMPUR.

Dear Sir,

8th Progress Payment for Malaysian
Broadcasting Centre - Radio House
& Large Auditorium, Bukit Putri,
Kuala Lumpur

We shall be obliged if you could send your
T.A. Q.W. to our Site to measure our works done.
Our Site Engineer has been instructed to give him
all the assistance he needs.

20 We have to refer to your Circular, 1968,
informing us that all progress payments should be
submitted to you before the 15th or at the latest
before the 20th instant for payment to be made this
year.

We shall be obliged if arrangement could be
made to pay us before the 20th as we have to pay
our labourers before the Hari Raya Holidays and
all other expenses incurred.

Yours faithfully,

30 Sgd. Ooi Chee Hin.
Manager.

OGH/sd.

EXHIBIT

"D"

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Letter,
Ng Kong Hooi
Construction
to P.W.D.

10th December
1968

EXHIBIT

EXHIBIT "D"

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Letter,
P.W.D. to
Ng Kong Hooi
Construction

10th December
1968

LETTER, P.W.D. TO NG KONG HOOI
CONSTRUCTION - 10TH DECEMBER 1968

JABATAN KERJA RAYA.

IBU PEJABAT,
NEGERI2 TANAH MELAYU,
(P.W.D. Federal Headquarters),
Jalan Maxwell,
Kuala Lumpur.

10

10th December, 1968.

Ri. Surat:(21)dlm. PKR.B15/229/Q6/Pt.3

Messrs. Ng Kong Hooi Construction,
No. 56A, Bukit Bintang,
Kuala Lumpur.

Tuan2,

Malaysian Broadcasting Centre - Radio
House and Auditorium, K. Lumpur.

20

I reply to your letter dated 9.12.1968, I
should like to mention that the Quantity
Surveyor had already prepared a progress payment
certificate amounting to \$119,820/- and a copy of
his letter dated 4.12.68 has been sent to you.

Saya yang menurut perintah,

Sgd. L. CHIN YUN HOWE J.S.M.
b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu.

30

LCYH/sd.

EXHIBIT "D"

LETTER, APPELLANTS TO
P.W.D. - 27th December 1968

MALAYAWATA STEEL BERHAD

5th Floor, Bangunan
Bumiputra
21 Jalan Malacca,
Kuala Lumpur.

Ref: KL/S/5LC

27th December, 1968

10 Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
KUALA LUMPUR

Dear Sir,

Malaysian Broadcasting Centre Radio
House & Auditorium, Kuala Lumpur,
Progress Payment No.7, Contract No.
JKR/PER/IP/160 of 1967
Ng Kong Hooi

20 We refer to your letter No.(22)dlm.PKR.
B15/229/Q6/Pt.3 of 19th December 1968 addressed
to M/s Ng Kong Hooi Construction Co. Kuala Lumpur
in connection with a payment of \$119,820/- made
to them of which \$109,920/- should be paid to
us direct in respect of steel supplied to the
contractors.

30 We also refer to M/s. Ng Kong Hooi
Construction's letter to you of 26/12/68 ref:
NKH/1193/68, from which it is obvious that the
amount of \$119,820/- has been credited to their
account with Southern Banking Berhad. Photostat
copies of the above 2 letters are attached for
your easy reference.

40 As a result of an oversight by your Dept.,
a sum of \$109,920/- due to us has been wrongly
credited to the account of M/s. Ng Kong Hooi
Construction Co. we shall therefore be obliged
if you will kindly instruct M/s. Ng Kong Hooi
Construction Co. to issue us their cheque for
this amount immediately. Failing this, we shall
be grateful if you will ensure that the sum of
\$109,920/- is deducted from the next progress

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Pages 15 & 16

Letter,
Appellants
to P.W.D.

27th December
1968

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents
Pages 15 & 16
Letter,
Appellants
to P.W.D.
27th December
1968

payment due to M/s. Ng Kong Hooi Construction Co. and that this sum is remitted to us direct plus any further sums that may be due to us for steel supplied to these contractors.

In an interview with Mr. Singa Rajah of your Dept. we were given to understand that the next progress payment due to be made to M/s. Ng Kong Hooi Construction Co. will be in early January, 1969.

Yours faithfully,

10

MALAYAWATA STEEL BHD.

Sgd. J. Albar

TAN SRI SYED JA/AFAR ALBAR

Manager
Kuala Lumpur Office

c.c. M/s Ng. Kong Hooi

" Prai Office.

EXHIBIT

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Defendants
Agreed Bundle
of documents

Page 17

Letter,
Ng Kong Hooi
Construction
to P.W.D.

26th December
1968

the sum of \$109,920/- in order to rectify the error which have arisen due to an oversight. For easy reference, we attach herewith photostat copies of the letters mentioned above.

Yours faithfully,

Sgd.
(OOI CHEE HIM)
Manager.

Enclo:

c.c. M/s Malayawata Steel Berhad,
Bank Bumiputra Building,
Jalan Melaka,
KUALA LUMPUR.

OGH/lsk.

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

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Letter, Ng
Kong Hooi
Construction
to P.W.D.

12th October
1968

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 12th October 1968

NG KONG HOOI CONSTRUCTION

No.56A Jalan Bukit Bintang,
Kuala Lumpur.

Our ref: NKH/877/68
Your ref: (151)d/m.PER.1315/229/Q6

12th October, 1968

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
Kuala Lumpur.

10

Dear Sir,

Malaysian Broadcasting Centre
comprising of Radio House, Two
Office Towers and Large
Auditorium at Bukit Putri,
Kuala Lumpur

We wish to inform you that as from now all
payments due to us should be made payable to
the account of Ng Kong Hooi Construction at
Sherikat Southern Banking Berhad, Kuala Lumpur,
Account No.524-1.

20

My letter of 16th December, 1967
reference NKH/754/67 is hereby rescinded.

Your co-operation in this new arrangement
will be greatly appreciated.

Yours faithfully,

Sgd: (Ng Kong Hooi)

30

NKH/l sk.

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 18th JANUARY 1969

18th January, 1969

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell,
10 KUALA LUMPUR.

Dear Sir,

Re: Progress Payment No. 9 - Radio
House and Large Auditorium,
Bukit Putri, Kuala Lumpur.

We are in receipt of your letter reference
(27) dlm. PKR. B15/229/Q6/Pt. 3 of 15th January, 1969
and note that you have recommended Payment of \$141,450 as
20 our 8th progress payment for the credit of Messrs.
Malayawata Steel Berhad on the request of our letter of
26th December, 1968.

On going through our records, we note that
Messrs. Malayawata Steel Berhad has extended to
us 90 days credit for steel delivered to us and the
latest consignment completely delivered to Site on
10th January, 1969 becomes due and payable in the
middle of April, 1969. The position being as it is,
we shall be obliged if you do not make any further
payment for the credit of Messrs. Malayawata Steel
30 Berhad until you receive our confirmation. We will,
of course, notify you 1 week before payment becomes
due for payment to Messrs. Malayawata Steel Berhad
to enable you to prepare the Statement. A
photostat copy of Messrs. Malayawata Steel Berhad's
letter is enclosed herewith for your information.
Our letter reference NKH/45/69 of 16th January,
1969 can therefore be ignored by you.

As the 8th Progress Payment for the month
of January, 1969 has already been recommended
40 we shall be obliged if you will send your T.A.
Q.S. on 1st February, 1969 to measure our works
and all materials at Site for the 9th Progress
Payment to be made to us for the month of February,
1969.

As all accounts, wages and loans to labourers
have to be settled and paid before the 10th

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Pages 20 & 21

Letter,
Ng Kong Hooi
Construction
to P.W.D.

18th January
1969

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Pages 20 & 21

Letter,
Ng Kong Hooi
Construction
to P.W.D.

18th January
1969

(Continued)

February, 1969 in view of the Chinese New Year, which is the most celebrated affair affecting most of our suppliers, staff and workmen, we shall be obliged if payment can be effected before the 10th February, 1969 as you will no doubt appreciate that in a project of this magnitude co-operation from all parties connected with it is most essential.

We shall be obliged to receive your confirmation that our proposal is acceptable to you within the next few days.

10

We also forward herewith details for the electrical works executed for payment. Please include this in our 9th Progress Payment.

Yours faithfully,

Sgd. Ng Kong Hooi

20

.....

Ng Kong Hooi

Encls:

c.c. M/s. N.J. Pappas & Associates, K.L.

c.c. M/s. Malayawata Steel Berhad, K.L.

O.G.H./nkh/lsk

EXHIBIT "D"

LETTER, APPELLANTS TO NG KONG HOOI
CONSTRUCTION - 28TH JANUARY 1969

MALAYAWATA STEEL BERHAD,
A.R. Registered
PRAI, 28th January, 1969

Messrs. Ng Kong Hooi
Construction,
No. 56A, Jalan Bukit Bintang,
KUALA LUMPUR.

Dear Sirs,

Progress Payment No. 9 - Radio
House and Large Auditorium,
Bukit Putri, Kuala Lumpur

We refer to your letter of the 18th January,
1969 addressed to the Penolong Pengarah Kerja Raya
(Ukor Bahan), Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell, Kuala Lumpur, in connection with
progress payment due to you on the above project.

We are surprised at the contents of your letter
as we have never agreed to give you 90 days' credit
for steel delivered to you. If you will refer to
past correspondence, you will find that in our
letter of the 2nd July, 1968 Ref: MYS/BUS-74/0059/68
we offered you the following payment terms :-

- i) Irrevocable Letter of Credit 120 days
sight, to be opened 7 days before your
required date of first delivery. L/C
should stipulate "partial shipment
permitted" with one month validity.
- ii) J.K.R. Guarantee with 90 days' credit.

You were unable to meet either of the above
terms.

Subsequently, it was agreed that we would
supply you steel for this project on your authorising
J.K.R. to deduct the amount of the value of the steel
we deliver to you from any interim payment due to
you, and that any amount due to us for material
supplied should be paid direct to us. In this
connection, please refer to your letter, REF:

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Pages 22 & 23

Letter,
Appellants to
Ng Kong Hooi
Construction

28th January
1969

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Pages 22 & 23

Letter,
Appellants to
Ng Kong Hooi
Construction

28th January
1969

(Continued)

NKH/616/68, dated 20th July, 1968 addressed to us, and to your letter of the same date, Ref: NKH/617/68 addressed to the Penolong Pengarah Kerja Raya (Ukor Bahan), Ibu Pejabat, Jabatan Kerja Raya Jalan Maxwell, Kuala Lumpur, confirming this arrangement.

Subsequently, on the 8th August, 1968 the J.K.R. in their letter, Ref: (278) dlm. P.K.R. B15/229/Q6, addressed to you with a copy to us, confirmed that the arrangement was approved by the Treasury, and that payment would be made on the basis of invoices from this office, certified by you.

10

We are therefore a little distressed at your having written to the J.K.R. requesting deferrment of payment due to us, without even the courtesy of having consulted us first in the matter.

According to our records, a total of \$418,223.64 is due to us, representing steel bars delivered to you from the 15th August to the 28th December, 1968. Against this sum, we are expecting payment of \$141,450.00 from the J.K.R. This will leave a balance of \$276,775.64. Some of these Bills are already over 3 months old.

20

We understand from the J.K.R. that payment made to us represents only 75% of the value of the goods delivered to you in accordance with our invoices certified by you and submitted to the J.K.R. You will therefore see that on all deliveries made to you, we are getting only 75% of the value of the steel bars, and we presume the balance of 25% will only be paid to us when the project is completed. We would like to have your advices on this point.

30

We would like to repeat that payment made to us direct by the J.K.R. is in respect of materials already supplied to you and we therefore feel it is unethical for you to request the J.K.R. to delay payment to us, which is in contradiction to the agreement made between your Company and ourselves.

40

We shall therefore be obliged if you will kindly write to the J.K.R., cancelling your letter of the 18th January, 1969 and confirming that the

agreement made under your letter of the 20th July, 1968 Ref: NKH/617/68 to the J.K.R. still stands. Please send us a copy of your letter to the J.K.R.

We hope that we will have no further cause for complaint in the future.

Yours faithfully,

Sgd. Khoo Soo Pin, Asst. Manager,
Business Dept.

10

c.c.
Our Kuala Lumpur Office

Assistant Director (Building),
J.K.R. H.Q. Kuala Lumpur

Senior Treasury Accountant,
J.K.R. H.Q. Kuala Lumpur

Messrs. N.J. Pappas & Associates
20, Jalan 16/5, Petaling Jaya.

20

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell, Kuala Lumpur.

Permanent Secretary,
Ministry of Information & Broadcasting,
Kuala Lumpur.

Mr. L. Chin Yun Howe,
Pengarah Kerja Raya.

KSP/cpc

EXHIBIT

"D"

Defendants
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of documents

Pages 22 & 23

Letter,
Appellants to
Ng Kong Hooi
Construction

28th January
1969

(Continued)

EXHIBIT

EXHIBIT "D"

"D"

LETTER, APPELLANTS TO P.W.D.
- 28TH JANUARY 1969

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MALAYAWATA STEEL BERHAD
5th Floor, Bangunan Bank
Bumiputra,
21, Jalan Melaka.

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28th January, 1969

Letter,
Appellants
to P.W.D.

10

28th January
1969

Pengarah Kerja Raya,
Ibu Pejabat,
Jabatan Kerja Raya, (illegible) Mr L Chin
Jalan Maxwell, Yun Howe
Kuala Lumpur.

Dear Sir,

M/s. Ng Kong Hooi Construction
56A Jalan Bukit Bintang, Kuala Lumpur
Deformed Bars for Radio House
Project

20

We enclose herewith a copy of the letter we have today written to M/s. Ng Kong Hooi Construction, Kuala Lumpur, which is self-explanatory.

We are a little disturbed that Ng Kong Hooi Construction should at this stage choose to alter the agreement made between themselves and ourselves, and approved by you as per your letter of the 8th August, 1968, addressed to M/s Ng Kong Hooi Construction Ref: (278)d1m.PKR.B15/229/Q6.

30

As you can see, we have delivered steel bars to these people for the above project, to the value of over \$400,000/-, and even taking into account the expected payment of \$141,450/- from the J.K.R. (Progress Payment No. 8), there still remains a balance of over \$276,000/- covering goods supplied to these people nearly 3 months ago.

We shall be obliged if you will kindly ensure that M/s. Ng Kong Hooi Construction abide by the agreement entered into, and confirmed by you and the Treasury, and that the J.K.R. continue with their present arrangement

40

of paying us direct any monies due to us whenever any Progress Payment is due to be made to Ng Kong Hooi Construction.

Yours faithfully,

Malayawata Steel Berhad
Sgd.

c.c. Our Kuala Lumpur Office

10

Assistant Director (Buildings),
J.K.R., H.Q., Kuala Lumpur.

Senior Treasury Accountant,
J.K.R., H.Q., Kuala Lumpur.

Messrs. N.J. Pappas & Associates,
20, Jalan 16/5, Petaling Jaya.

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell, Kuala Lumpur.

20

Permanent Secretary,
Ministry of Information & Broadcasting,
Kuala Lumpur.

Messrs. Ng Kong Hooi Construction,
Kuala Lumpur.

EXHIBIT

"D"

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Letter,
Appellants to
P.W.D.

28th January
1969

(Continued)

EXHIBIT

EXHIBIT "D"

"D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 1ST FEBRUARY 1969

Defendants
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of documents

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur.
Tel. 28021
28113

Page 25

Letter,
Ng Kong Hooi
Construction
to P.W.D.

NKH/115/69

Date 1st February 1969

10

1st February
1969

Penolong Pengarah Kerja Raya
(Ukor Bahan),
Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell,
Kuala Lumpur.

Dear Sir,

Progress Payment No. 9 - Radio House
& Large Auditorium, Bukit Putri,
Kuala Lumpur, Sel.

20

With reference to the above project, we
enclose herewith our application for the 9th
Progress Payment amounting to \$249,900/- in
respect of works executed and materials at Site.

We shall be obliged if this matter will
receive your early approval as the Chinese New
Year is fast approaching.

Yours faithfully,

Sgd. (NG KONG HOOI)

30

EXHIBIT "D"

STATEMENT OF ACCOUNT

RE: MALAYSIAN BROADCASTING CENTRE -
RADIO HOUSE

Additional Works Done at this StageEXHIBIT"D"

Defendants
Agreed Bundle
of documents

page 26

Statement of
Account

1.	Temporary hoarding surrounding the Site compound.		
	964 lin.ft. @ \$13/50	\$13,014.00	
	(as per our letter, NKH/703/67)		
10	Extra painting to internal face, as requested		
	(illegible) x 8 x 1/9 = 81.8 Y.S. @		
	\$-/80	<u>\$ 65.44</u>	\$13,079.44
2.	Earth cutting for the access to Large Auditorium		
	0 - 5' 350 Y.C. @ \$2/- =	\$ 700.00	
	5 - 10' 325 Y.C. @ \$3/50 =	\$ 1,137.50	
	10 - 15' 246 Y.C. @ \$5/- =	\$ 1,230.00	
	15' - 20' 130 Y.C. @ \$8/-	\$ 1,040.00	
20	20' - 25' 30 Y.C. @ \$12 -	<u>\$ 360.00</u>	\$ 4,467.50
	(A sketch of longitudinal section is attached)		
3.	Temporary site office provided for the staffs of the Consultant including the supply of water and electricity (as requested)		
	Lump Sum		<u>\$ 3,500.00</u>
	Total Amount due		<u><u>\$21,046.94</u></u>

(Dollars: Twenty-one thousand and forty-six and cents ninety-four only)

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Page 27

Statement
of AccountEXHIBIT "D"

STATEMENT OF ACCOUNT

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium

PRELIMINARIES		₹28,000.00	
EXCAVATOR		₹24,000.00	
CONCRETOR			
(a) Concrete (5,500 Y.C.)	₹220,000.00		
(b) Reinforcement (597 Tons)	₹334,320.00		10
(c) Formwork			
195,000 x 40¢)	₹ 84,000.00		
30,000 x 20¢)			
(d) Waterstop			
4" 2870 x 1/80 F.R.)	₹ 5,546.00		
6" 120 x 2/05 F.R.)			
		₹643,866.00	
Variation allowed vide N.J.Pappas & Associates letter (37)Radio/5/Arch/1A dated 19.1.68. Average ₹40/- per ton.			20
	410 Tons x 40	₹ 16,400.00	₹ 16,400.00
Additional works completed vide our letter NKH/703/67 (See detailed list attached)			
1. Temporary Hoarding	₹ 13,079.44		
2. Earth cutting for access to large Auditorium	₹ 4,467.50		
3. Temporary Site Office for Consultants	₹ 3,500.00	₹ 21,046.94	30
<u>MALAYAWATA STEEL</u>			
(illegible) Tons x ₹370/-	₹570,540.00	₹427,905.00	
		₹1,161,217.94	
(illegible)	₹114,869.79		
PROGRESS PAYMENTS	₹796,447.50	₹ 911,317.29	
		₹ 249,900.65	

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 3rd February 1969

NG KONG HOOI CONSTRUCTION

56A Jalan Bukit Bintang,
K.Lumpur Tel: 28021
28113

Our
Ref: NKH/OGH/877/69

10 Your ref: (151)dlm. PKR.1315/229/Q6

3rd February, 1969

Penolong Pengarah Kerja Raya (Ukor Bahan)
Ibu Pejabat J.K.R.,
Jalan Maxwell,
Kuala Lumpur.

Dear Sir,

Malaysian Broadcasting Centre
comprising of Radio House and
Large Auditorium

20 Further to our letter of 12th October, 1968,
we wish to inform you that as from now onwards,
all payments due to us should be made payable
to the account of Ng Kong Hooi Construction
at Malayan Banking Berhad, Kuala Lumpur,
Account No. 4-079.

My letter of 12th October, 1968 is hereby
rescinded.

Yours faithfully,

(NG KONG HOOI)

30 c.c. Accountant,
J.K.R. Kuala Lumpur.

Building Section,
J.K.R. Kuala Lumpur.

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

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Letter, Ng
Kong Hooi
Construction
to P.W.D.

3rd February
1969

EXHIBIT

"D"

Defendants
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Page 29

Progress
Payment

EXHIBIT "D"

PROGRESS PAYMENT

(P.W.D.66)

PROGRESS PAYMENT ON CONTRACT

HEAD 103 - RADIO 19...ESTIMATES
SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE, K.L.
Contractor's Name. MESSRS. NG KONG HOOI
CONSTRUCTION
Contract No. JKR/PER/IP/160 OF 1967
Amount \$7,870,013.95 10
Variations on Contract
Additions as per V.O.Nos. - \$ -
Omissions as per V.O.Nos. - \$ -
Nett Additions/Omissions \$ -
TOTAL: \$7,870,013.95

Date:

Abstract of value of work done
plus 75% of the value of materials on site
5.2.1969 To value of work done \$ 690,000.00
75% of the value of materials on site \$ 360,750.00 20
Nominated Sub-contractors
Hoong Electrical Engineering Sdn.Bhd.
Electrical Installation \$ 60,000.00
\$1,110,750.00

DEDUCTIONS:-

Liabilities for materials ordered
by Public Works Department \$ - 30
Materials supplied
and paid for \$ -
Departmental Labour \$ -
Reserve Security 10% \$111,075.00
Previous payments
to Contractor \$796,446.00
\$ 907,521.00
9th Progress Payment recommended \$ 203,229.00

(QUANTITY SURVEYOR)
P.W.D. HEADQUARTERS 40

9th Progress Payment approved \$203,229/-
Date:.....19...

(RESIDENT ARCHITECT)
N.J.PAPPAS & ASSOCIATES
PAY ACCOUNT NO.4-079,
MALAYAN BANKING BERHAD,
KUALA LUMPUR

EXHIBIT "D"

PROGRESS PAYMENT

(P.W.D.66)

PROGRESS PAYMENT ON CONTRACTHEAD 103 - RADIO 19..... ESTIMATES
SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE, K.L.

Contractor's Name. MESSRS. NG KONG HOOI CONSTRUCTION

Contract No. JKR/PER/IP/160 OF 1967

Amount \$7,870,013.95

10 Variations on Contract

Additions as per V.O.Nos. - \$ -

Omissions as per V.O.Nos. - \$ -

Nett Additions /Omissions \$ -

TOTAL: \$7,870,013.95

Date:

Abstract of value of work done
plus 75% of the value of materials on site

8.3.1969 To value of work done \$ 800,750.00

20 75% of the value of materials
on site \$ 300,000.00

Nominated Sub-Contractors

HOONG ELECTRICAL ENGINEERING SMD.BHD
ELECTRICAL INSTALLATION \$ 60,000.00\$1,160,750.00DEDUCTIONS:-Liabilities for materials
order by Public Works
Department \$ -30 Materials supplied and
paid for \$ -

Departmental Labour \$ -

Reserve Security 10% \$116,075.00

Previous payments to
Contractor \$999,675.00\$1,115,750.00(illegible) Progress Payment recommended \$ 45,000.00(QUANTITY SURVEYOR)
P.W.D. HEADQUARTERS

Progress Payment approved \$45,000/-

40 Date:.....19.....

(RESIDENT ARCHITECT)
N.J.PAPPAS & ASSOCIATES

* Malayawata Steel Berhad

EXHIBIT"D"Defendants:
Agreed Bundle
of documents

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Progress
Payment

EXHIBIT

EXHIBIT "D"

"D"

LETTER, P.W.D. TO NG KONG HOOI
CONSTRUCTION, 27TH JUNE 1969

Defendants
Agreed Bundle
of documents

27hb. June, 1969

(44) dlm. PKR.815/229/b6/Pt.3

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Messrs. Ng Kong Hooi Construction,
56-A, Jalan Bukit Bintang,
KUALA LUMPUR.

10

Letter,
P.W.D. to
Ng Kong Hooi
Construction

Tuan2,

27th June 1969

Progress Payment - Radio House
Contract No. JKR/PER.IP/160 of 1967

I am directed to inform you that, unless
otherwise instructed by you in writing, your next
payment will be paid into your accounts Nos.
4-079 at Malayan Banking Berhad as per your letter
dated 3rd February, 1969.

20

Saya yang menurut perintah,

b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu,
(H.F. SINGA RAJAH)

s.k. :-

M/s. N.J. Pappas & Association, KL.

EXHIBIT "D"
PROGRESS PAYMENT

EXHIBIT
"D"
Defendants
Agreed Bundle
of documents

(P.W.D.66)

PROGRESS PAYMENT ON CONTRACT

Page 3

HEAD 106 - RADIO 1969 ESTIMATES
SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE, K.L. Progress Payment

Contractor's Name. MESSRS. NG KONG HOOI CONSTRUCTION
Contract No. JKR/PER/IP/160/1967

		Amount	\$7,870,013.95
10	Variations on Contract		
	Additions as per V.O.Nos. -	\$ -	
	Omissions as per V.O.Nos. -	\$ -	
	Nett Additions/Omissions		\$ -
	TOTAL:		\$7,870,013.95

Date: (illegible)

Abstract of value of work done
plus 75% of the value of materials on site

	To value of work done	\$	819,000.00
20	75% of the value of materials on site	\$	291,375.00
	Nominated Sub-Contractor HOONG ELECTRICAL ENGINEERING SDN.BHD.	\$	60,000.00
			\$1,170,375.00

DEDUCTIONS:-

	Liabilities for materials order by Public Works Department	\$ -	
30	Materials supplied and paid for	\$ -	
	Departmental Labour	\$ -	
	Reserve Security 10%	\$	117,037.50
	Previous payments to Contractor	\$	1,051,830.00
			\$1,168,867.50
(illegible)	Progress Payment recommended	\$	1,507.50

(QUANTITY SURVEYOR)
P.W.D. HEADQUARTERS

Progress Payment approved \$1,500/-
40 Date:..... 19.....

(RESIDENT ARCHITECT)
N.J.PAPPAS & ASSOCIATES

EXHIBIT

EXHIBIT "D"

"D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 30TH JULY 1969

Defendants
Agreed Bundle
of documents

NG KONG HOOI CONSTRUCTION,
56A Jalan Bukit Bintang,
K. Lumpur.

Page 33

Date 30th July, 1969.

Letter,
Ng Kong Hooi
Construction
to P.W.D.

30th July 1969

Penolong Penjarah Kerja Raya
(Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
KUALA LUMPUR.

10

Attention: Mr. H.F. Singa Rajah

Dear Sir,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium

We enclose our Statement for the 13th Progress
Payment for works executed from the 8th of May, 1969
for your kind consideration.

20

We shall be obliged if you could send your
representative to site on 1st August, 1969 to measure
the works already executed to enable an early
payment to be made to us. We would appreciate if
payment be made to us through Lee Wah Bank Limited,
Account No. 8481/9. Please treat our letter of 3rd
February, 1969 as being withdrawn.

Yours faithfully,

30

Sgd.
(NG KONG HOOI)

Encls:
NKH/lsk.

EXHIBIT "D"STATEMENT OF ACCOUNTMALAYSIAN BROADCASTING CENTRE
RADIO HOUSE - LARGE AUDITORIUMWORKS DONE SINCE 8TH MAY, 1969 TO-DATEFormwork

10	(a) 4,800 sq. ft. @ \$0.35	...	\$ 1,680.00
	(b) 24,000 sq. ft. @ \$0.20	...	\$ 4,800.00

REINFORCEMENT

138 tons @ \$560/- ... \$ 77,280.00

CONCRETE

320 cu. yds. @ \$36/- ... \$ 11,520.00

TIMBER STRIP (2" x 6')

12,240 @ \$0.05 ... \$ 6,120.00

EXCAVATION

20	(a) Radio House (lower ground floor)		
	120,000/27 @ \$0.06	...	\$ 2,666.66
	(b) Auditorium (Internal footing)		
	150 cu. yds @ \$1/50	...	\$ 225.00

STEEL REINFORCEMENT (Reimbursement)

138 tons x \$44/- ... \$ 6,072.00

\$110,363.66

MATERIALS AT SITE

Less 138 tons x \$350/- x 75% ... \$ 36,225.00

\$ 74,138.66

Less 10% Retention ...

\$ 7,413.86

30 AMOUNT DUE FOR PAYMENT \$ 66,724.80

13th Progress Payment.
Dated 30th July, 1969

EXHIBIT

"D"

Defendants
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of documents

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Statement
of Account

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

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Progress
Payment

EXHIBIT "D"

PROGRESS PAYMENT

(P.W.D.66)

PROGRESS PAYMENT ON CONTRACT

HEAD 106 - RADIO 19...ESTIMATES
SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE,
K.L.

Contractor's Name. MESSRS. NG KONG HOOI
CONSTRUCTION

Contract No. JKR/PER/IP/160/1967 10

Amount \$7,870,013.95

Variations on Contract

Additions as per V.O.Nos. - \$ -
Omissions as per V.O.Nos. - \$ -

Nett Additions/Omissions \$ -

TOTAL: \$7,870,013.95

Date: (illegible)

Abstract of value of work done
plus 75% of the value of materials on site

To value of work done \$ 840,000.00 20

75% of the value of
materials on site \$ 277,500.00

NOMINATED SUB-CONTRACTORS
HOONG ELECTRICAL ENGINEERING
SDN.BHD. \$ 60,000.00

\$1,177,500.00

DEDUCTIONS:-

Liabilities for materials
order by Public Works
Department \$ - 30

Materials supplied and
paid for \$ -

Departmental Labour \$ -

Reserve Security 10% \$117,750.00

Previous payments to
Contractor \$1,053,330.00

\$1,171,080.00

(illegible) Progress Payment recommended \$ 6,420.00

(QUANTITY SURVEYOR)
P.W.D. HEADQUARTERS 40

(illegible) Progress payment approved \$6,420/-

Date:.....19....

(RESIDENT ARCHITECT)
N.J.PAPPAS & ASSOCIATES

EXHIBIT "D"
PROGRESS PAYMENT

EXHIBIT
"D"

HEAD 106 - RADIO 1969 ESTIMATES
SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE, K.L.
Contractor's Name. MESSRS. NG KONG HOOI
CONSTRUCTION
Contract No. JKR/PER/IP/160/1967
Amount \$7,870,013.95

Defendants
Agreed Bundle
of documents
Page 36
Progress
Payment

Variations on Contract

10	Additions as per V.O.Nos. -	\$	-	
	Omissions as per V.O.Nos. -	\$	-	
	Nett Additions/Omissions	\$	-	
	TOTAL:			\$7,870,013.95

Date: (illegible)

	Abstract of value of work done plus 75% of the value of materials on site	
	To value of work done	\$ 912,440.00
	75% of the value of materials on site	\$ 222,000.00
20	NOMINATED SUB-CONTRACTOR HOONG ELECTRICAL ENGINEERING SDN.BHD.	\$ 60,000.00
		\$1,194,440.00

DEDUCTIONS:-

	Liabilities for materials ordered by Public Works Department	\$	-	
	Materials supplied and paid for	\$	-	
30	Departmental Labour	\$	-	
	Reserve Security 10%	\$	119,444.00	
	Previous payments to Contractor	\$	1,059,750.00	
				\$1,179,194.00
	14th Progress payment recommended	\$	15,246.00	\$ 15,246.00

(QUANTITY SURVEYOR)
P.W.D. HEADQUARTERS

14th Progress payment approved \$15,246.00

Date:.....19.....

40

(RESIDENT ARCHITECT)
N.J.PAPPAS & ASSOCIATES

EXHIBIT

"D"
Defendants
Agreed Bundle
of documents

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Letter, Ng
Kong Hooi
Construction
to P.W.D.

8th October
1969

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 8th October 1969

NG KONG HOOI CONSTRUCTION

56A Jalan Bukit Bintang,
K.Lumpur Tel. 28021
28113

Ref: NKH/903/69

8th October, 1969

Penolong Pengarah Kerja Raya (Bangunan)
Ibu Pejabat, J.K.R. 10
Jalan Maxwell,
KUALA LUMPUR.

Dear Sir,

MALAYSIAN BROADCASTING CENTRE
15TH PROGRESS PAYMENT

We shall be obliged if you will kindly
endorse in your Certificate and voucher of payment
as from now onwards "that Contractor or his
representative will collect cheque personally
from the Accountant". 20

This procedure will enable us to pay our
site workers in time and give impetus to them
to speed up the works.

Yours faithfully,

(NG KONG HOOI)

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell, Kuala Lumpur.

c.c. The Senior Treasury Accountant,
P.W.D. Headquarters, 30
Jalan Maxwell,
Kuala Lumpur.

NKH/OGH/lsk

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 11TH OCTOBER, 1969

NG KONG HOOI CONSTRUCTION,
56A Jalan Bukit Bintang,
K. Lumpur.

Our Ref: NKH/919/69

Date 11th October, 1969.

10

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
KUALA LUMPUR.

Dear Sir,

MALAYSIAN BROADCASTING CENTRE
15TH PROGRESS PAYMENT

20

In going through your detailed statements of
the 14th and 15th Progress Payments, we notice
that 100 tons of steel had already been utilised
and that a sum of \$ 30,000/- for steel instead of
\$56,000/- was given in the 15th Progress Payment.

The disbursements for 100 tons of steel should
also be \$4,400/- instead of \$2,000/-.

Since there is a difference of \$27,360/- we
shall be obliged if a supplementary certificate be
issued to us. A short statement is enclosed for
your perusal.

Yours faithfully,

30

Sgd.
(NG KONG HOOI)

Encls:

c.c. M/s. N.J. Pappas & Associates.
Bangunan.

OGH/lsk.

EXHIBIT

"D"

Defendants
Agreed Bundle
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Letter,
Ng Kong Hooi
Construction
to P.W.D.

11th October
1969

EXHIBITEXHIBIT "D"

"D"

STATEMENT OF ACCOUNT

Defendants
Agreed Bundle
of documents

MALAYSIAN BROADCASTING CENTRE
RADIO HOUSE - LARGE AUDITORIUM

ADDITIONAL ADJUSTMENT TO 15TH PROGRESS PAYMENT

Page 39

DIFFERENCE OF STEEL-WORK IN TONS BETWEEN 14TH and 15TH PROGRESS PAYMENTS

Statement
of Account

= 800 TONS - 700 TONS = 100 TONS

10

	<u>14TH PROGRESS PAYMENT</u>	<u>15TH PROGRESS PAYMENT</u>
LARGE AUDITORIUM	\$ 22,351.51	\$ 22,351.51
RADIO HOUSE	\$365,000.00	\$365,000.00
AUDITORIUM	<u>\$ 20,000.00</u>	<u>\$ 50,000.00</u>
	\$407,351.51	<u>\$437,351.51</u>
		<u>\$407,351.51</u>
		<u>\$ 30,000.00</u>
Therefore 100 Tons for Supply and Fix Steel Reinforcement @ \$560/- per ton		\$ 56,000.00
<u>Less:</u> Steelwork on the difference between 14th and 15th Progress Payments		<u>\$ 30,000.00</u>
		\$ 26,000.00
Less 10% Retention		<u>\$ 2,600.00</u>
		\$ 23,400.00
<u>Plus:</u> 100 Tons Steel for Reimbursement @ \$44/-		
	\$ 4,400.00	
Less 10% Retention	<u>\$ 440.00</u>	<u>\$ 3,960.00</u>
ADDITIONAL ADJUSTMENT TO 15TH PROGRESS PAYMENT		<u>\$ 27,360.00</u>

20

30

(Dollars: Twenty-seven thousand three hundred and sixty only.)

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 31ST OCTOBER 1969

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur.

NKH/979/69

Date 31st October, 1969.

10

Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
KUALA LUMPUR.

Dear Sir,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium
16th Progress Payment

20

We enclose for your approval our application
for the 16th Progress Payment.

We wish to inform you that our application is
based on the actual volume of works done as
recorded in the work site register of your
representative from 1st August, 1969 to 30th October,
1969. Our adjustment is made on the basis of your
13th Progress Payment Certificate giving works done
up to the end of July and giving 1,000 Tons as steel
on site as at 1st August, 1969.

30

Our application for the sum of \$301,927.26
after adjustment is the correct amount due for
payment and we trust that we are paid for actual
works done to enable us to pay our workers and
other miscellaneous expenses if we are to carry on
the works.

You will no doubt appreciate that if we are
underpaid, we will bear no responsibility for not
being able to complete the project to the
satisfaction of the Honourable Ministers concerned.

Yours faithfully,

40

Sgd.
(NG KONG HOOI)

Encs:

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Pages 40 & 41

Letter,
Ng Kong Hooi
Construction
to P.W.D.

31st October
1969

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Pages 40 & 41

Letter,
Ng Kong Hooi
Construction
to P.W.D.31st October
1969

(Continued)

c.c. M/s. N.J. Pappas & Associates.

c.c. Pengarah Kerja Raya, Ibu Pejabat, J.K.R.
K. Lumpur.

c.c. Penolong Pengarah Kerja Raya (Bangunan)

c.c. Kementerian Penerangan & Penyiaran, U.P.
Menteri.c.c. Kementerian Penerangan & Penyiaran, U.P.
Seria Usahn.c.c. Kementerian Penerangan & Penyiaran, U.P.
Ketua Jurutera Peranchang.c.c. Jabatan Kerja Raya, Pos & Talikom, U.P.
Menteri.

c.c. Jabatan Radio, U.P. Pengarah.

c.c. Jabatan Radio, U.P. Ketua Jurutera.

EXHIBIT "D"

PROGRESS PAYMENT ON (P.W.D.66)
CONTRACT

Head 106 - Radio 19 ESTIMATES

Sub-Head 16 - Malaysian Broadcasting Centre, K.L.

CONTRACTOR'S NAME Messrs. Ng Kong Hooi Construction

CONTRACT NO. JKR/PER/IP/160/1967 AMOUNT \$ 7,870,013.95

VARIATIONS ON CONTRACT.

ADDITIONS AS PER V.O. NOS. - \$ -

OMISSIONS AS PER V.O. NOS. - \$ -

NETT ADDITIONS/OMISSIONS \$ -

TOTAL: \$ 7,870,013.95

DATE: 4/11/1969

ABSTRACT OF VALUE OF WORK DONE
 PLUS 75% OF THE VALUE OF MATERIALS
 ON SITE.

4.11.1969 TO VALUE OF WORK DONE \$ 1,010,775.95

75% OF THE VALUE OF
 MATERIALS ON SITE: \$ 195,819.00

Sub-Contractors

1. Electrical - Hoong Electrical Eng.
 Sdn. Bhd. \$ 60,000.00

2. Plumbing - Lim & Chia \$ 15,000.00

\$ 1,281,594.95

DEDUCTIONS:-

LIABILITIES FOR MATERIALS
 ORDERED BY PUBLIC WORKS
 DEPARTMENT \$ -

EXHIBIT

"D"

Defendants
 Agreed Bundle
 of documents

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Progress
 Payment

10

20

30

			b/f \$1,281,594.95
<u>EXHIBIT</u>	MATERIALS SUPPLIED AND PAID FOR	\$ -	
"D"	DEPARTMENTAL LABOUR	\$ -	
Defendants	RETENTION FUND 10%	\$ 128,160.00	
Agreed Bundle of documents	PREVIOUS PAYMENTS TO CONTRACTOR	\$1,123,011.00	\$1,251,171.00
Page 42			
Progress Payment	16th Progress PAYMENT RECOMMENDED:		\$ 30,423.95
(Continued)			

10

.....
 QUANTITY SURVEYOR

16th Progress PAYMENT APPROVED:
 \$ 30,420/-

Date.....19
 LOCAL HEAD P.W.D.

1. Lim & Chia Co., Sdn. Bhd. \$13,500/-
2. Hong Leong Sdn Bhd \$14,500/-
3. Son Siong Sawmill & Co Sdn Bhd \$ 2,420/-

NG KONG HOOI CONSTRUCTION

Julan Bukit Bintang. K.L. Lumpur Tel: 28021
28113

NIE/754/67

(151) dlm. FKR. 1315/229/Q6

Peagarah Kerja Raya,
Ibs Pajabat, J.K.R.,
Jalas Maxwell,
Kuala Lumpur.

Date 16th December, 1967

D
Defendants
Agreed Bundle
of Documents
page 43
letter Ng
Hong Hooi
Construction
to

16th December
1967

Dear Sir,

Re: Tender for Malaysian Broadcasting
Centre Comprising Radio House, Two
Office Towers & Large Auditorium at
Bukit Putri, Kuala Lumpur.

This serves to authorise you to make all payments arising out of the above project to The Public Bank Berhad of No. 4 Jalan Gereja, Kuala Lumpur for the account of Ng Kong Hooi Construction. Account No. 14-024-6.

We further confirm that this Letter of Authority is irrevocable.

Kindly confirm in writing to The Public Bank Berhad with a copy to us that you agree to this arrangement in due course.

Thanking you.

Yours faithfully,

(NG KONG HOOI)

c.c. Penolong Pengarah Kerja Raya (Ukor Bahan)
Ibu Pajabat, J.K.R.,
Jalan Maxwell, K. Lumpur.

cc. The Managing Director,
The Public Bank Berhad,
4, Jalan Geraja, K. Lumpur.

MKH/LSK.

EXHIBIT

EXHIBIT "D"

"D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 14th SEPTEMBER 1968

Defendants
Agreed Bundle
of documents

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur.

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Our Ref: NKH/802/68 Date 14th September, 1968

Letter,
Ng Kong Hooi
Construction
to P.W.D.

Penolong Pengarah Kerja Raya
(Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
Kuala Lumpur.

14th September
1968

Dear Sir,

Radio House - Large Auditorium

With reference to our letter to Messrs.
Malayawata Steel Berhad dated 13th instant, copy
to you, we wish to inform you that all future
Invoices regarding the delivery of deformed
steel bars will contain our confirmation as to
the actual amount received by us at Site.

This procedure will ensure that before you
recommend payment you are assured that every
thing is in order.

We hope that this arrangement is agreeable
with you.

Yours faithfully,

Sgd.
(OOI GHEE HIM)
Administrative Officer.

OGH/1sk.

10

20

30

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 23RD JULY, 1969

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur.

Date 23rd July, 1969.

NKH/646/69

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
KUALA LUMPUR.

Dear Sir,

MALAYSIAN BROADCASTING CENTRE
RADIO HOUSE - LARGE AUDITORIUM

We enclose a detailed description of the
main materials required in respect of the above
project together with names of suppliers for your
kind consideration. Please treat our letter of
15th July, 1969 as cancelled.

It is suggested that one copy of Invoice be
retained by your representative at Site when
materials are delivered and that payment be made
direct to the supplier concerned by you each month
without reference to us.

We take this opportunity of extending to you
our sincere thanks for the consideration you have
so far accorded us and we hope that our request
will meet with your early and favourable approval
so that we can proceed to complete the project as
soon as possible.

Yours faithfully,

Sgd.
(NG KONG HOOI)

Encls:

- c.c. M/s. N.J. Pappas & Associates, K.L.
 - c.c. Pen. Pengarah Kerja Raya (Bangunan) K.L.
 - c.c. Jabatan Radio, (U.P. Pengarah).
 - c.c. Kementerian Penerangan & Penyiaran (U.P. Seria Usaha).
 - c.c. Kementerian Penerangan & Penyiaran (U.P. Ketua Jurutera Peranchang).
 - c.c. Bahagian Peranchang Ekonomi, Jabatan Perdana Menteri, K. Lumpur.
- NKH/OGH/lsk.

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Page 45

Letter,
Ng Kong Hooi
Construction
to P.W.D.

23rd July 1969

10

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EXHIBITEXHIBIT "D"

"D"

LETTER, APPELLANTS TO P.W.D. -
7TH AUGUST, 1969

Defendants
 Agreed Bundle
 of documents

MALAYAWATA STEEL BERHAD
 5th Floor, Bangunan Bank
 Bumiputra,
 21, Jalan Melaka.

Page 46

Letter,
 Appellants
 to P.W.D.

Prai 7th August, 1969

10

7th August
 1969

Pengarah Kerja Raya,
 Negeri2 Tanah Melayu,
 Ibu Pejabat, Jabatan Kerja Raya,
 Jalan Maxwell,
Kuala Lumpur.

Dear Sir,

Progress Payment No. 13
 Contract No. JKR/PER/IP/160 of 1967
Ng Kong Hooi Construction - Radio House

We enclose herewith copy of a letter we have
 today written to Messrs. Ng Kong Hooi Construction,
 No. 56-A, Jalan Bukit Bintang, Kuala Lumpur, which
 is self-explanatory.

20

As you can see from correspondence exchanged
 between us and Messrs. Ng Kong Hooi, these people
 still owe us \$223,118.64/- in respect of steel bars
 supplied to them last year for the above project.

They are taking an unduly long time to settle
 this debt, due to the fact that progress on the work
 is very poor.

In view of early arrangements made between Ng
 Kong Hooi and ourselves, with the agreement of the
 J.K.R. and Treasury, we shall be grateful if you will
 kindly arrange to make payment direct to us in
 respect of 13th Progress Payment.

30

We thank you in anticipation of your assistance
 in the matter.

Yours faithfully,

Sgd.

c.c. M/s. N.J. Pappas & Associates,
 20 Jalan 16/5,
 Petaling Jaya.

40

EXHIBIT "D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 14TH AUGUST, 1969

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur.

NKH/728/69

Date 14th August, 1969

10

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.
Jalan Maxwell,
KUALA LUMPUR.

Dear Sir,

MALAYSIAN BROADCASTING CENTRE
Contract No. PWD/FEO/HQ/160 of
1967. Progress Payment No. 13

20

We acknowledge receipt of your letter reference (422) dlm. PKR.B15/229/Q6 of 12th August, 1969 and to inform you that the 12th Progress Payment of \$1,500/- was forwarded to Messrs. Malayawata Steel Berhad vide our letter of 22nd July, 1969 (a copy of which is enclosed for your information).

30

We wish to inform you that the representative of Messrs. Malayawata Steel Berhad had been to see us on several occasions recently when we expressed to them that we cannot carry on the job if every full payment received by us is automatically released to them as we have to reserve a certain portion for the payment of materials and workmen's wages and they have asked us to do our best to set off the outstanding account as soon as we possibly can.

40

We wish to inform you that all payments are to be made in favour of Lee Wah Bank Limited, Account No. 8481/9. After the necessary deduction, the balance of money would be forwarded by us direct to Messrs. Malayawata Steel Berhad until the outstanding account is settled.

Yours faithfully,

Sgd.
(OOI GHEE HIM)
Manager.

OGH/1sk.

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Page 47

Letter,
Ng Kong Hooi
Construction
to P.W.D.

14th August
1969

EXHIBITEXHIBIT "D"

"D"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 15TH OCTOBER 1969

Defendants
Agreed Bundle
of documents

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur.

Page 48

Our Ref: NKH/935/69. Date 15th October, 1969.

Letter,
Ng Kong Hooi
Construction
to P.W.D.

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
KUALA LUMPUR.

15th October
1969

Dear Sir,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium

We acknowledge receipt of your letter reference (62)d/m.PKR.B15/229/Q6/Pt.3 of 13th October, 1969 and to inform you that although the Japanese imported steel plus steel supplied by Messrs. Malayawata Steel Berhad exceeded 2,000 tons, it was agreed before the death of Mr. Lawrence Chin that for the purpose of progress payment the steel be fixed at 1,880 tons and that payment has been made on that basis ever since.

Notwithstanding the fact that the overall requirement of steel does not exceed 1,300 tons, we have placed the order on the strength of your department's letter reference (168)d/m.PKR.B15/229/Q6 dated 15th January, 1968 a photostat copy of which is attached herewith for your perusal.

You will note in your 14th progress payment you have stated the steel at site at 800 tons and in your 15th progress payment you have placed the steel at site at 700 tons. Since 100 tons of steel have been utilised, it is in order for us to be paid for works done.

You will no doubt appreciate that we have been diligent in our undertaking to speed up the works and any inadequate payment would retard the progress of our works as materials already fixed and labour costs have to be met in full by

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us.

Under the circumstances, we respectfully request that a supplementary payment be made to us without any further delay.

Yours faithfully,

Sgd.

(NG KONG HOOI)

10

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Page 48

Letter,
Ng Kong Hooi
Construction
to P.W.D.

15th October
1969

(Continued)

EXHIBITEXHIBIT "D"

"D"
 Defendants
 Agreed Bundle
 of documents
 Pages 49 & 50
 Letter,
 P.W.D. to
 Ng Kong Hooi
 Construction
 15th January
 1968

LETTER, P.W.D. TO NG KONG HOOI
 CONSTRUCTION - 15TH JANUARY 1968

JABATAN KERJA RAYA
 Ibu Pejabat,
 Negeri2 Tanah Melayu,
 (P.W.D. Federal Headquarters)
 Jalan Maxwell,
 Kuala Lumpur

10

15hb. Januari 1968

(168)dIm.PKR.B15/229/Q6.

Messrs. Ng Kong Hooi Construction,
 56A Jalan Bukit Bintang,
 Kuala Lumpur.

Tuan2,

Malaysian Broadcasting Centre
 Radio Complex

20

Reference is made to your letter ref.
 NKH/27/68 dated 10th January 1968.

2. It has been confirmed by the consultants
 Messrs. N.J. Pappas that the total quantity of
 steel, allowing an element for wastage, is
 correct i.e. 1,880 Tons.

3. Your attention is drawn to bars No. 14 Hard
 Grade steel which will not now be required. The
 No. 14 bars should be substituted by 3X No. 9
 bars Intermediate Grade.

30

4. It is therefore agreed, with the amendment in
 para. 3 that the quantity of steel listed is
 essentially correct.

Saya yang manurut perintah,

Sgd.
 b.p. Pengaran Kerja Raya,
 Negeri2 Tanah Melayu,
 (C.M. CAMPBELL)

s.k. M/s. N.J. Pappas & Associates, K.L.

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	c.c. Pengarah Kerja Raya, Ibu Pejabat, J.K.R. K. Lumpur.	<u>EXHIBIT</u>
	c.c. Kementerian Penerangan & Penyiaran, U.P. Menteri.	"D"
	c.c. Kementerian Penerangan & Penyiaran, U.P. Setia Usaha.	Defendants Agreed Bundle of documents
10	c.c. Kementerian Penerangan & Penyiaran, U.P. Ketua Jurutera Peranchang.	Pages 49 & 50
	c.c. Jabatan Kerja Raya, Pos & Telecoms, U.P. Menteri.	Letter, P.W.D. to Ng Kong Hooi Construction
	c.c. Jabatan Radio U.P. Pengarah.	15th January 1968
	c.c. Jabatan Radio U.P. Ketua Jurutera.	
	c.c. Penolong Pengarah Kerja Raya (Bangunan).	(Continued)
	c.c. N.J. Pappas & Associates.	

EXHIBIT

EXHIBIT "D"

"D"

LETTER, P.W.D. TO NG KONG HOOI
CONSTRUCTION - 17th NOVEMBER 1969

Defendants
Agreed Bundle
of documents

(518) dlm. P.K.R. B15/229/Q6 17hb. November, 1969

A.R. REGISTERED

Page 51

Letter,
P.W.D. to
Ng Kong Hooi
Construction

Enche' Ng Kong Hooi,
Ng Kong Hooi Construction,
56A, Jalan Bukit Bintang,
KUALA LUMPUR.

10

Tuan,

17th November
1969

Contract No. PWD/FED/HQ/160 O 1967
Radio House - Large Auditorium
Malaysian Broadcasting Centre, K.L.

It has been brought to my attention that you
have ceased work on the above contract from 11th
November, 1969 and that you have removed your
construction equipments from the site on 9th and
10th November, 1969.

20

You have thereby without reasonable cause wholly
suspended the works before completion and I hereby
give you notice of default in accordance with 34 (a)
of the conditions of Contract.

If the default continues for seven days after
the despatch of the notice, the above mentioned
Contract will be dismissed and the works will be
completed under Clause 34 (a) of the Conditions of
Contract.

30

Saya yang menurut perintah,

Sgd.....

Pengarah Kerja Raya,
Negeri2 Tanah Melayu,

(Tan Sri Haji Yusoff Bin Haji Ibrahim, P.S.M.)

c.c. Messrs. N.J. Pappas & Associates,
Persiaran Stoner,
KUALA LUMPUR.

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EXHIBIT "D"

LETTER, P.W.D. TO NG KONG
HOOI CONSTRUCTION - 27th
November 1969

(275) dlm. PKR/B15/229/Q6

27th November, 1969

A.R. REGISTERED

10 Enche' Ng Kong Hooi,
Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur.

Tuan,

Contract No. PWD/FED/HQ/160 OF 1967
Radio House - Large Auditorium
Malaysian Broadcasting Centre, K.L.

20 The default specified in my letter ref.(518)
dlm. PKR.B15/229/Q6 dated 17th November 1969 has
continued for some days after the despatch of that
letter. This is to inform you that I hereby
determine your employment under this Contract in
accordance with Clause 34(a) of the Conditions of
Contract.

Saya yang menurut perintah,

Pengarah Kerja Raya,
Negeri2 Tanah Melayu
(TAN SRI YUSOFF BIN HK. IBRAHIM)

Messrs. N.J.Pappas & Associates, Persiaran Stoner, K.L.

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents:

Page 52

Letter, P.W.D.
to Ng Kong Hooi
Construction

27th November
1969

EXHIBITEXHIBIT "D"

"D"
 Defendants
 Agreed Bundle
 of Documents
 Page 53
 Letter,
 P.W.D. to
 Ng Kong Hooi
 Construction
 23rd February
 1970

LETTER, P.W.D. TO NG KONG HOOI
CONSTRUCTION - 23RD FEBRUARY 1970

(937) dlm. PKR.B15/229/Q6 23rd Februari 1970

Enche' Ng Kong Hooi
 Messrs Ng Kong Hooi Construction
 No. 56A, 1st Floor,
 Jalan Bukit Bintang,
KUALA LUMPUR.

A.R. REGISTERED

10

Tuan2,

CONTRACT NO. PWD/FED/HQ/160 OF 1967
 Radio House - Large Auditorium
Malaysian Broadcasting Centre, K.L.

This office has now prepared drawings and photocopies showing the extent of the works completed by you on the above project up to the date of determination of the contract.

20

You are hereby requested to sell at the site office of the Consulting Architects and Engineers, Messrs N.J. Pappas & Associates to certify the correctness of the drawings and photographs.

Please note that if you fail to turn up within 2 weeks from the above date to certify the above mentioned documents, it will be assumed that you have agreed that the documents showing the amount of work done by you are correct.

Saya yang memurut perintah,

30

Sgd. H.F. SINGH RAJAH
 b.p. Pengarah Kerja Raya,
 Negeri2 Tanah Melayu,
 (H.F. SINGH RAJAH)

s.k:-

Pen. Pengarah Kerja Raya (Bangunan),
 Ibu Pejabat, J.K.R., Kuala Lumpur.

Messrs. N.J. Pappas & Associates,
 14, Pesiaran Stenor, Kuala Lumpur.

Setia Sardin, Kementerian, K.L.P.T.,
 Kuala Lumpur.

40

Setia Usaha Kementerian Penerangan & Penyiaran

EXHIBIT "D"

LETTER, P.W.D. TO NG KONG
HOOI CONSTRUCTION - 14th
April 1970

d1m.PKR.B15/229/Q6

14hb. April, 1970

Messrs. Ng Kong Hooi Construction,
56A Jalan Bukit Bintang,
Kuala Lumpur

A.R. REGISTERED

EXHIBIT

"D"

Defendants
Agreed Bundle
of documents

Page 54

Letter, P.W.D.
to Ng Kong
Hooi
Construction

14th April
1970

10 Tuan,

CONTRACT NO.PWD/FED/HQ/160 OF 1967
Erection and Completion of Malaysian
Broadcasting Centre, Bukit Putri, K.L.

I am directed to inform you that the
materials on (illegible) will be checked and
handed over to Sharikat (illegible) on the 20th
April 1970 at 9.00 a.m.

Please arrange for your representative
to be present to clarify the quantities.

20

Saya yang menurut perintah,

b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu,
(OH TEIK SAM)

Messrs. N.J.Pappas & Associates,
Malaysian Broadcasting Centre Site,
Bukit Putri,
Kuala Lumpur.

EXHIBITEXHIBIT "B"

(P.W.D. 66)

"B"

PROGRESS PAYMENT OF CONTRACT

Defendants
 Bundle
 of documents

HEAD 106 - RADIO 1969 ESTIMATES

SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE, K.L.

Supplementary)

Contractor's Name MESSRS. NG KONG HOOI CONSTRUCTION

Progress Payment

Contract No. JKR/PER/IP/160/1967

Amount \$ 7,870,013.93

Variations on Contract

10

Additions as per V.O. Nos. - \$ -

Omissions as per V.O. Nos. - \$ -

Nett Additions/Omissions	\$ -
--------------------------	------

TOTAL:	\$ 7,870,013.95
--------	-----------------

Date:

Abstract of value of work done
 plus 75% of the value of materials
 on site

8.10.1969 To value of work done	\$ 975,140.00
---------------------------------	---------------

75% of the value of materials on site	\$ 199,650.00
--	---------------

20

1. Sub-contractors:

2. Electrical: Hoong Electrical Engineering Sdn. Bhd	\$ 60,000.00
---	--------------

3. Plumbing: Lim & Chia Co. Sdn. Bhd	15,000.00
--------------------------------------	-----------

	\$ 1,247,790.00
--	-----------------

DEDUCTIONS:-

Liabilities for materials
 ordered by Public Works
 Department

\$ -

30

Materials supplied and
 paid for

\$ -

Departmental Labour	£ -
Reserve Security 10%	£124,779.00
Previous payments to Contractor	<u>£1,074,996.00</u>
	<u>£1,199,775.00</u>
15th Progress Payment recommended	£ 48,015.00
	=====

EXHIBIT

"E"

Defendants
Agreed Bundle
of documents

(Supplementary)

Progress Payment

(Continued)

Sd.

.....
(QUANTITY SURVEYOR)
P.W.D. HEADQUARTERS.

10

15th Progress Payment approved £48,015/-

Date: 10 OCT 1969

- Par: 1. Hong Leong Co. Sdn. Bhd £ 14,700/-
2. Son Siong Sawmill & Co. Sdn. Bhd. £ 2,400/-
3. Ng Keng Hooi Constructions £ 30,915/-

20

A/C. No. 8481/9 Lee
Wah Bank Ltd., K.L.

To include payment for Malayawata

Sd. (?)

.....
(RESIDENT ARCHITECTS)
N.J. PAPPAS & ASSOCIATES.
Sd.
b.p. Pengarah Kerja Raya,
Negeri Tanah Melayu.

EXHIBITEXHIBIT "E"

(P.W.D. 66)

"E"

PROGRESS PAYMENT OF CONTRACT

Defendants
Agreed Bundle
of documents

(Supplementary)

Progress Payment

HEAD 106 - RADIO	1969 ESTIMATES	
SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE, K.L.		
Contractor's Name MESSRS. NG KONG HOOI CONSTRUCTION		
Contract No. JKR/PER/IP/160/1967		
	Amount	₹ 7,870,013.93
Variations on Contract		
Additions as per V.O. Nos. -	₹ -	
Omissions as per V.O. Nos. -	₹ -	
Nett Additions/Omissions	₹	<u>-</u>
	TOTAL:	₹ 7,870,013.95

3

10

Date:

Abstract of value of work done
plus 75% of the value of materials
on site

8.10.1969 To value of work done	₹	975,140.00	
75% of the value of materials on site	₹	199,650.00	20
1. Sub-contractors:			
2. Electrical: Hoong Electrical Engineering Sdn. Bhd	₹	60,000.00	
3. Plumbing: Lim & Chia Co. Sdn. Bhd		15,000.00	
	₹	1,247,790.00	

DEDUCTIONS:-

Liabilities for materials ordered by Public Works Department	₹	-	30
Materials supplied and paid for	₹	-	

Departmental Labour	£ -	
Reserve Security 10%	£124,779.00	
Previous payments to Contractor	<u>£1,074,996.00</u>	<u>£1,199,775.00</u>
15th Progress Payment recommended		<u>£ 48,015.00</u>

EXHIBIT

"E"

Defendants Agreed Bundle of documents

(Supplementary)

Progress Payment

(Continued)

Sd.

.....
 (QUANTITY SURVEYOR)
 P.W.D. HEADQUARTERS.

10

15th Progress Payment approved £48,015/-

Date: 10 OCT 1969

- Par: 1. Hong Leong Co. Sdn. Bhd £ 14,700/-
 2. Son Siong Sawmill & Co. Sdn. Bhd. £ 2,400/-
 3. Ng Keng Hooi Constructions £ 30,915/-

20

A/C. No. 8481/9 Lee Wah Bank Ltd., K.L.

To include payment for Malayawata

.....
 (RESIDENT ARCHITECTS)
 N.J. PAPPAS & ASSOCIATES.
 Sd.
 b.p. Pengarah Kerja Raya,
 Negeri Tanah Melayu.

Sd. (?)

EXHIBIT

EXHIBIT "E"

"E"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 16th DECEMBER 1967

Defendants
Agreed Bundle
of documents

Our Ref: NKH/754/67 Date: 16th Dec. 1967.

(Supplementary)

Your Ref: (151) dlm.PKR.1315/229/Q6

Letter,
Ng Kong Hooi
Construction
to P.W.D.

Pengarah Kerja Raya,
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
Kuala Lumpur.

10

16th December
1967

Dear Sir,

Re: Tender for Malaysian Broadcasting Centre
Comprising Radio House, Two Office
Towers & Large Auditorium at Bukit
Putri, K.L.

This serves to authorise you to make all payments
arising out of the above project to the Public Bank
Berhad of No. 4, Jalan Gereja, Kuala Lumpur for the
account of Ng Kong Hooi Construction. Account No.
14-024-6.

20

We further confirm that this Letter of
Authority is irrevocable.

Kindly confirm in writing to the Public Bank
Berhad with a copy to us that you agree to this
arrangement in due course.

Thanking you.

30

Yours faithfully,

(NG KONG HOOI)

c.c. Penolong Pengarah Kerja Raya
(Ukor Bahan),
Ibu Pejabat, J.K.R.,
Jalan Maxwell,
Kuala Lumpur.

2. The Managing Director,
The Public Bank Berhad,
4, Jalan Gereja,
Kuala Lumpur.

40

NKH/LSK.

EXHIBIT "E"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 12TH OCTOBER 1968

Our Ref: NKH/877/68 Date: 12th October, 1968
Your Ref: (151) dlm.PKR.1315/229/Q6

10 Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibi Pejabat, J.K.R.,
Jalan Maxwell,
Kuala Lumpur.

Dear Sir,

Malaysian Broadcasting Centre comprising
of Radio House, Two Office Towers and Large
Auditorium at Bukit Putri, Kuala Lumpur.

We wish to inform you that as from now all payments
due to us should be made payable to the account of Ng
Kong Hooi Constructions at Sharikat Southern Banking
Berhad, Kuala Lumpur, Account No. 524-1.

20 My letter of 16th December, 1967 reference
NKH/754/67 is hereby rescinded.

Your co-operation in this new arrangement will be
greatly appreciated.

Yours faithfully,

(NG KONG HOOI)

NKH/lsk

EXHIBIT

"E"

Defendants
Agreed Bundle
of documents

(Supplementary)

Letter,
Ng Kong Hooi
Construction
to P.W.D.

12th October
1968

EXHIBITEXHIBIT "D"

(P.W.D. 66)

"E"

PROGRESS PAYMENT ON CONTRACT

Defendants
Agreed Bundle
of documents

(Supplementary)
Progress Payment

HEAD 103 - RADIO	19	ESTIMATES	
SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRE, K.L.			
Contractor's Name	Messrs. Ng Kong Hooi Construction		
Contract No.	JKR/PER/IP/160 of 1967		
	Amount	£	7,870,013.95
Variations on Contract			
Additions as per V.O. Nos.	-	£	-
Omissions as per V.O. Nos.	-	£	-
Nett Additions/Omissions		£	<u>7,870,013.95</u>
TOTAL:		£	<u>7,870,013.95</u>

10

Date: 15.1.1969

Abstract of value of work done
plus 75% of the value of materials
on site

20

To value of work done	£	601,300.00
75% of the value of materials on site	£	283,650.00
	£	884,950.00

DEDUCTIONS:-

Liabilities for materials ordered by Public Works Department	£	-
Materials supplied and paid for	£	-
Departmental Labour	£	-

30

Reserve Security 10% \$ 88,495.00

EXHIBIT

Previous payments to Contractor \$654,996.00

"E"

8th Progress Payment recommended \$ 743,491.00

Defendants Agreed Bundle of documents

\$ 141,459.00

(Supplementary)

=====

Progress Payment

10 8th Progress Payment approved \$141,450.00

(Continued)

.....19
PAY MALAYAWATA STEEL BERHAD,
5th FLOOR BANGUNAN BANK BUMIPUTRA,
21 JLN. MELAKA, KUALA LUMPUR.

\$141,450,00

.....
(QUANTITY SURVEYOR)
P.W.D. HEADQUARTERS

.....
(RESIDENT ARCHITECT)
N.J. PAPPAS &
ASSOCIATES.

EXHIBIT

EXHIBIT "E"

"E"

LETTER, NG KONG HOON CONSTRUCTION
TO P.W.D - 16th JANUARY 1969

Defendants
Agreed Bundle
of documents

Our Ref: NKH/45/69 date: 16th January, 1969.

(Supplementary)

Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat, Jabatan Kerja Raya,
Jalan Maxwell,
KUALA LUMPUR.

Letter,
Ng Kong Hoon
Construction
to P.W.D.

Dear Sir,

10

16th January
1969

Re: Deformed Bars - Radio House & Large
Auditorium, Bukit Putri, K. Lumpur.

Further to our letter of 31st December, 1968,
we forward herewith the 4th batch of certified
copies of Invoices Nos. (B)212, (B)237, (B)243,
(B)293, (B)316, (B)335, (B)355, (B)365, (B)387,
(B)403, (B)438, (B)477, (B)508 and (B)532 totalling
419.916 L/Tons valued at \$155,696.68.

20

The interim amount payable to Malayawata Steel
Bhd. would be the sum total of amount mentioned in
this letter and that of the 31st December, 1968.

Please make this payment direct to Messrs.
Malayawata Steel Berhad as the 8th Progress Payment
for the month of January, 1969.

Yours faithfully,

(OOI GHEE HIM)
Manager.

30

Encl:

c.c. M/s. Malayawata Steel Bhd.,
5th Floor, Bank Bumiputra Building,
Jalan Melaka,
Kuala Lumpur.

OGH/lsk.

EXHIBIT "E"PROGRESS PAYMENT ON CONTRACT (P.W.D. 66)

HEAD 106 - RADIO 1969 ESTIMATES

SUB-HEAD 16 - MALAYSIAN BROADCASTING CENTRES, K.L.

Contractor's Name MESSRS. NG KONG HOOI CONSTRUCTION

Contract No. JKR/PER/IP/160 OF 1967

Amount \$7,870,013.95

Variations on Contract

10 Additions as per V.O. Nos. - \$ -

Omissions as per V.O. Nos. - \$ -

Nett Additions/Omissions

\$

TOTAL:

\$7,870,013.95

Date: 3.5.69

Abstract of value of work done
plus 75% of the value of materials
on site

To value of work done \$ 814,250.00

20 75% of the value of materials
on site \$ 294,450.00

NOMINATED SUB-CONTRACTOR 60,000.00

HOONG ELECTRICAL ENGINEERING
SDN. BHD.

ELECTRICAL INSTALLATION

\$1,162,700.00

DEDUCTIONS:-Liabilities for materials
ordered by Public Works
Department

\$ -

30 Materials supplied and
paid for

\$ -

EXHIBIT

"E"

Defendants
Agreed Bundle
of documents

(Supplementary)

Progress Payment

EXHIBIT

"B"

Defendants
Agreed Bundle
of documents

(Supplementary)
Progress Payment

(Continued)

Departmental Labour	£ -	
Reserve Security 10%	£116,870.00	
Previous payments to Contractor	£1,044,675.00	
		<u>£1,161,545.00</u>
11th Progress Payment recommended		£ 7,155.00
		<u><u>£7,155.00</u></u>
11th Progress Payment approved	£7,155.00	

Date:.....19

PAY MALAYAWATA STEEL BERHAD,
5th FLOOR NANGUNAN BANK BUMIPUTRA,
21 JALAN MELAKA, K.L.
£7,155/-

.....
(QUANTITY
SURVEYOR)
P.W.D. HEAD-
QUARTERS.

.....
(RESIDENT
ARCHITECT)
N.J. PAPPAS &
ASSOCIATES.

EXHIBIT "E"

LETTER, P.W.D. TO NG KONG HOOI
CONSTRUCTION - 27TH JUNE 1969

(44)dIm.PKR/B.15/229/Q6/Pt.3 27hb. June, 69

Messrs. Ng Kong Hooi Construction,
56-A Jalan Bukit Bintang,
Kuala Lumpur.

Tuan2,

Progress Payment - Radio House
Contract No. JKR/PER/IP/160 of 1967

I am directed to inform you that, unless otherwise instructed by you in writing, your next payment will be paid into your account No. 4-079 at Malayan Banking Berhad as per your letter dated 3rd February, 1969.

Saya yang menurut perintah,

b.p. Pengarah Kerja Raya,
Negeri2 Tanah Melayu

s.k.:

M/s. N.J. Pappas & Associates, K.L.

EXHIBIT

"E"

Defendants
Agreed Bundle
of documents

(Supplementary)

Letter,
P.W.D. to
Ng Kong Hooi
Construction

27th June 1969

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EXHIBITEXHIBIT "E"

"E"
 Defendants
 Agreed Bundle
 of documents

 (Supplementary)

 Letter,
 Appellants'
 Solicitors to
 Minister of
 Finance

 21st October
 1969

LETTER, APPELLANTS' SOLICITORS
 TO MINISTER OF FINANCE - 21st
OCTOBER 1969

Our Ref: HC/CCK/1420/69 21st October, 1969.

The Hon'ble Minister of Finance,
 Ministry of Finance,
 KUALA LUMPUR.

Sir,

We have the honour to inform you that we act on behalf of Malayawata Steel Berhad in a suit filed in the High Court at Kuala Lumpur against one Ng Kong Hooi of Ng Kong Hooi Construction for goods sold and delivered.

We believe a sum of \$60,000/- is due to the defendant in this suit from the Jabatan Kerja Raya, Kuala Lumpur. Despite several reminders the Defendant has made no attempts to repay the amount due to our clients in the sum of \$221,618.64. This amount has been outstanding for some time and despite various assurances from time to time in fact nothing substantial has been paid.

We have now been instructed to garnish the said sum due to the defendant from the Jabatan Kerja Raya, Kuala Lumpur and for us to do so it is necessary under Order 43 Rule 5(2) of the Rules of the Supreme Court to obtain the consent in writing of the Honourable Minister of Finance. This sum is to be paid some time at the end of October and we would be obliged if you would let us have the necessary approval as soon as possible. You will appreciate that this matter is fairly urgent and the prospects of recovery from the debtor will be lost if we do not now garnish the amount lying in the hands of the Jabatan Kerja Raya. It is also to be observed that even if the said sum is garnished hardly one-third of the amount due is only satisfied.

We have the honour to be

Sir,

Your obedient servants,

c.c.

Pengarah Kerja Raya, Ibu Pejabat, Jabatan Kerja Raya, Jalan Maxwell, Kuala Lumpur.

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EXHIBIT "E"

LETTER, NG KONG HOOI CONSTRUCTION
TO P.W.D. - 31st OCTOBER, 1969

NKH/979/63

Date: 31st October, 1969

Pengarah Kerja Raya (Ukor Bahan),
 Ibu Pejabat, J.K.R.,
 Jalan Maxwell,
 10 KUALA LUMPUR.

Dear Sir,

MALAYSIAN BROADCASTING CENTRES
 Radio House - Large Auditorium
16th Progress Payment

We enclose for your approval our application for
 the 16th Progress Payment.

20 We wish to inform you that our application is
 based on the actual volume of works done as recorded
 in the work site register of your representative from
 1st August, 1969 to 30th October, 1969. Our adjust-
 ment is made on the basis of your 13th Progress
 Payment Certificate giving works done up to the end
 of July and giving 1,000 Tons as steel on site as at
 1st August, 1969.

30 Our application for the sum of \$301,927.26 after
 adjustment is the correct amount due for payment and
 we trust that we are paid for actual works done to
 enable us to pay our workers and other miscellaneous
 expenses if we are to carry on the works.

You will no doubt appreciate that if we are
 under-paid we will bear no responsibility for not
 being able to complete the project to the satisfaction
 of the Honourable Ministers concerned.

Yours faithfully,
 (NG HONG HOOI)

c.c. M/s. N.J. Pappas & Associates.

c.c. Pengarah Kerja Raya, Ibu Pejabat, K.L.

40 c.c. Penolong Pengarah Kerja Raya (Bangunan)

c.c. Kementerian Penerangan & Penyiaran, U.P. Menteri.

EXHIBIT

"E"

Defendants
 Agreed Bundle
 of documents

(Supplementary)

Letter,
 Ng Kong Hooi
 Construction
 to P.W.D.

31st October
 1969

EXHIBIT

"E"

Defendants
Agreed Bundle
of documents

(Supplementary)

Letter,
Ng Kong Hooi
Construction
to P.W.D.

31st October
1969

(Continued)

c.c. Kementrian Penerangan & Penyiaran, U.P.
Setiausaha.

c.c. Kementrian Penerangan & Penyiaran, U.P.
Ketuan Jurutera Perancang.

c.c. Jabatan Kerja Raya, Pos & Talikom, U.P.
Menteri.

c.c. Jabatan Radio, U.P. Pengarah.

c.c. Jabatan Radio, U.P. Ketua Jurutera.

NKH/OGH/slk.

EXHIBIT "E"

LETTER, APPELLANTS SOLICITORS
TO P.W.D.

MESSRS. ALLEN & GLEDHILL

REF: HC/CCK/1420/69

4th November, 1969

10 Penolong Pengarah Kerja Raya (Ukor Bahan),
Ibu Pejabat,
Jabatan Kerja Raya,
Jalan Maxwell,
KUALA LUMPUR.

Dear Sir,

Ng Kong Hooi Construction
Deformed Bars for Radio House Project

20 We have been consulted by Malayawata Steel
Berhad regarding the above matter and write to say
that by letter dated 20th July, 1968 the above
Company informed you to deduct from progress payments
due to them and make direct payment to Malayawata
Steel Berhad in respect of steel supplied for the
project at Radio House. We have also been shown a
letter from you dated 8th August, 1968 (Your Ref.
(278) dlm. PKR.B15/229/Q6) regarding this assessment
and when you gave approval for this arrangement.
30 We now understand that a payment of \$60,000/- is due
to Ng Kong Hooi Construction fairly soon and we
require you to make direct payment to us in view of
the letter dated 20th July, 1968 from Ng Kong Hooi
Construction which we consider to be a valid and
equitable assessment of the debt due to them. Under
no circumstances should this payment be released to
Ng Kong Hooi Construction.

40 We also understand from our clients that
despite this arrangement you have previously made
direct payments to Ng Kong Hooi Construction. We are
now ascertaining the exact amount which should have
been paid over to our clients and we reserve the
right to institute a claim against your department
for such payments paid to Ng Kong Hooi Construction.

Our clients have instructed us that they are
taking steps to recover the steel now at the site
unless we receive your immediate confirmation that

EXHIBIT

"E"

Defendants
Agreed Bundle
of documents

(Supplementary)

Letter,
Appellants'
Solicitors
to P.W.D.

4th November
1969

EXHIBIT

"E"

you will either deposit this sum in Court under Civil Suit No. 1797/69 in the High Court at Kuala Lumpur or pay over to us.

Defendants
Agreed Bundle
of documents

Yours faithfully,

Sgd. Allen & Gledhill

.....

Messrs. Allen & Gledhill

(Supplementary)

Letter,
Appellants'
Solicitors
to P.W.D.

c.c.

M/s. Malayawata Steel
Berhad,
5th Floor,
Bangunan Bank Bumiputra,
21, Jalan Melaka,
KUALA LUMPUR.

4th November
1969

(Continued)

EXHIBIT "D1"

RELEVANT PORTIONS OF CONTRACT ETC.

EXHIBIT

"D1"

Relevant portions of Contract etc



(P.W.D. 203A—Rev. 2/62)

THIS FORM TO BE USED WHERE QUANTITIES FORM PART OF THE CONTRACT

CONTRACT No. JKR/PER/IP/160 OF 1967

EXPENDITURE to be met from Development Estimate 1967

Head 103 - Radio

Sub-Head 16 - Malaysian Broadcasting Centre

A Contract made the 18th day of January 1968

BETWEEN Messrs. Ng Kim Heng Construction,

of (or whose Registered Office is situate at) 56A 1st Floor,

Jalan Bukit Bintang, Kuala Lumpur

hereinafter called "the Contractor", of the one part and the Government of

hereinafter called "the Government", of the other part.

WHEREAS the Government is desirous of Erection and Completion of Malaysian Broadcasting Centre Comprising - Radio House, Two Office Towers and Large Auditorium

at Bukit Putri, Kuala Lumpur and has caused Drawings, Bills of Quantities and/or a Specification describing the work to be done to be prepared:

AND WHEREAS the said Drawings numbered 264-301/7 (Site Plan)

222A - 550 to 222A - 569

222 - 502 to 222 - 511

(hereinafter referred to as the Contract drawings), the Bills of Quantities and/or Specification, Form of Tender and Letter of Acceptance of Tender have been signed by or on behalf of the parties hereto:

NOW IT IS HEREBY AGREED AS FOLLOWS:

- 1. For the consideration hereinafter mentioned the Contractor will upon and subject to the Conditions annexed hereto execute and complete the Works shown upon the said Drawings and described or referred to in the said Bills of Quantities and/or Specification and Conditions.
2. The Government will pay the Contractor the sum of Dollars* Seven million eight hundred and seventy thousand and thirteen and cents ninety five only

(\$7,870,013.95) or such other sum as shall become payable hereunder at the times and in the manner specified in the said Conditions, and hereinafter referred to as the Contract Sum.

3. The term "Contract" wherever used herein and in all contract documents shall mean the documents forming the tender and acceptance thereof together with the documents referred to therein including the Conditions annexed hereto the Bills of Quantities and/or Specification and Drawings and all these documents taken together shall be deemed to form one contract and shall be complementary to one another.

* Government incurring the liability.

† State the nature and scope of the intended Works.

EXHIBIT

"D1"

Relevant portions of Contract etc.

(cont'd)

4. The term "Superintending Officer" (or the initials S.O.) wherever used herein after and in all contract documents shall mean the* Director of Public Works, States of Malaya, Maxwell Road, Kuala Lumpur

and his successors in office and also such person or persons as may be deputed by him in writing to act on his behalf for the purpose of this Contract. During the continuance of this Contract, any person acting for the Superintending Officer, or exercising his authority, or any successor in office of such Superintending Officer, shall not disregard or over-rule any decision, approval or direction given to the Contractor, in writing, by his predecessor, unless he is satisfied that such action will cause no pecuniary loss to the Contractor or unless such action be ordered as a variation to be adjusted as hereinafter provided.

5. The terms "Approved" and "Directed" wherever used hereinafter and in all contract documents shall mean the approval and direction in writing of the Superintending Officer.

6. The term "Contractor" wherever used herein and in all contract documents shall mean the person or persons, partnership, firm or company, whose tender for the Works has been accepted and who has or have signed the contract and shall include his or their heirs, executors, administrators, assigns, agents and duly appointed representative.

7. The term "Works" wherever used herein and in all contract documents shall mean all or any portion of the work, materials and articles wherever the same are being manufactured or prepared which are to be used in the execution of this Contract and whether the same may be on the building site or not.

8. Words importing the singular only also include the plural and vice versa where the context requires.

9. All dimensions and measures shown on the drawings and given in the Bills of Quantities and/or Specification shall be taken to be English Legal Standard measures.

As witness our hands the day and year first above written.

Signed by the said †

NG KONG HOOI

Contractor's Signature

in the presence of.

Name LIM KOH DEN

Address 50 JALAN BUKIT BINTANG. K.L.

Description Engineer

Signed by the ‡

for and on behalf of the Government.

Officer's Signature

in the presence of

Name Ahmed bin Yusof Ibrahim

Address PENYANJIAN PENGARAH KERJA RAYA NEGERI TANAH MELAYU

Description NEGERI TANAH MELAYU

PENGARAH KERJA RAYA NEGERI TANAH MELAYU

* Official designation of officer actually supervising the work.

† Contractor's name in block capitals.

‡ Official designation of officer, in block capitals.

EXHIBIT

"D1"

Relevant portions of Contract etc. (cont'd)

THE CONDITIONS HEREINBEFORE REFERRED TO

1. (a) The Contractor shall carry out and complete the Works in accordance with this Contract in every respect in accordance with the directions and to the reasonable satisfaction of the Superintending Officer, who may in his absolute discretion and from time to time issue further drawings, details and/or written instructions, written directions and written explanations (all of which are hereafter collectively referred to as "Superintending Officer's Instructions") in regard to:

Scope of Contract.

- (i) the variation or modification of the design, quality or quantity of the Works or the addition or omission or substitution of any works;
- (ii) any discrepancy in the drawings or between the Bills of Quantities and/or Drawings and/or Specification;
- (iii) the removal from the site of any materials brought thereon by the Contractor and the substitution of any other materials therefor;
- (iv) the removal and/or re-execution of any works executed by the Contractor;
- (v) the dismissal from the Works of any person mentioned in Clause 10 hereof employed thereupon;
- (vi) the opening up for inspection of any work covered up;
- (vii) the amending and making good of any defects under Clause 17.

(b) The Contractor shall forthwith comply with and duly execute any work comprised in such Superintending Officer's Instructions provided that verbal instructions, directions and explanations given to the Contractor or his foreman upon the Works by the Superintending Officer shall, if involving a variation, be confirmed in writing to the Contractor by the Superintending Officer within seven days and, if not dissented from in writing within a further seven days to the Superintending Officer by the Contractor, shall be deemed to be Superintending Officer's Instructions. If compliance with Superintending Officer's Instructions as aforesaid involves any variation such variation shall be dealt with under Clause 13 hereof as an authorised variation and the value thereof added to or deducted from the Contract Sum.

(c) If compliance with Superintending Officer's Instructions as aforesaid involves expense or loss beyond that reasonably contemplated by the Contract then, unless the same were issued owing to some breach of this Contract by the Contractor, the amount of such expense or loss shall be ascertained by the Superintending Officer and added to the Contract Sum.

(d) Notwithstanding any provision to the contrary in these Conditions contained it is hereby agreed that the right to take action and/or initiate proceedings on behalf of the Government under Clauses 31, 32, 34, 35 or 40 hereof is expressly reserved to the senior officer, for the time being of the Public Works Department, of the Government providing the funds for this Contract.

2. The Contractor shall notify to the Superintending Officer an address whereat notices and Superintending Officer's Instructions under this Contract may be served upon him. In the event of the Contractor failing to notify the Superintending Officer of such an address, notices shall be deemed served upon the Contractor if sent by registered post to the address stated in this Contract or left at his office on the site and a receipt obtained from the Contractor's representative.

Notices.

3. The Contractor before the signing hereof shall furnish to the Superintending Officer a fully priced copy of the original Bills of Quantities. The Contract Agreement, Contract Drawings, Specification (if any) and the priced copy aforesaid shall remain in the custody of the Government and shall be produced as and when required by the Contractor. The Superintending Officer shall furnish to the Contractor one copy of the Contract Agreement and two copies of the signed Contract Drawings and of the Specification (if any) and of blank Bills of Quantities free of cost, and one copy of all further Drawings issued during the progress of the Works. The Contractor shall keep one copy of all Contract Drawings, the Specification (if any) and blank Bills of Quantities on the site and the Superintending Officer or his representative shall at all reasonable times have access to the same. Upon final payment to the Contractor he shall forthwith return to the Superintending Officer all Drawings, Specifications and blank Bills of Quantities.

Drawings, Bills of Quantities and/or Specification

Government shall not divulge or use any information contained in the priced Bills of Quantities otherwise than for the purposes of this Contract.

4. The Contractor shall provide everything necessary for the proper execution of the works according to the true intent and meaning of the Drawings, Bills of Quantities and/or Specification taken together whether the same may or may not be particularly shown or described provided that the same is reasonably to be inferred therefrom; and if the Contractor find any discrepancy therein he shall immediately and in writing refer the same to the Superintending Officer who shall decide which shall be followed. Figured dimensions shall be taken in preference to the scale mentioned on or attached to any drawing.

Contractor to provide everything necessary.

5. (a) The Contractor shall comply with and give notices required by any written law, regulations and by-laws of any local authority and/or any public service company or authority relating to the Works or with whose systems the same are or will be connected and he shall pay and indemnify the Government against any fees or charges demandable by law thereunder in respect of the Works;

Local and other authorities notices and fees.

EXHIBIT

"Dj "

Relevant
portions of
Contract etc.(cont'd)

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provided that the said fees and charges if not expressly included in the Contract sum by way of Provisional sum or otherwise shall be added to the Contract sum and be payable to the Contractor ~~accordingly~~.

(b) The Contractor before making any variation from the Drawings, Bills of Quantities and/or Specification necessitated by such compliance shall give to the Superintending Officer written notice specifying and giving the reason for such variation and applying for instructions in reference thereto.

(c) If the Contractor within seven days does not receive instructions he shall proceed with the work conforming to the provision, regulation or by-law in question and any variation necessitated as aforesaid shall be deemed a variation under Clauses 12 and 13 hereof and dealt with as such.

Setting out.

6. The Contractor shall set out the Works and during the progress thereof he shall amend at his own cost any errors arising from inaccurate setting out unless the Superintending Officer shall otherwise decide. Any assistance which the Superintending Officer may render to the Contractor in setting out shall in no way relieve the Contractor of entire responsibility for the correctness of all setting out.

Materials and workmanship to conform to description.

7. All materials and workmanship shall so far as procurable be of the respective kinds described in the Bills of Quantities and/or Specification and the Contractor shall upon the request of the Superintending Officer furnish him with vouchers to prove that the materials comply therewith. The Contractor shall arrange for and/or carry out any test of any materials which the Superintending Officer may in writing require and the cost thereof shall be added to the Contract sum unless provided for in the Bills of Quantities by way of Provisional sum or otherwise or unless the test shows that the said materials and/or workmanship are not in accordance with this clause.

Days and hours of working.

8. No work shall be done on:
(i) the weekly day of rest, or
(ii) any public holiday which is recognised in the district where this Contract is being carried out, or
(iii) between the hours of six in the evening and six in the following morning; without the written permission of the Superintending Officer.

Foreman and Assistants.

9. The Contractor shall keep constantly on the site of the Works a competent general foreman and such assistants in each trade as may be necessary who must be capable of receiving verbal instructions in Malay or English and in default they shall be supplied by Government and all expenses in connexion therewith shall be recoverable as provided in Clause 14 hereof. Any directions or explanations given to such foreman and his assistants shall be held to have been given to the Contractor in pursuance of Clause 1 hereof.

Employment of Federal Citizens.

9A. (a) The Contractor shall employ in the execution of the Contract only Federal Citizens as workmen, unless he can show to the satisfaction of the Minister of Works, Posts and Telecommunications, that in any particular trade or skill required to complete the Contract insufficient Federal Citizens are available.

(b) The Contractor shall submit, at the request of the State Commissioner for Labour of the State in which this Contract is performed or at the request of the Assistant State Commissioner for Labour of the area in which this Contract is performed, such returns as may be called for from time to time in respect of labour employed by him and by his sub-contractors on the execution of the Contract, under penalty of cancellation of his registration as a Government Contractor in the event of failure to make returns or of submission of false returns.

Discharge of workmen.

10. The Contractor shall only employ such technical staff foremen, artificers and labourers on the Works as are thoroughly efficient and of good character. If, in the sole opinion of the Superintending Officer, any person employed by the Contractor misconducts himself or has caused quarrels or delays, or is incompetent, the Contractor, when so directed by the Superintending Officer, in writing, shall at once remove such person from the Works and he shall not again be employed on the Works without the written permission of the Superintending Officer.

Access for Superintending Officer to work.

11. The Superintending Officer and/or his representatives shall at all reasonable times have access to the Works and to the workshops or other places of the Contractor where work is being prepared for the Contract.

Variations and extras.

12. (a) The Superintending Officer may at any time during the progress of the Works, by order in writing under his hand, make or cause to be made any variations from the original Drawings, Bills of Quantities and Specification (if any) by way of addition or omission or otherwise deviating therefrom and the said Works shall be executed according to the said variations or deviations under his direction and to his satisfaction as if the same had been included in the said original Drawings, Bills of Quantities and Specifications (if any); and any work or materials which shall be ordered not to be done or used shall be omitted or shall not be used by the Contractor.

(b) The Superintending Officer shall have the right by varying the Drawings, Bills of Quantities and Specification (if any) as provided in the last preceding sub-clause to increase or decrease the quantities of any item or items, or to omit any item or items or to insert any additional item or items without the consent of the Contractor provided that the Contract Sum be not thereby increased or decreased in value more than twenty per cent.

EXHIBIT

"D1"

Relevant
portions of
Contract etc.

(cont'd)

5

(c) In the event of the Contract Sum being decreased by more than twenty per cent, provided that no other agreement is entered into, a sum shall be paid to the Contractor not exceeding five per cent of the amount by which the Contract Sum is decreased beyond such twenty per cent.

13. (a) No variation shall vitiate this Contract. All variations and extras, authorised as herein provided, or subsequently sanctioned by the Superintending Officer in writing shall be measured by the Superintending Officer and the Contractor shall be given the opportunity of being present during such measuring and taking such notes and measurements as he requires. The Contractor shall be supplied with a copy of the measured bill on or before the date of the Superintending Officer's certificate in respect of such variations and extras and the valuation thereof, unless previously or otherwise agreed, shall be made in accordance with the following rules:

Payment for
variations
and extras.
Final
measurement.

(i) The rates in the original Bills of Quantities after adjustment, if necessary, as provided in Clause 15 hereof, shall determine the valuation of extra work of similar character executed under similar conditions as work priced therein;

(ii) The said rates, where extra works are not of a similar character or executed under similar conditions as aforesaid, shall be the basis of rates for the same so far as may be reasonable; failing which, a fair valuation thereof shall be made based upon rates for similar work in the locality current at the time the extra works are executed;

(iii) Where extra work cannot properly be measured or valued, the Contractor shall be allowed day-work prices, plus fifteen per cent, which shall include for the use of all ordinary plant, tools, scaffolding, supervision and profit, provided that vouchers specifying the time and materials employed shall have been delivered for verification to the Superintending Officer at or before the expiration of the week following that in which such work shall have been done. Day-work prices for the purposes of this Contract shall be taken to mean the actual prime cost to the Contractor of his material, transport and labour for the work concerned and the Contractor shall, if required by the Superintending Officer, produce his receipt bills and wages books in support thereof.

(iv) The said rates in the originals Bills of Quantities shall determine the valuation of items omitted, provided, that if omissions vary the conditions under which any remaining items of work are carried out, the rates for such remaining items shall be valued under (ii) hereof.

(b) The Contractor shall submit claims for any work or circumstance on account of which he may consider that he is entitled to extra payment within one week from the time of the commencement of such work or occurrence of such circumstance and all such claims must be accompanied by full particulars and must state under which provision of the Contract it is claimed that payment shall be made.

(c) The amount to be allowed on either side in respect of variations and extras, ascertained as above described, shall be added to or deducted from the Contract Sum, as the case may be.

(d) The measurements and valuations of the works shall be completed within the "Period of Final Measurement" stated in the Appendix or if not so stated then within three months of the completion of the Works. Interim measurements and valuation shall be made whenever necessary to enable the Superintending Officer to issue certificates under Clause 38 hereof.

14. The Superintending Officer shall be entitled to deduct any money the Contractor shall be liable to pay under the Contract to Government, from any sum which may become payable to the Contractor hereunder and the Superintending Officer in issuing his certificates as provided in Clause 38, shall have regard to any sums so chargeable against the Contractor; provided always that this provision shall not affect any other remedy, by action a law or otherwise, to which Government may be entitled for the recovery of such moneys.

Deductions
from money
due to
Contractor.

15. (a) The Bills of Quantities shall form part of the Contract and shall be the basis of the Contract Sum. Should any errors or omissions appear in the Bills of Quantities, other than in the Contractor's rates and calculations, they shall be rectified and such rectification shall constitute a variation of the Contract and shall be dealt with as herein provided.

Bills of
Quantities.

(b) Any error or omission in the rates and calculations of the Contractor in the Bills of Quantities submitted by him shall, before the signing hereof, be so rectified and adjusted that, when correctly calculated, the total amount shall represent the same amount as that tendered by the Contractor and shall correspond to the amount shown on the copy of the Summary of the Bills of Quantities attached to and submitted with the Form of Tender. The total of the Summary of the Bills of Quantities submitted by the Contractor shall remain unaltered but the nett aggregate amount of errors in moneying-out items in the Bills of Quantities whether a nett deduction or a nett addition will be calculated as a percentage of the total of the Summary of the Bills of Quantities and all unit rates throughout the Bills of Quantities shall be subject to such percentage discount or premium as the case may be. Provided always that Provisional or Prime Cost Sums shall be excluded from the calculation and shall not be subject to such percentage discount or premium.

16. Where in any certificate on which the Contractor has received payment the Superintending Officer has included an amount in respect of any unfixed materials intended for incorporation in the Works, and placed on or adjacent to the site, such materials for any loss of or damage to which the Contractor shall be responsible shall not be removed except for use upon the Works without the authority of the Superintending Officer in writing.

Unfixed
materials
when taken
into account
not to be
removed
from site.

17. (a) Any defects, shrinkages or other faults either of materials or workmanship, which may appear within the Defects Liability Period stated in the Appendix hereto or if none stated then within six months due to materials or workmanship not in accordance with this Contract shall

Defects after
completion.

EXHIBIT

"D1"

Relevant
portions of
Contract etc.

(cont'd)

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within a reasonable time after receipt of the Superintending Officer's written instruction be made good by the Contractor and at his own cost.

(b) If the Contractor shall fail to carry out any such instructions of the Superintending Officer, as by the preceding sub-clause provided, within such reasonable time as may be specified in the order, the materials or work so affected may, at the option of the Superintending Officer, be made good by him in such manner as he may think fit, in which case the cost thereby incurred shall be deducted from the sum remaining to be paid to the Contractor or failing such remainder it shall be recoverable as a liquidated demand in money.

(c) If any defects be such that, in the opinion of the Superintending Officer, it shall be impracticable or inconvenient to remedy the same, he shall ascertain the diminution in the value of the Works due to the existence of such defect and deduct the amount of such diminution from the sum remaining to be paid to the Contractor or failing such remainder it shall be recoverable as a liquidated demand in money.

Sub-contracting.

18. The Contractor shall not without the written consent of the Superintending Officer first obtained assign this Contract or sub-contract all or any portion of the Works; provided that such consent shall not be unreasonably withheld to the prejudice of the Contractor. In the event of any portion of the Works being sub-contracted with the written consent of the Superintending Officer the Contractor shall be solely and personally responsible for the due observance by such authorised sub-contractors of all the terms, stipulations and Conditions herein expressed.

Notice of garnishment.

19. The Contractor shall not cause, permit or suffer to be issued in satisfaction of any decree, judgement or other order given or to be given against the Contractor any notice of garnishment binding any property of the Contractor which is in the possession of the Government.

Nominated sub-contractors.

20. (a) All specialists, merchants, tradesmen, and others ^{executing by letter} ~~carrying out~~ any work or supplying and fixing any goods for which Prime Cost prices or Provisional Sums are included in the Bills of Quantities who may be nominated or selected by the Superintending Officer are hereby declared to be sub-contractors employed by the Contractor and are herein referred to as "nominated sub-contractors".

(b) The Superintending Officer or the Contractor, if so instructed in writing by the Superintending Officer, shall obtain tenders for sub-contractors' work in respect of which Prime Cost prices or Provisional Sums are included in the Bills of Quantities as aforesaid and the Contractor shall on the written instructions of the Superintending Officer place such sub-contracts with the nominated sub-contractors.

(c) No nominated sub-contractor shall be employed upon or in connexion with the Works against whom the Contractor shall make what the Superintending Officer considers to be reasonable objections or (save where the Superintending Officer and Contractor shall otherwise agree) who will not enter into a sub-contract providing:

(i) that the nominated sub-contractor shall, in respect of the sub-contract, duly observe all the terms, stipulations and Conditions herein expressed;

(ii) that the nominated sub-contractor shall indemnify the Contractor against claims in respect of any negligence, omission or default by the nominated sub-contractor, his servants or agents or any misuse by him or them of any scaffolding or other plant the property of the Contractor or against any liability under any Workmen's Compensation Legislation in force;

(iii) that payment without discount or deduction shall be made to the nominated sub-contractor by the Contractor within fourteen days of his receipt of the Superintending Officer's certificate under Clause 38 hereof which includes the value of such nominated sub-contractor's work.

(d) Before any such certificate is issued to the Contractor he shall, if requested by the Superintending Officer, furnish to him reasonable proof that all nominated sub-contractors' accounts included in previous certificates have been duly discharged; in default whereof the Government may pay the same upon a certificate of the Superintending Officer and deduct the amount thereof from any sums due to the Contractor. The exercise of this power shall not create privity of contract as between Government and the nominated sub-contractor.

(e) Should the Superintending Officer desire to secure final payment to any nominated sub-contractor before final payment is due to the Contractor and the nominated sub-contractor has satisfactorily indemnified the Contractor against any latent defects, then the Superintending Officer may in a certificate under Clause 38 hereof include an amount to cover the said final payment and upon payment thereof to the nominated sub-contractor the Contractor shall be discharged from all liability for the work or materials covered thereby save for such latent defects as aforesaid and he shall pay to the nominated sub-contractor the amount (subject to Clause 36 hereof) so certified whereupon the limit of the Retention Fund named in Clause 38 hereof shall be reduced by such certified amount.
20A. See slip attached.

Nominated Suppliers.

Fair wages.

21. (a) If established industrial rates and conditions of employment (as hereinafter defined) exist in the district in which this Contract is to be performed, the Contractor shall in respect of all workmen employed by him in and for the performance of this Contract pay rates of wages and observe conditions of employment not less favourable than such established industrial rates and conditions of employment.

(b) If no established industrial rates and conditions exist in the said district the Contractor shall in respect of the said workmen pay rates of wages and observe conditions of employment not less favourable than the established industrial rates and conditions existing in other districts for similar work carried on under similar circumstances.

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Rev. 2011.Nominated Suppliers

20a. (a) All specialists, merchants, tradesmen and others supplying materials to be fixed by the Contractor for which Prime Cost Sums are included in the Bills of Quantities who may be nominated or selected by the Superintending Officer are hereby declared to be suppliers to the Contractor and are herein referred to as 'nominated suppliers'.

(b) The Superintending Officer or the Contractor, if so instructed in writing by the Superintending Officer, shall obtain tenders for materials in respect of which Prime Cost Sums are included in the Bills of Quantities as aforesaid and the Contractor shall on the written instructions of the Superintending Officer place such orders with the nominated suppliers.

(c) The Superintending Officer shall not (save where the Superintending Officer and Contractor shall otherwise agree) nominate as a supplier a person who will not enter into a contract of sale which provides:-

- (i) that the materials or goods to be supplied shall be to the reasonable satisfaction of the Superintending Officer,
- (ii) that the nominated supplier shall make good by replacement or otherwise any defects in the materials or goods supplied which appear within such period as is therein mentioned and shall bear any expenses reasonably incurred by the Contractor as a direct consequence of such defects, provided that:-
 - (1) where the materials or goods have been used or fixed such defects are not such that examination by the Contractor ought to have revealed them before using or fixing,
 - (2) such defects are due solely to defective workmanship or material in the goods supplied and shall not have been caused by improper storage by the Contractor or by misuse or by any act or neglect of either the Contractor or the Superintending Officer or the Government or by any person or persons for whom they may be responsible,
- (iii) that delivery of the materials or goods supplied shall be commenced and completed at such times as the Contractor may reasonably direct,
- (iv) that payment without discount or deduction shall be made to the nominated supplier by the Contractor within fourteen days of his receipt of the Superintending Officer's certificate under Clause 38 hereof which includes the value of such nominated supplier's materials.

(d) Before any such certificate is issued to the Contractor he shall, if required by the Superintending Officer, furnish to him reasonable proof that all nominated suppliers' accounts included in previous certificates have been duly discharged; in default whereof the Government may pay the same upon a certificate of the Superintending Officer and deduct the amount thereof from any sums due to the Contractor. The exercise of this power shall not create privity of contract as between Government and the nominated supplier.

(e) Should the Superintending Officer desire to secure final payment to any nominated supplier before final payment is due to the Contractor and the nominated supplier has satisfactorily indemnified the Contractor against any latent defects, then the Superintending Officer may in a certificate under Clause 38 hereof include an amount to cover the said final payment and upon payment thereof to the nominated supplier, the Contractor shall be discharged from all liability for the materials covered hereby, save for such latent defects as aforesaid and he shall pay to the nominated supplier the amount (subject to Clause 36 hereof) so certified whereupon the limit of the Retention Fund named in Clause 38 hereof shall be reduced by such certified amount.

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(c) In the absence of any established industrial rates and conditions the Contractor shall in respect of the said workmen pay rates of wages and observe conditions of employment not less favourable than those established for Government employees engaged in similar trades or occupations.

(d) In this clause the expression "established industrial rates and conditions" means rates of wages and hours and conditions of employment established for the trade or industry concerned by agreement, negotiation or arbitration the parties to which are organisations of employers and trade unions representing respectively substantial proportions of the employers and workmen engaged in the said trade or industry.

22. In the event of any dispute or difference arising as to the rates of wages to be paid or the conditions of employment to be observed in accordance with Clause 21 hereof, such dispute or difference shall, unless otherwise disposed of, be referred to the Commissioner for Labour for decision, provided that in the event of any party being aggrieved, an appeal shall lie to an Appeal Tribunal to be appointed by the Yang di-Pertuan Agong or the Ruler in Council as the case may be.

Dispute as to wages.

23. The Contractor shall keep proper wages books and time sheets showing the wages paid to and the time worked by all workmen employed by him in and for the performance of this Contract and shall produce such wages books and time sheets on demand for inspection by any person duly authorised by the Superintending Officer in that behalf, and shall furnish to the Superintending Officer or his authorised representative such information relating to the wages and conditions of employment of such workmen as the Superintending Officer or his duly authorised representative may from time to time require.

Wages books and time sheets.

24. No child under the age of fourteen years by English reckoning shall be employed in any work to be performed under this Contract.

Children under 14.

25. The Contractor shall recognise the freedom of all workmen employed by him in and for the performance of this Contract to be members of registered trade unions and shall not in any manner prevent or discourage or attempt to prevent or discourage any such workman from becoming a member of a registered trade union or discriminate against any such workman who is a member of a registered trade union.

Trade unions.

25A. The Contractor shall comply with all the provisions of the Employees' Provident Fund Ordinance, 1951 (F.M. Ordinance No. 21 of 1951) as amended and with the provisions of all Regulations and Rules from time to time made thereunder and shall in particular be responsible for the payment into the Employees' Provident Fund of all contributions required under that Ordinance in respect of all persons employed by the Contractor or any authorised sub-contractor in and for the performance of this Contract.

Employees' Provident Fund Contributions.

26. In the event of default being made in the payment of any money in respect of wages and/or Employees' Provident Fund contributions of any workman employed by the Contractor in and for the performance of this Contract and if a claim therefor is filed in an office of the Department of Labour and proof thereof is furnished to the satisfaction of an officer of the said Department, the Superintending Officer may, failing the payment of the said money by the Contractor make payment of such claim to the Commissioner for Labour or his representative out of any moneys at any time due to the Contractor under this Contract and such payment shall be a payment made to the Contractor under and by virtue of this Contract.

Default in payment of wages.

27. (a) *Injury to person.*—The Contractor shall indemnify Government in respect of any liability, loss, claim or proceedings whatsoever whether arising at common law or by statute in respect of personal injuries to or death of any person whomsoever arising out of or in the course of or caused by the execution of the Works unless due to any act or neglect of Government or its servants.

Damage to persons and property.

(b) *Injury to property.*—The Contractor shall be liable for and shall indemnify Government in respect of any liability, loss, claim or proceedings and for any injury or damage whatsoever arising out of or in the course of or by reason of the execution of the Works to any property real or personal due to any negligence, omission or default of himself, his agents or his servants or of any authorised sub-contractor or to any circumstances within his control.

28. (a) The Contractor shall forthwith and as a condition precedent to the commencement of any work under this Contract take out at his own expense with an insurance company to be approved by the Superintending Officer in writing a policy or policies of insurance indemnifying the Contractor and the Government including for this purpose every officer and department thereof from all liabilities arising out of claims by any and every workman employed in and for the performance of this Contract for payment of compensation under or by virtue of the Workmen's Compensation Legislation or any other law amending or replacing such Legislation and from all costs and expenses incidental or consequential thereto.

Workmen's Compensation.

(b) The said policy or policies so taken out shall be endorsed as follows:

Endorsement "A".—"It is hereby understood and agreed that in the event of any workman employed by the within Insured or by the Insured's Contractors as referred to in Endorsement 'B' hereon or any dependent of such workmen, bringing or making a claim under the Workmen's Compensation Legislation in force in the Federation of Malaya against any officer of the Government of the Federation of Malaya or any State or Settlement thereof for personal injury or disease sustained whilst at work on any contract covered by the terms and conditions of the within policy which the Insured may be carrying out for the said officer or Government, the Company will indemnify the said officer or Government against such claim, and any costs, charges and expenses in respect thereof. Provided always that the Company

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shall be entitled to have the sole conduct and control of all proceedings connected with claims covered by this endorsement. Nothing in the endorsement shall be construed as affecting the Insured's right to recover damages in any other way under the said legislation."

Endorsement "B": "It is hereby understood and agreed that the indemnity herein granted is intended to cover the legal liability of the Insured to workmen in the employment of contractors performing work for the Insured while engaged in the business and occupation in respect of which the within policy is granted but only so far as regards Claims under the Workmen's Compensation Legislation in force in the Federation of Malaya."

(c) The said policy or policies so taken out shall be deposited with the Superintending Officer and the Contractor shall maintain it or them in full force and effect by payment of all premiums from time to time on the first day on which the same ought to be paid and until the completion of this Contract and upon demand the Contractor shall produce to the Superintending Officer the last receipt for payment of such premiums.

(d) If any default is made by the Contractor in complying with the terms of this clause the Superintending Officer may without prejudice to any other remedy available to Government for breach of any terms of this Contract:

(i) withhold all payments which would otherwise be due to the Contractor under this Contract and out of such moneys so withheld satisfy any claims for compensation by workmen that would have been borne by an insurance company had the Contractor not made default in maintaining a policy of insurance and/or

(ii) pay such premiums as have become due and remain unpaid and deduct the amount of such premiums from any moneys due or to become due to the Contractor

(e) Nothing in this clause shall be construed to take away or to waive or in any manner to modify the right of the Government to be indemnified by the Contractor in respect of all compensation, costs and other expenses whatsoever which by reason of the Contractor's default or otherwise become payable by the Government under the said Legislation or other law.

The Insurance. 29. (a) The Contractor shall insure against loss or damage by fire all works and buildings constructed or in course of construction in pursuance of or for the purposes of this Contract and all materials and other things delivered on to the site and approved by the Superintending Officer and ready for incorporation in such works and buildings and shall keep the same insured until such works, buildings and things respectively are handed over to the Superintending Officer.

(b) The said insurance shall be effected with an insurance company to be approved in writing by the Superintending Officer and in the name of the Government for the full value of the works executed together with all materials on site including any materials supplied by or the property of the Government; and the Contractor shall deposit with the Superintending Officer the policies and the receipts for the premiums paid for such insurances.

(c) In case of failure by the Contractor to effect or renew such insurance the Superintending Officer may himself effect or renew such insurance and pay the premium in respect thereof and deduct the amount so expended from any moneys due or to become due to the Contractor.

(d) In the event of loss or damage by fire to any works, building materials or things insured under this clause all moneys received by Government under the insurance policies shall be paid by the Superintending Officer to the Contractor by such instalments as the Superintending Officer may deem reasonable and shall be applied by the Contractor in or towards the rebuilding, repair or replacement of the works, buildings, materials or things destroyed or damaged and the Contractor shall on receipt of such moneys proceed with all due diligence to effect such rebuilding, repair or replacement as aforesaid and shall have no claim to any payment in respect thereof beyond the payment to him of the said moneys; provided that in case of any such loss or damage by fire as aforesaid the Superintending Officer shall allow the Contractor such extension of time for the performance of this Contract as shall be just and reasonable.

Date for possession and completion. 30. (a) No work on this Contract shall be commenced unless and until the Contract Agreement shall have been executed by all parties thereto, ~~nor until the Security Deposit stipulated under Clause 27 hereof shall have been deposited with the Government and the receipt thereof produced for the inspection of the Superintending Officer.~~

(b) Possession of the site as complete as may be reasonably possible but not so as to constitute a tenancy, shall be given on or before the "date for possession" stated in the Appendix to the Contractor who shall thereupon and forthwith commence the Works and regularly proceed with and complete the same (except such painting or other decorative work as the Superintending Officer may instruct him to delay) on or before the "date for completion" stated in the Appendix subject nevertheless to the provisions for extension of time hereinafter contained.

(c) In the event of any delay in giving possession of the site, the date of giving possession of the site shall be certified by the Superintending Officer and such certified date shall be considered as the date of commencement. The Contractor shall not be entitled to claim for any loss or damage caused by such want of possession.

(d) When the Works have been completely executed according to the provisions of the Contract and to the satisfaction of the Superintending Officer, the date of such completion shall be certified by him and such date shall be the date of commencement of the Defects Liability Period as provided in Clause 17 hereof.

Damages for non-completion. 31. If the Contractor fails to complete the Works by the date in the Appendix or within any extended time under Clause 32 hereof and the Superintending Officer certifies in writing that in his opinion the same ought reasonably so to have been completed the Contractor shall pay or allow to

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Government shall be calculated at the rate stated in the Appendix as liquidated and ascertained damages for the period during which the said Works shall so remain or have remained incomplete and the Superintending Officer may deduct such damages from any moneys due to the Contractor.

32. If in the opinion of the Superintending Officer, the works be delayed by *force majeure* or by reason of any exceptionally inclement weather or by reason of directions given by the Superintending Officer consequential upon disputes with neighbouring owners or by reason of Superintending Officer's Instructions given in pursuance of Clause I hereof or in consequence of the Contractor not having received in due time necessary instructions from the Superintending Officer for which he shall have specifically applied in writing, or by reason of civil commotion, local combination of workmen, strike or lock-out affecting any of the trades employed upon the Works or by the works of nominated sub-contractors or by the works of other contractors or tradesmen engaged by Government which are not referred to in the Bills of Quantities and/or Specification, then in such case the Superintending Officer shall make a fair and reasonable extension of time for completion of the Works. Upon the happening of a strike or lock-out the Contractor shall immediately give notice thereof in writing to the Superintending Officer, but he shall nevertheless use constantly his best endeavours to prevent delay and shall do all that may reasonably be required to the satisfaction of the Superintending Officer to proceed with the Works.

Delay and
extension
of time.

33. If the Contractor, after receipt of a written notice from the Superintending Officer requiring compliance within seven days, fails to comply with such further drawing and/or Superintending Officer's Instructions the Superintending Officer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect thereto and all costs incurred in connection therewith shall be recoverable from the Contractor by the Superintending Officer as a debt or may be deducted by him from any moneys due or to become due to the Contractor.

Failure by
Contractor to
comply with
Superintending
Officer's
instruction.

34. (a) *Default.*—If the Contractor shall make default in any of the following namely:

- (i) without reasonable cause wholly suspends the Works before completion;
- (ii) fails to proceed with the works with reasonable diligence;

(iii) refuse or to a substantial degree persistently neglects after notices in writing from the Superintending Officer to remove defective work or improper materials,

then, if any such default shall continue for seven days after a notice sent by registered post to the Contractor from the Superintending Officer specifying the same, the Superintending Officer may without prejudice to any other rights herein contained thereupon by notice sent by registered post determine this Contract; provided that notice hereunder shall not be given unreasonably or vexatiously and such notice shall be void if Government is at the time of the notice in breach of this Contract.

(b) *Bankruptcy or Assignment.*—If the Contractor

- (i) commits an act of bankruptcy; or
- (ii) becomes insolvent or compounds with or makes any assignment for the benefit of his creditors; or
- (iii) assigns or sub-contracts the Contract or any portion thereof without the written permission of the Superintending Officer;

then, and in any such event, the Superintending Officer may without prejudice to any other rights herein contained by a notice sent by registered post determine this Contract.

(c) In either of the above cases the following shall apply, namely:

- (i) The Government may carry out and complete the Works departmentally or employ and pay a contractor or other person or persons to carry out and complete the Works and he or they may enter upon the site and use all materials, temporary buildings, plant and appliances thereon, and may purchase all materials necessary for the purposes aforesaid.
- (ii) The Contractor shall if so required by the Superintending Officer assign to Government without further payment the benefit of any contract for the supply of materials and/or works intended for use under this Contract or for the execution of any works and Government shall pay the agreed price (if unpaid) for such materials or works supplied or executed after the said determination.
- (iii) The Contractor shall during the execution or after completion of the Works under this clause as and when required remove from the site his temporary buildings, plant, appliances and any materials within such reasonable time as the Superintending Officer may specify in a written notice to him and in default Government may without being responsible for any loss or damage remove and sell the same holding the proceeds less all costs incurred to the credit of the Contractor.
- (iv) Until completion of the Works under this clause no payment shall be made to the Contractor under this Contract; provided that, upon completion as aforesaid and the verification within a reasonable time of the accounts therefor, the Superintending Officer shall certify the amount of expenses properly incurred by Government; and if such amount added to the moneys paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion the difference shall

Determination
of Contract
by the
Superintending
Officer.

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be a debt payable to Government by the Contractor; and if the said amount added to the said moneys be less than the said total amount the difference shall be a debt payable by Government to the Contractor.

- (v) In the event of the completion of the Works being undertaken departmentally, allowance shall be made when ascertaining the amount to be certified as expenses properly incurred by Government, for the cost of supervision, interest and depreciation on plant and all other usual overhead charges and profit, as would be incurred were the work carried out by a contractor.

Effect of war,
riots, floods,
etc

35. If during the performance of this Contract a state of war in which the Government is involved or any state of riot, civil commotion or general strike or any earthquake, flood or tempest arises or exists which has materially affected the fulfilment of this Contract any question respecting the continuance suspension or determination of this Contract shall be settled by mutual agreement between the Superintending Officer and the Contractor or failing such agreement shall be settled as provided in Clause 40 of this Contract.

Prime cost
provisional
sums and
artists.

36. (a) The words "Prime Cost" or the initials "P.C." applied in the Bills of Quantities to goods to be obtained and fixed by the Contractor, shall mean, unless otherwise stated in the said Bills of Quantities, the nett sum paid to the Merchant after deducting all trade discounts for such goods in the ordinary course of delivery, but not deducting discount for cash.

(b) Items in the Bills of Quantities containing the words "Prime Cost" or the initials "P.C." shall be dealt with as follows, namely:

The Superintending Officer shall debit the Contractor with all such items as they are carried out to the money column in the priced Bills of Quantities; he shall then credit the Contractor with such sums [as defined in sub-clause (a)] as are actually paid by him which correspond to the several "Prime Cost" or "P.C." amounts and an amount in each case proportional to the respective sums, if any, added by the Contractor in carrying out the items to the money column as aforesaid, provided that where in the opinion of the Superintending Officer the Contractor has incurred expense for special packing or special carriage the Superintending Officer shall allow for the same as part of the sums actually paid by the Contractor. Any goods or works for which "P.C." sums are provided in the Bills of Quantities to be included in the Contract Sum may, if the Superintending Officer so decides, be treated as Provisional Sums and dealt with under sub-clause (c) next-following:

(c) The Provisional Sums mentioned in the Bills of Quantities for materials to be supplied or for work to be performed by nominated sub-contractors or for other work or fittings to the Works shall be paid and expended at such times and in such amounts in favour of such persons as the Superintending Officer shall direct and sums so expended shall be payable by the Contractor without discount or deduction or (without prejudice to any rights of the Contractor under the Contract referred to in Clause 20 hereof) by Government to the said nominated sub-contractors or suppliers. The value of works which are executed by the Contractor in respect of Provisional Sums or in additional works shall be ascertained as provided in Clause 13 hereof. At the settlement of the accounts the amount paid by the Contractor to the said nominated sub-contractors or suppliers and the said value of such works executed by the Contractor shall be set against all such Provisional Sums or any sum provided for additional works and the balance after allowing *pro rata* for the Contractor's profit at the rates contained in the Contractor's original Bills of Quantities (*vide* Clause 3 hereof) shall be added to or deducted from the Contract Sum; provided that no deductions shall be made by or on behalf of Government in respect of any damages paid or allowed by any nominated sub-contractor to the Contractor the intention being that the Contractor and not Government shall have the benefit of any such damages.

(d) The Contractor shall permit the execution of work by artists or tradesmen who are not nominated sub-contractors and who may be engaged by the Superintending Officer.

(e) Where the Contractor in the ordinary course of his business directly carries out works for which Provisional Sums are contained in the Bills of Quantities and where such works are set out in the Appendix hereto and the Superintending Officer is prepared to accept tenders from the Contractor for such works the Contractor shall be permitted to tender for the same or any of them without prejudice to Government's right to reject the lowest or any tender. If the tender of the Contractor for any work included in any Provisional Sum is accepted, such tender shall be held to include the profit and the Contractor shall not be entitled to profit, *pro rata*, on the amount stated in his tender notwithstanding any provision to the contrary in Clause 36 (c) herein.

Security
Deposit.

37. ~~The Contractor shall, as a condition precedent to the commencement of any work under this Contract, deposit with Government, a cash amount or an approved banker's guarantee equal to five per cent of the Contract Sum as a fund (hereinafter referred to as the "Security Deposit"). It is agreed that the Superintending Officer may utilize and make payments out of or deductions from the said Security Deposit in accordance with the terms of this Contract.~~

Progress
payments.

38. (a) When work to the value of the sum referred to in the Appendix (or less at the discretion of the Superintending Officer) has been executed by the Contractor in accordance with the terms of this Contract the Superintending Officer shall at that time and once (or more often at the discretion of the Superintending Officer) during the course of each succeeding month issue to the Contractor a certificate shewing the estimated total value of the work done up to the date of such certificate.

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(b) An amount in respect of unfixed materials and things properly supplied and stored upon the site and ready and fit for early incorporation in the Works may, unless in the opinion of the Superintending Officer there is reason to the contrary, be included in the estimated total value of work from time to time certified under this clause as having been done by the Contractor but if so included the amount in respect of such unfixed materials and things shall be separately stated and the amount of materials and things certified shall not exceed 75 per cent of their full value.

(c) Within a number of days not exceeding that referred to in the Appendix of the issue of any such certificate the Government will make a payment to the Contractor in connection with the work and/or materials referred to in that certificate.

(d) Such payment shall after taking into account any payments previously made and amounts previously retained as hereinafter mentioned amount only to ninety per centum of the estimated total value of the work and/or materials certified to have been done and/or supplied the remaining ten per centum being retained as a fund (hereinafter called the Retention Fund) ~~which fund shall be additional to the Security Deposit deposited in accordance with the terms of this Contract.~~ *J. C. G.*

Provided that when the sums retained as Retention Fund amount in the aggregate to a sum equivalent to ~~ten per~~ ^{ten per} centum of the Contract Sum then any subsequent payment made in connection with any subsequent certificate issued by the Superintending Officer shall amount to the full value of the work and/or materials certified in any such certificate to have been executed and/or supplied less all payments previously made and less all sums previously retained as part of the Retention Fund. The amounts retained by virtue of this sub-clause shall be dealt with in the following manner. On practical completion of the whole of the works and subject to clause 31 of these Conditions, one half of the total amount retained shall be refunded to the Contractor, and the remaining one half shall be refunded at the end of the Defects Liability Period as provided for in clause 33(a) hereof.

(e) When the Works have been completed no payment shall be made on the final certificate issued under this clause until the Contractor shall have satisfied the Superintending Officer by means of either

- (i) a statutory declaration made by or on behalf of the Contractor, or
- (ii) a certificate signed by or on behalf of the Commissioner for Labour,

to the effect that the workmen who have been employed by the Contractor on the Works including workmen employed by nominated sub-contractors and by authorised sub-contractors engaged directly by the Contractor have received all wages due to them in connection with such employment and that all dues the Labour Code and all contributions to the Employees' Provident Fund required under the Ordinance have been paid.

(f) No certificate of the Superintending Officer shall be considered conclusive evidence as to the sufficiency of any work or materials to which it relates nor shall it relieve the Contractor from his liability to amend and make good all defects shrinkages other faults or damage as provided by this Contract.

39. (a) The Retention Fund (or any balance thereof remaining for the credit of the Contractor) shall be retained and shall not become payable to the Contractor during a period of such number of months after the completion of the Works as is referred to in the Appendix and shall thereafter become payable and be paid to the Contractor only if and when all shrinkages other faults and damage shall have been amended and made good in accordance with the terms of Clause 17 of this Contract and only after the Contractor shall have complied with the terms of sub-clause (e) of Clause 38 of this Contract.

Payment of ~~Security Deposit and~~ Retention Fund. *J. C. G.*

J. C. G. (b) ~~The Security Deposit (or any balance thereof remaining for the credit of the Contractor) shall be released on the completion of the whole of the Works comprised in this Contract and shall be refunded immediately upon the giving of the certificate under sub-clause (d) of Clause 30 of this Contract.~~ *J. C. G.*

40. Provided always that in case any dispute or difference except a dispute or difference as to rates of wages or conditions of employment of workmen employed by the Contractor in and for the purpose of this Contract including workmen employed by nominated sub-contractors and by authorised sub-contractors engaged directly by the Contractor shall arise between Government or the Superintending Officer on its behalf and the Contractor, either during the progress or after completion of the Works or after the determination, abandonment, or breach of the Contract, as to the construction of the Contract or as to any matter or thing arising thereunder, or as to the withholding by the Superintending Officer of any certificate to which the Contractor may claim to be entitled, then the Superintending Officer shall determine such dispute or difference by a written decision given to the Contractor. The said decision shall be final and binding on the parties unless the Contractor disputes the same in which case or in case the Superintending Officer for 14 days after a written request to him by the Contractor fails to give a decision as aforesaid, such dispute or difference shall be referred to the arbitration and final decision of a person nominated and appointed by agreement between the Superintending Officer and the Contractor or, in event of his death or unwillingness or inability to act, or, if the Superintending Officer and Contractor fail to agree, of an arbitrator nominated by the chief executive officer of the Government providing the funds for this Contract and the award of such Arbitrator shall be final and binding on the parties. Such reference, except on the question of certificates, shall not be commenced until after the completion or alleged completion of the Works, unless with the written consent of the Superintending Officer and the Contractor. The Arbitrator shall have power to review and revise any certificate, opinion, decision, requisition or notice and to determine all matters in dispute which shall be submitted to him, and of which notice shall have been given as aforesaid, in the same manner as if no such certificate, opinion, decision, requisition or notice had been given. Upon every or any such reference the costs of and incidental to the reference and award shall be in the discretion of the Arbitrator, who may determine the amount thereof, or direct the same to be taxed as between solicitor and client or as

Arbitration.

EXHIBIT

"D1"

Relevant portions of Contract etc.

(cont'd)

between party and party, and shall direct by whom and to whom and in what manner the same shall be borne and paid. This submission shall be deemed to be a submission to arbitration within the meaning of the Arbitration Enactment.

Stamp Duty. 41. The proper Stamp Duty, if any, on this Contract will be borne by Government.

APPENDIX

Clause.

13	Three (3) months	Period of Final Measurement (if none stated is three months).
17 and 39 (a)	Six (6) months	Defects Liability Period (if none stated is six months).
30	18th December 1967	Date for Possession.
30	21st December 1969	Date for Completion.
31	Dollars three thousand per day	Liquidated and ascertained damages at the rate of \$ 3000/- per day.
36 (a)		Work, covered by Provisional Sums, for which the Contractor will be permitted to tender.

EXHIBIT

EXHIBIT "P2"

"P2"

LETTER, NG KONG HOOI CONSTRUCTION
TO APPELLANTS - 22ND JULY, 1969

Letter,
Ng Kong Hooi
Construction
to Appellants

NG KONG HOOI CONSTRUCTION
56A Jalan Bukit Bintang,
K. Lumpur.

22nd July 1969

Date 22nd July, 1969

M/s Malaywata Steel Berhad,
Prai, Province Wellesley,
P.O. Box 60,
BUTTERWORTH.

10

Dear Sirs,

MALAYSIAN BROADCASTING CENTRE
Radio House - Large Auditorium

Further to our letter of 11th July, 1969,
we are pleased to forward our cheque drawn on
the Hongkong and Shanghai Banking Corporation
No. C118334 for the sum of \$1,500/- being the
12th Progress Payment received from Jabatan
Kerja Raya.

20

We shall be obliged to have your official
receipt by return of post.

Yours faithfully,

Sgd.
(OOI GHEE HIM)
Manager.

Encls:

c.c. M/s. Malayawata Steel Berhad,
Bank Bumiputra Building,
Jalan Melaka,
Kuala Lumpur.

30

OGH/lsk.

EXHIBIT "A"RELEVANT PAGES OF SITE
DIARIESEXHIBIT"P3A"
Relevant
Pages of
Site Diaries

Auditorium

Excavation on footing H-L

Radio House.

- 10 Steel erecting for Lift wall (ground floor) in
North, between H-4X & H-6X.
- Removing of spoiled plywood for ground floor
slab between line A & B (98 pieces 8'x4")

Steel delivered to site

1 $\frac{1}{8}$	x 40'	-----	224 pieces	14 tons.
1 $\frac{1}{8}$	x 40'	-----	224 pieces	14 tons.
1 $\frac{1}{8}$	x 40'	-----	224 pieces	14 tons
			<hr/>	<hr/>
			672	42 tons

REMARKS

EXHIBIT

"P3A"

Relevant
Pages of
site Diaries
(cont'd)

Auditorium

Excavation on footing H.

Radio House

Removing of spoiled plywoods for grounds
floor slab between line j & k. (28 pieces
8' x 4')

10

Steel bending for ground floor beams.

Steel delivered to site (H Tensile Deformed Bars)

$\frac{3}{8}$	x 40'	-----	1800 pieces	12 tons
$\frac{3}{8}$	x 40'	-----	1800 pieces	12 tons
$\frac{3}{8}$	x 40'	-----	1800 pieces	12 tons
			<u>5400</u>	<u>36</u>

285.

REMARKS

EXHIBIT

"P3A"

Auditorium

No work

Relevant
Pages of
Site Diaries
(cont'd)

Radio House

(i) Preparation of formwork for ground floor
beams.

10 (ii) Bar bending for ground floor beams.

Steel delivered to site (High Tensile Deformed
Bars)

$\frac{5}{8}$ x 40' ----- 648 pieces 12 tons.

REMARKS

EXHIBIT

"P3A"

Relevant
Pages of
Site Diaries

Auditorium
No work

(cont'd)

Radio House

Placing Steel for ground floor slab, (South)
between Line A & B

Form work of beams between J & H line

10

Steel delivered to site (High Tensile Deformed Bars)

$\frac{5}{8}$	x 40'	-----	641 pieces	11½ tons
$\frac{5}{8}$	x 40'	-----	648 pieces	12 tons
$\frac{5}{8}$	x 40'	-----	540 pieces	10 tons

 1809

REMARKS

EXHIBIT

"P3A"

Relevant
Pages of
Site Diaries

(cont'd)

Auditorium

Excavating for footing L - F

Radio House

Form erecting between line J - H - G

Steel placing and adjusting for ground
floor slab between line A - C.

10 Electrical work in the west side.

(1) Lower ground floor S/Slighting conduit layout.

(2) Ground floor S/S out let conduit layout

(3) Technical conduit layout

Clerk of works overtimes 5.00 - 7.00

Steel delivered to site (high Tensile Deformed Bars)

1" of x 40' --- 264 pieces 12 tons

1" of x 40' --- 264 pieces 12 tons

24 tons

REMARKS

EXHIBIT

"P3A"

Relevant
Pages of
Site Diaries
(cont'd)

Auditorium

Steel placing for footing L - F.

House: Steel placing for ground floor beams between
line J - H - G.

Form erecting for ground floor beams between
line J - H - G.

Electrical work between the line C - D.

10

- (1) Ground floor lighting conduit layout.
- (2) Ground floor s/s outlet conduit layout
- (3) fire alarm conduit layout.

Steel delivered to site

(High Tensile Deformed
Bar)1 $\frac{1}{8}$ " x 40 ---- 192 pieces

12 tons.

EXHIBIT

"P3A"

Relevant
Pages of
Site Diaries

Auditorium

Steel placing for footing L - F

Radio House:

(Cont'd)

Form of steel work for ground floor beams
of slab between line J - H - G.

Electrical work between C - D line

10

- (1) Ground floor lighting conduit layout
- (2) Ground floor s/s outlet conduit layout
- (3) Fire alarm conduit layout.

Steel delivered to site (H.T.D. Bars)

$\frac{3}{4}$ "	x 40'	----	456 pieces	12 tons
$\frac{3}{4}$ "	x 40'	----	456 pieces	12 tons
				<hr/> 24 tons

HIBIT

"P3A"

relevant
pages of
site Diaries

cont'd)

Auditorium

Steel placing for footing of W7 f W8

Radio House:

Form erecting for ground floor slab & beams
between line J - H - GSteel placing for ground floor slab & beams
between line J- H - G

10

Electrical work at north side.

(1) Lower ground floor lighting conduit layout.

Steel delivered to site (H.T.D. Bars)

1"	x 40'	-----	198 pieces	9 tons
$\frac{5}{8}$ "	x 40'	-----	648 pieces	<u>12 tons</u>
				21 tons

REMARKS

EXHIBIT

"P3A"

Auditorium

Form work for footing of walls 7 & Walls 8.

Radio House

No work.

Relevant
Pages of
Site Diaries

(cont'd)

Steel delivered to site

10	$\frac{5}{8}$ "	x 40'	---	162 pieces	3 tons
	$\frac{3}{4}$ "	x 40'	---	190 pieces	5 tons
	$\frac{3}{4}$ "	x 40'	---	19 pieces	$\frac{1}{2}$ ton
	$\frac{7}{8}$ "	x 40'	---	84 pieces	3 tons
	1"	x 40'	---	110 pieces	5 tons
	$1\frac{1}{8}$ "	x 40'	---	64 pieces	4 tons
	$1\frac{1}{8}$ "	x 40'	---	8 pieces	$\frac{1}{2}$ ton
	$\frac{7}{8}$ "	x 40'	---	84 pieces	3 tons
					<hr/>
					24 tons

REMARKS

EXHIBIT

"P3A"

Relevant
Pages of
Site Diaries

Auditorium

Concreting on footing for wall 7 & Wall 8.

(cont'd)

Radio House:

Form work for ground floor slab between line
in J - H - G.Steel placing for ground floor beam between
line J - H - F.

Electrical work in North side.

10

Lower ground floor lighting conduit layout

Steel delivered to site

$\frac{3}{8}$ "	x 40'	--- 1500	10 tons.
$\frac{3}{8}$ "	x 40'	--- 900	6 tons.
$\frac{5}{8}$ "	x 40'	--- 216	4 tons.
$\frac{3}{8}$ "	x 40'	--- 270	10 tons

REMARKS

EXHIBIT

"P3A"

Auditorium

No work

Relevant
Pages of
Site Diaries

Radio House

(cont'd)

Concreting on ground floor slab (South)
8 - 6/A-C six cubes made.

10

Form work for slab between line J - H - G
steel placing for ground floor beams between
line J - H - G

Electrical work in the north side.

Lower ground floor lighting conduit layout

Steel delivered to site

$\frac{3}{8}$ " x 40' --	1650 pieces	11 tons
$\frac{3}{8}$ " x 40' --	78 pieces	$\frac{1}{2}$ ton
$\frac{1}{2}$ " x 40' -	924 pieces	11 tons
$\frac{5}{8}$ " x 40' -	594 pieces	11 tons
$\frac{3}{8}$ " x 40' -	180 pieces	1 ton

EXHIBIT

REMARKS

"P3A"
 Relevant
 Pages of
 Site
 Diaries
 (cont'd)

Auditorium

No work.

Radio House

Form erecting for west wall

Steel placing for ground floor beams between
 line J - H - G.

10

Electrical work in the north side.

Lower ground floor lighting conduit layout.

Steel delivered to site

$\frac{1}{2}$ " x 40' --- 840 pieces

10 tons

REMARKSEXHIBIT

"P3A"

Relevant
Pages of
Site Diaries
(cont'd)

Auditorium

No work

Radio House

Concreting on ground floor slab (south) a-C/1 - 3

10

Form & Steel works for ground floor slab & beam
in the northside

Electrical work in the north side.

Lower ground floor lighting conduit layout

Steel delivered to site

 $\frac{3}{8}$ " x 40' -- 1500 pieces 10 tons

REMARKS

EXHIBIT

"P3A"

Relevant
Pages of
Site Diaries
(contd)

Auditorium

No work.

Radio House

Concreting on ground floor slab 4 - 6/A - G
six cubes made R2 (1) - (6)

Form erecting for Col A12 A11 A10.

10

Steel placing for ground floor slab (North)
bay 13/j & beams.

Electrical work in north side.

Lower ground floor lighting conduit layout.

Steel delivered to site

$\frac{1}{2}$ "	x 40'	--- 840 pieces	10 tons
$\frac{1}{2}$ "	x 40'	--- 840 pieces	10 tons
$\frac{1}{2}$ "	x 40'	--- 840 pieces	10 tons
$\frac{1}{2}$ "	x 40'	--- 588 pieces	7 tons
$\frac{1}{2}$ "	x 40'	--- 252 pieces	3 tons

20

 3,360

Clerk of works overtime 5.00 - 7.15

REMARKS

EXHIBIT

"P3A"

Auditorium

No work.

Relevant
Pages of
Site Diaries

Radio House

(contid)

Form erecting for ground floor slab between
J - H - G10 Steel placing for ground floor slab
between line J - H.

Electrical work in the north side.

Lower ground floor lighting conduit layout.

Steel delivered to site

$\frac{1}{2}$ "	x 40	---840 pieces	10 tons
-----------------	------	---------------	---------

$\frac{1}{2}$ "	x 40	---840 pieces	10 tons
-----------------	------	---------------	---------

EXHIBIT

REMARKS

"P3A"

Relevant
Pages of
Site Diaries
(cont'd)

Auditorium

No work

Radio House

Form erecting for ground floor slab.

Steel place for ground floor beams & slab
in North.

10

Electrical work in the north side.

Lower ground floor lighting conduit layout.

Steel delivered to site

$\frac{1}{2}$ "	x 40'	-- 840 pieces	10 tons
$\frac{1}{2}$ "	x 40'	-- 840 pieces	10 tons
$\frac{1}{2}$ "	x 40'	-- 252 pieces	3 tons
$\frac{1}{2}$ "	x 40'	-- 630 pieces	7 $\frac{1}{2}$ tons
$\frac{1}{2}$ "	x 40'	-- 756 pieces	8 $\frac{1}{2}$ tons

 3318

REMARKS

EXHIBIT

"P3A"

Auditorium

Steel erecting for control room centre.

Relevant
Pages of
Site Diaries:

Radio House

Concreting on ground floor slab D - E/10X-13

Six cubes made numbered R 3 (illegible)

(cont'd)

10 Electrical work in the north side.

Lower ground floor lighting conduit layout

Steel delivered to site

$\frac{5}{8}$ "	x 40'	-- 840 pieces	10 tons
$\frac{1}{2}$ "	x 40'	-- 756 pieces	9 tons

Clerk of works overtime 5.00 7.45

EXHIBIT

REMARKS

"P3A"

Relevant
Pages of
Site Diaries

Auditorium

No work

(cont'd)

Radio House

Steel erecting for ground floor slab, in
North side

10

Form erecting for ground floor slab & beam in
North.

Electrical work in the north side.

Lower ground floor lighting conduit layout

Steel delivered to site

 $\frac{1}{2}$ " x 40' -- 840 10 tons $\frac{1}{2}$ " x 40' -- 840 10 tons $\frac{1}{2}$ " x 40' -- 282 pieces 6 tons $\frac{3}{8}$ " x 40' -- 600 pieces 4 tons $\frac{3}{8}$ " x 40' -- 1200 pieces 8 tons

20

 $\frac{3}{8}$ " x 40' -- 300 pieces 2 tons

301.
REMARKS

EXHIBIT

"P3A"

Auditorium

No work

Relevant
Pages of
Site Diaries

Radio House

(cont'd)

Steel placing for Col - C5X (lower ground floor)

10

Form erecting for ground floor slab & beams in the North side.

Electrical work in the north side

Lower ground floor lighting conduit layout

Steel delivered to site

$\frac{3}{8}$ " x 40' -- 1800 pieces 10 tons

$\frac{3}{8}$ " x 40' -- 1800 pieces 10 tons

EXHIBIT

REMARKS

"P3A"

Relevant
Pages of
Site Diaries

Auditorium

Steel erecting for control room footing
& cols.

(cont'd)

Radio House

Concreting on ground floor slab K - H/13 - 11

Concreting on ground floor col. A12.

Form erecting for ground floor slab & beams
in the north side.

10

Steel delivered to site

 $\frac{3}{8}$ " x 40' -- 1500 pieces 10 tons

Clerk of works overtime 5.00 - 9.30

303.

REMARKS

EXHIBIT

"P3A"

Auditorium

No work.

Relevant
Pages of
Site Diaries

Radio House

(cont'd)

Concreting on cols H-8x (ground floor)
G-10x D-10x J11x, E12, C12. & west wall
first lift G - K.

10 Form erecting for Ground floor beams & slab
in the Northside.

Steel placing for ground floor beams & slab
in the Northside.

Steel delivered to site

1"	x 40'	----	220 pieces	10 tons
1"	x 40'	----	220 pieces	10 tons
1"	x 40'	----	220 pieces	10 tons

Clerk of works overtime 5.00 - 11.30 (6½ hours)

304.
REMARKS

EXHIBIT

"P3A"
Relevant
Pages of
Site Diaries
(cont'd)

Auditorium

No work

Radio House

Concreting on ground floor slab between lines
C-D/9x-10x. Six cubes made. R11 (1-6)

Form erecting for ground floor slab of beams
in the North side.

10

Placing steel for ground floor slab of beams
in the North side.

Steel delivered to site

1"	x 40'	-- 264	pieces	12 tons
1"	x 40'	-- 264	pieces	12 tons
1"	x 40'	-- 88	pieces	4 tons
1"	x 40'	-- 176	pieces	8 tons

Clerk of works over time 5.00 - 6.47 (2 hours)

305.

REMARKS

EXHIBIT

Auditorium

No work

"P3A"

Relevant
pages of
Site Diaries

Radio House

(cont'd)

Concreting on Col H10A, West wall (and 2nd lift)
F-K & Entrance lobby.

10

Form erecting for Ground floor slab of beams
in the North side.

Steel placing for Ground floor beams of slab
in the Northside.

Steel delivered to site

1" x 220 pieces (40') 10 tons

1" x 40' 220 pieces 10 tons

clerk of works overtimes 5.00 - 8.30 (3½ hours)

EXHIBIT

REMARKS

"P3A"
 Relevant Auditorium
 Pages of Site Diaries No work
 (cont'd) Radio House
 Form of steel erecting for first floor beams
 of slab along line C - D

Steel delivered to site

$\frac{1}{2}$ " x 40' -- 1344 pieces 16 tons 10

REMARKS

EXHIBIT

"P3A"

Auditorium

Steel erecting for Col L - M

Relevant
Pages of
Site Diaries
(cont'd)

Radio House

Form erecting on northside of first floor

Steel placing for first floor beams & slab
in the Northside.

10	Steel delivered to site (H.T.B.)		
	$\frac{1}{2}$ "	x 40' -- 720 pieces	15 tons
	$\frac{3}{4}$ "	x 40' -- 76 pieces	2 tons

EXHIBIT

REMARKS

"P3A"

Relevant
Pages of
Site Diaries

Auditorium

No work

(cont'd)

Radio House

Concreting on first floor slab, lines 13-12/A-B
& 1-2/A-B Six cubes made R 30 (1-6)

Form erecting for first floor slab & beam in
the south side.

10

Placing steel for the first floor slab & beams
in the south side.

Steel delivered to site

9 x 28 pieces $\frac{7}{8}$ " x 40' 9 tons

3 x 22 pieces 1" x 40' 3 tons

Clerk of works overtimes 5.00 - 6.55 (2 hours)

309.

REMARKS

EXHIBIT

Auditorium

No work

Radio House

Concreting on col K - Y, J - 4x & garden wall.

Form erecting for first floor slab & beam in the North side.

Placing of steel for first floor beam & slab in the North side.

"P3A"

Relevant
Pages of
Site Diaries

(cont'd)

10

Steel delivered to site

5 x 22 pieces 1"	x 40'	110	5 tons
5 x 28 pieces $\frac{7}{8}$ "	x 40'	140	5 tons
7 x 22 pieces 1"	x 40'	154	7 tons
3 x 22 pieces 1"	x 40'	66	3 tons

Clerk of works overtimes 5.00 - 5.52 (1 hour)

EXHIBIT

REMARKS

"P3A"

Auditorium

Relevant
Pages of
Site Diaries

Work can't proceed due to flooding.

Radio House

(cont'd)

Erecting of form & steel for first
floor beams & slab.

Steel delivered to site

10 x 38 pieces x $\frac{3}{4}$ " x 40' 10 tons

REMARKS

EXHIBIT

Auditorium

"P3A"

Work can't proceed due to flooding.

Relevant
Pages of
Site Diaries

Radio House

Concreting on partitional wall & Col
along line E.

(cont'd)

Form work for beam & slab in front floor
North side.

10

Steel delivered to site

10 x 38 pieces	x $\frac{3}{4}$ "	x 40'	10 tons
6 x 150 pieces	x $\frac{3}{8}$ "	x 40'	6 tons
5 x 22 pieces	x 1"	x 40'	5 tons

EXHIBIT

REMARKS

"P3A"

Relevant
Pages ofSite Diaries
(cont'd)

Auditorium

Work can't proceed due to flooding

Radio House

Concreting on first floor slab, lines B - C/
13-10.Form erecting for first floor beams & slab
in North side.

10

Steel delivered to site

5 x 38 pieces	x $\frac{3}{4}$ "	x 40'	5 tons
6 x 150 pieces	x $\frac{3}{8}$ "	x 40'	6 tons
10 x 54 pieces	x $\frac{5}{8}$ "	x 40' 540	10 tons
12 x 54 pieces	x $\frac{5}{8}$ "	x 40' 648	12 tons

Clerk of works overtime 5-6-30 ($1\frac{1}{2}$ hours)

313.

REMARKS

EXHIBIT

"P3A"

Auditorium

Work can't proceed due to flooding

Relevant
Pages of
Site Diaries

Radio House

(Cont'd)

Concreting on first floor slab, lines,
B - c/6 - 3.

Form erecting for first floor slab & beams.

Steel placing for first floor beams & slab.

Clerk of work overtime 5.00 - 6.10 (1 hour)

Steel delivered to site

11 x 54 pieces x $\frac{5}{8}$ "	x 40'	11 tons
1 x 28 pieces x $\frac{7}{8}$ "	x 40'	1 ton
9 x 22 pieces x 1"	x 40'	9 ton
2 x 28 pieces x $\frac{7}{8}$ "	x 40'	2 tons
1 x 28 pieces x $\frac{7}{8}$ "	x 40'	1 ton
2 x 22 pieces x 1"	x 40'	2 tons
7 x 22 pieces x 1"	x 40'	7 tons

EXHIBIT

REMARKS

"P3A"

Relevant
Pages of
site Diaries Auditorium

No work

Radio House

Concreting on first floor slab 1-3/B-C. &
Garden wall.

Form erecting for first floor slab & beams
in North side.

10

Clerk of work overtimes 5.00 - 5.50 (1 Hour)

Steel delivered to site

3x 38 pieces x $\frac{3}{4}$ "	x 40'	3 tons
2x 22 pieces x 1"	x 40'	2 tons
5x 54 pieces x $\frac{7}{8}$ "	x 40'	5 tons
4x 22 pieces x 1"	x 40'	4 tons
9x 22 pieces x 1"	x 40'	9 tons
1x 11 pieces x 1"	x 40'	$\frac{1}{2}$ ton
2x 28 pieces x $\frac{7}{8}$ "	x 40'	2 ton
6x 180 pieces x $\frac{3}{8}$ "	x 40'	6 tons
1x 75 pieces x $\frac{3}{8}$ "	x 40'	$\frac{1}{2}$ ton
10x 54 pieces x $\frac{5}{8}$ "	x 40'	10 tons
1x 37 pieces x $\frac{5}{8}$ "	x 40'	$\frac{1}{2}$ ton
10x 180 pieces x $\frac{3}{8}$ "	x 40'	10 tons
10x 180 pieces x $\frac{3}{8}$ "	x 40'	10 tons

20

315.

REMARKS

EXHIBIT

"P3A"

Relevant
Pages of
Site
Diaries

Auditorium

No work

Radio House

(Cont'd)

Concreting on col A12, A11, A10, A9

& C-12, C-10X, C-9X Six cubes made 1A-F

Clerk of work overtimes 5.00 - 6.30 (1½ hours)

10

Steel delivered to site

10 x 84 pieces ½" x 40' 10 tons

10 x 150 " ¾" x 40' 10 tons

REMARKS

EXHIBIT

"P3A"

Relevant
Pages of
Site Diaries
(cont'd)

Auditorium

Concreting on walls 8,7 of footing &
walls 16, 17

Radio House

Steel & form erecting on North side for first
floor beams & slab.

10

Steel delivered to site (H.T.D. bar)

2 x 84 pieces	x	$\frac{1}{2}$ "	x 40'	2 tons
10x 54 pieces	x	$\frac{5}{8}$ "	x 40'	10 tons
3x150 pieces	x	$\frac{3}{8}$ "	x 40'	3 tons
1x 75 pieces	x	$\frac{3}{8}$ "	x 40'	$\frac{1}{2}$ ton
10x 84 pieces	x	$\frac{1}{2}$ "	x 40'	10 tons
7x150 pieces	x	$\frac{3}{8}$ "	x 40'	7 tons
2x150 pieces	x	$\frac{3}{8}$ "	x 40'	2 tons

Clerk of works overtime 5.00 - 7.40 (3 hours)

317.

REMARKS

EXHIBIT

"P3B"

Relevant
Pages of
Site Diaries

Auditorium

No works

Radio House

1. Preparing of forms to cols K G floor
beams

10

2. Fabricating of steel to south wall

Material Delivered: Deformed Bars

1. 10 x 30' ----- 153 pcs

2. 11 x 30' -----2.432 pcs

318.

REMARKS

EXHIBIT

"P3B"

Relevant
Pages of
Site Diaries
(cont'd)

Works Progress

No works

Material Delivered: Deformed Bars

1.	11	x 30'	-----	2,259	pcs	
2.	10	x 30'	-----	1,105	pcs	10

319.

REMARKS

EXHIBIT

NO WORK

"P3B"

Relevant
Pages of
Site Diaries

(cont'd)

Steel delivered to site: (High Tensile deformed Bars)

	$\frac{3}{4}$ "	x 40'	-----	152 pieces	4 tons
	$\frac{5}{8}$ "	x 40'	-----	270 pieces	5 tons
10	$1\frac{1}{8}$ "	x 40'	-----	80 pieces	5 tons
	1"	x 40'	-----	66 pieces	3 tons
					<hr/>
					17 tons

REMARKS

EXHIBIT

"P3B"

Relevant
Pages of
Site Diaries

NO WORK

(cont'd)

Steel delivered to site: (High Tensile deformed bars)

1"	x 40'	---- 44 pieces	2 tons	
$\frac{3}{4}$ "	x 40'	---- 38 pieces	1 ton	10
$\frac{1}{2}$ "	x 40'	---- 320 pieces	5 tons	
$\frac{7}{8}$ "	x 40'	---- 140 pieces	5 tons	
$\frac{3}{8}$ "	x 40'	---- 750 pieces	5 tons	
$1\frac{1}{8}$ "	x 40'	---- 160 pieces	10 tons	
$1\frac{1}{8}$ "	x 40'	---- 160 pieces	10 tons	
			<hr/>	
			38 tons	

REMARKS

EXHIBIT

NO WORK

"P3B"

Relevant
Pages of
Site Diaries

(cont'd)

Steel delivered to site. (High Tensile deformed bars)

	1 $\frac{1}{8}$ "	x 40'	----	160 pieces	10 tons
	1 $\frac{1}{8}$ "	x 40'	----	80 pieces	5 tons
10	$\frac{7}{8}$ "	x 40'	----	56 pieces	2 tons
	1 $\frac{1}{8}$ "	x 40'	----	32 pieces	2 tons
	$\frac{7}{8}$ "	x 40'	----	252 pieces	9 tons
	1"	x 40'	----	132 pieces	6 tons
	$\frac{7}{8}$ "	x 40'	----	84 pieces	3 tons
	$\frac{7}{8}$ "	x 40'	----	14 pieces	$\frac{1}{2}$ ton
	1"	x 40'	----	176 pieces	8 tons
					<hr/> 45 $\frac{1}{2}$ tons

REMARKS

XHIBIT

"P3B"

relevant
pages of

Site Diaries Auditorium

cont'd)

Pouring Lean Concrete on footing "0"

Radio House:

Steel erecting for col C-10x

Steel delivered to site (High Tensile deformed bars) 10

1 $\frac{1}{8}$ "	x	40'	----	160 pieces	10 tons
1 $\frac{1}{8}$ "	x	40'	----	160 pieces	10 tones
1 $\frac{1}{8}$ "	x	40'	----	160 pieces	10 tons
1 $\frac{1}{8}$ "	x	40'	----	80 pieces	5 tons
$\frac{3}{4}$ "	x	40'	----	190 pieces	5 tons
$\frac{3}{4}$ "	x	40'	----	380 pieces	10 tons
					<u>50 tons</u>

323.

REMARKS

EXHIBIT

"P3B"

Auditorium

Pouring Lean concrete on footing M.

Relevant
Pages of
Site Diaries

(cont'd)

Radio House:

Steel erecting for Col C-9X

Steel delivered to site (High Tensile Deformed Bars)

10

$\frac{3}{4}$ "	x 40'	-----361 pieces	9 $\frac{1}{2}$ tons
$\frac{1}{2}$ "	x 40'	----- 672 pieces	8 tons
1 $\frac{1}{8}$ "	x 40'	----- 80 pieces	5 tons
			<hr/>
			22 $\frac{1}{2}$ tons

REMARKS

EXHIBIT

"P3B"

Relevant
Pages of
Site Diaries

Auditorium:

Excavating on footing H.

(cont'd)

Radio House:

Erecting of Form for Col C-4X & C-5X

C-10X C-6X.

Steel Delivered to site(High Tensile def Bars)

10

$\frac{1}{2}$ "	x 40'	-----	1080 pieces	12 tons
$1\frac{1}{8}$ "	x 40'	-----	224 pieces	14 tons
$1\frac{1}{8}$ "	x 40'	-----	96 pieces	6 tons
$1\frac{1}{8}$ "	x 40'	-----	128 pieces	8 tons
				<hr/>
				40 tons

325.

REMARKS

EXHIBIT

Auditorium

No work

Radio House:

Steel erection for col E-2 E-F

"P3B"

Relevant
Pages of
Site Diaries

(cont'd)

Steel delivered to site (High Tensile deformed bars)

1 $\frac{1}{8}$ " x 40' ----- 176 pieces 11 tons

1 $\frac{1}{8}$ " x 40' ----- 224 pieces 14 tons

1 $\frac{1}{8}$ " x 40' ----- 224 pieces 14 tons

39 tons

10

REMARKS

EXHIBIT

"P3B"

Relevant
Pages of
Site Diaries

Auditorium

Excavation of on footing H.

(cont'd)

Radio House

Steel erecting col H-8K, H-6K

Steel delivered to site

$\frac{1}{2}$ "	x 40'	-----	1008	pieces	12 tons	10
$\frac{1}{2}$ "	x 40'	-----	1092	pieces	13 tons	
$\frac{1}{2}$ "	x 40'	-----	1092	pieces	13 tons	
			<u>3192</u>		<u>38 tons</u>	

EXHIBIT "D5"
RELEVANT PORTIONS OF
CONTRACT ETC.

EXHIBIT
"D5"
Relevant
portions of
Second Contract .

THIS FORM TO BE USED WHERE QUANTITIES FORM PART
OF THE CONTRACT

CONTRACT No. 200/10/109 1970

EXPENDITURE to be met from Head 10 - Telestation

Sub-head (15) Mr. Sanyasi, Mr. S. Sanyasi

(11) Billing and 110 cents

A Contract made the 17 day of June 1970

BETWEEN Mr. Sanyasi Sanyasi, Dist.

of (or whose Registered Office is situated at) 3-B Jalan Barat, Petaling Jaya, Selangor

hereinafter called "the Contractor", of the one part and the Government of

Malaysia
hereinafter called "the Government", of the other part

WHEREAS the Government is desirous of The erection & completion of the
Incomplete 12.3000m Broadbanding & related equipment, Radio House, New
Office Tower and Large building at

Dist. Petal, Kuala Lumpur
at and has caused Drawings, Bills of Quantities
and/or a Specification describing the work to be done to be prepared.

AND WHEREAS the said Drawings numbered 200-301/7 (Site Plan)
222-302 to 222-311, 222-350 to 222-379, 222-377, 200/1 and 200/1

hereinafter referred to as the Contract drawing, the Bill of Materials and/or
Specification, Form of Tender and Letter of Acceptance of Tender have been
signed by or on behalf of the parties hereto

* Government incurring the liability
† State the nature and scope of the intended Works

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. For the consideration hereinafter mentioned the Contractor will upon and subject to the Conditions annexed hereto execute and complete the Works shown upon the said Drawings and described or referred to in the said Bills of Quantities and/or Specification and Conditions.
2. The Government will pay the Contractor the sum of Dollars ~~seven million~~ **two hundred and six thousand, nine hundred and forty four and cents thirty-nine only. (Alternative '00')** (\$ **7,206,944.39**) or such other sum as shall become payable hereunder at the times and in the manner specified in the said Conditions, and hereinafter referred to as the Contract Sum.
3. The term "Contract" wherever used herein and in all contract documents shall mean the documents forming the tender and acceptance thereof together with the documents referred to therein including the Conditions annexed hereto the Bills of Quantities and/or Specification and Drawings and all these documents taken together shall be deemed to form one contract and shall be complementary to one another.
4. The term "Superintending Officer" (or the initials S.O.) wherever used hereinafter and in all contract documents shall mean the **Pongyrah Sarja Muga,** **Menteri Tanah Melayu, Jalan Maxwell, Kuala Lumpur** and his successors in office and also such person or persons as may be deputed by him in writing to act on his behalf for the purpose of this Contract. During the continuance of this Contract, any person acting for the Superintending Officer, or exercising his authority, or any successor in office of such Superintending Officer, shall not disregard or overrule any decision, approval or direction given to the Contractor, in writing, by his predecessor, unless he is satisfied that such action will cause no pecuniary loss to the Contractor or unless such action be ordered as a variation to be adopted as hereinafter provided.
5. The terms "Approved" and "Directed" wherever used hereinafter and in all contract documents shall mean the approval and direction in writing of the Superintending Officer.
6. The term "Contractor" wherever used herein and in all contract documents shall mean the person or persons, partnership, firm or company whose tender for the Works has been accepted and who has or have signed this Contract and shall include his or their heirs, executors, administrators, assigns, successors and duly appointed representative.
7. The term "Works" wherever used herein and in all contract documents shall mean all or any portion of the work, materials and articles wherever the same are being manufactured or prepared which are to be used in the execution of this Contract and whether the same may be on the building site or not.

* Government bearing the liability
 † Official designation of officer actually supervising the work

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

Words importing the singular only also include the plural and vice versa where the context requires.

9. All dimensions and measures shown on the drawings and given in the Bills of Quantities and/or Specification shall be taken to be English Legal Standard measures.

As witness our hands the day and year first above written.

Signed by the said*

ABAC S/LD

SGD. XXX
Contractor's Signature

SGD. KKK
in the presence of

Name SIEW SWEE CHAN

Address B-B JH BAKA, P J1/A

Description S. CRI AK/

Signed by the†

PENGARAH KURIA MASA
NEGERI TAMPIL MELAYU
for and on behalf of the Government.

SGD. XXX
Officer's Signature

in the presence of

Name H.F. SUTJA RAJAH

Address
Jalan Ulu Balam, Bagan L
Dist. Perlis, I.K.R.

Description

* Contractor's name in block capitals.
† Official designation of officer, in block capitals.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

THE CONDITIONS HEREINBEFORE REFERRED TOScope of
Contract.

1. (a) The Contractor shall carry out and complete the Works in accordance with this Contract in every respect in accordance with the directions and to the reasonable satisfaction of the Superintending Officer, who may in his absolute discretion and from time to time issue further drawings, details and/or written instructions, written directions and written explanations (all of which are hereafter collectively referred to as "Superintending Officer's Instructions") in regard to:

- (i) the variation or modification of the design, quality or quantity of the Works or the addition or omission or substitution of any works;
- (ii) any discrepancy in the drawings or between the Bills of Quantities and/or Drawings and/or Specification;
- (iii) the removal from the site of any materials brought thereon by the Contractor and the substitution of any other materials therefor;
- (iv) the removal and/or re-execution of any works executed by the Contractor;
- (v) the dismissal from the Works of any person mentioned in Clause 10 hereof employed thereupon;
- (vi) the opening up for inspection of any work covered up;
- (vii) the amending and making good of any defects under Clause 17.

(b) The Contractor shall forthwith comply with and duly execute any work comprised in such Superintending Officer's Instructions provided that verbal instructions, directions and explanations given to the Contractor or his foreman upon the Works by the Superintending Officer shall, if involving a variation, be confirmed in writing to the Contractor by the Superintending Officer within seven days and, if not dissented from in writing within a further seven days to the Superintending Officer by the Contractor, shall be deemed to be Superintending Officer's Instructions. If compliance with Superintending Officer's Instructions as aforesaid involves any variation such variation shall be dealt with under Clause 13 hereof as an authorised variation and the value thereof added to or deducted from the Contract Sum.

(c) If compliance with Superintending Officer's Instructions as aforesaid involves expense or loss beyond that reasonably contemplated by the Contract then, unless the same were issued owing to some breach of this Contract by the Contractor, the amount of such expense or loss shall be ascertained by the Superintending Officer and added to the Contract Sum.

(d) Notwithstanding any provision to the contrary in these Conditions contained it is hereby agreed that the right to take action and/or initiate proceedings on behalf of the Government under Clauses 31, 32, 34, 35, or 40 hereof is expressly reserved to the senior officer, for the time being of the Public Works Department, of the Government providing the funds for this Contract.

Notices.

2. The Contractor shall notify to the Superintending Officer an address whereat notices and Superintending Officer's Instructions under this Contract may be served upon him. In the event of the Contractor failing to notify the Superintending Officer of such an address, notices shall be deemed served upon the Contractor if sent by registered post to the address stated in this Contract or left at his office on the site and a receipt obtained from the Contractor's representative.

Drawings,
Bills of
Quantities
and/or
Specification.

3. The Contractor before the signing hereof shall furnish to the Superintending Officer a fully priced copy of the original Bills of Quantities. The Contract Agreement, Contract Drawings, Specification (if any) and the priced copy aforesaid shall remain in the custody of the Government and shall be produced as and when required by the Contractor. The Superintending Officer shall furnish to the Contractor one copy of the Contract Agreement and two copies of the signed Contract Drawings and of the Specification (if any) and of blank Bills of Quantities free of cost, and one copy of all further Drawings issued during the progress of the Works. The Contractor shall keep one copy of all Contract Drawings, the Specification (if any) and blank Bills of Quantities on the site and the Superintending Officer or his representative shall at all reasonable times have access to the same. Upon final payment to the Contractor he shall forthwith return to the Superintending Officer all Drawings, Specifications and blank Bills of Quantities.

Government shall not divulge or use any information contained in the priced Bills of Quantities otherwise than for the purposes of this Contract.

EXHIBIT

"D", "

Relevant Portions
of Second
Contract etc.

-(cont'd)

5

4. The Contractor shall provide everything necessary for the proper execution of the works according to the true intent and meaning of the Drawings, Bills of Quantities and/or Specification taken together whether the same may or may not be particularly shown or described provided that the same is reasonably to be inferred therefrom; and if the Contractor find any discrepancy therein he shall immediately and in writing refer the same to the Superintending Officer who shall decide which shall be followed. Figured dimensions shall be taken in preference to the scale mentioned on or attached to any drawing. Contractor to provide everything necessary.
5. (a) The Contractor shall comply with and give notices required by any written law, regulations and by-laws of any local authority and/or any public service company or authority relating to the Works or with whose systems the same are or will be connected and he shall pay and indemnify the Government against any fees or charges demandable by law thereunder in respect of the Works; provided that the said fees and charges if not expressly included in the Contract sum by way of Provisional sum or otherwise shall be added to the Contract sum and be payable to the Contractor accordingly. Local and other authorities notices and fees.
- (b) The Contractor before making any variation from the Drawings, Bills of Quantities and/or Specification necessitated by such compliance shall give to the Superintending Officer written notice specifying and giving the reason for such variation and applying for instructions in reference thereto.
- (c) If the Contractor within seven days does not receive instructions he shall proceed with the work conforming to the provision, regulation or by-law in question and any variation necessitated as aforesaid shall be deemed a variation under Clauses 12 and 13 hereof and dealt with as such.
6. The Contractor shall set out the Works and during the progress thereof he shall amend at his own cost any errors arising from inaccurate setting out unless the Superintending Officer shall otherwise decide. Any assistance which the Superintending Officer may render to the Contractor in setting out shall in no way relieve the Contractor of entire responsibility for the correctness of all setting out. Setting out.
7. All materials and workmanship shall so far as procurable be of the respective kinds described in the Bills of Quantities and/or Specification and the Contractor shall upon the request of the Superintending Officer furnish him with vouchers to prove that the materials comply therewith. The Contractor shall arrange for and/or carry out any test of any materials which the Superintending Officer may in writing require and the cost thereof shall be added to the Contract sum unless provided for in the Bills of Quantities by way of Provisional sum or otherwise or unless the test shows that the said materials and/or workmanship are not in accordance with this clause. Materials and workmanship to conform to description.
8. No work shall be done on:
- (i) the weekly day of rest, or
 - (ii) any public holiday which is recognised in the district where this Contract is being carried out, or
 - (iii) between the hours of six in the evening and six in the following morning;
- without the written permission of the Superintending Officer. Days and hours of working.
9. The Contractor shall keep constantly on the site of the Works a competent general foreman and such assistants in each trade as may be necessary who must be capable of receiving verbal instructions in Malay or English and in default they shall be supplied by Government and all expenses in connexion therewith shall be recoverable as provided in Clause 14 hereof. Any directions or explanations given to such foreman and his assistants shall be held to have been given to the Contractor in pursuance of Clause 1 hereof. Foreman and Assistants.
- 9A. (a) The Contractor shall employ in the execution of the Contract only Federal Citizens as workmen, unless he can show to the satisfaction of the Minister of Works, Posts and Telecommunications, that in any particular trade or skill required to complete the Contract insufficient Federal Citizens are available. Employment of Federal Citizens.
- (b) The Contractor shall submit, at the request of the State Commissioner for Labour of the State in which this Contract is performed or at the request of the Assistant State Commissioner for Labour of the area in which this Contract is performed, such returns as may be called for from time to time in respect of labour employed by him and by his sub-contractors on the execution of the Contract, under penalty of cancellation of his registration as a Government Contractor in the event of failure to make returns or of submission of false returns.
10. The Contractor shall only employ such technical staff foremen, artificers and labourers on the Works as are thoroughly efficient and of good character. If, in the sole opinion of the Discharge of workmen.

EXHIBIT

"D5 "

Relevant Portions
of Second
Contract etc.
(cont'd)

6

Superintending Officer, any person employed by the Contractor misconducts himself or has caused quarrels or delays, or is incompetent, the Contractor, when so directed by the Superintending Officer, in writing, shall at once remove such person from the Works and he shall not again be employed on the Works without the written permission of the Superintending Officer.

Access for
Superintending
Officer to
work.

11. The Superintending Officer and/or his representatives shall at all reasonable times have access to the Works and to the workshops or other places of the Contractor where work is being prepared for the Contract.

Variations
and extras.

12: (a) The Superintending Officer may at any time during the progress of the Works, by order in writing under his hand, make or cause to be made any variations from the original Drawings, Bills of Quantities and Specification (if any) by way of addition or omission or otherwise deviating therefrom and the said Works shall be executed according to the said variations or deviations under his direction and to his satisfaction as if the same had been included in the said original Drawings, Bills of Quantities and Specifications (if any); and any work or materials which shall be ordered not to be done or used shall be omitted or shall not be used by the Contractor.

(b) The Superintending Officer shall have the right by varying the Drawings, Bills of Quantities and Specification (if any) as provided in the last preceding sub-clause to increase or decrease the quantities of any item or items, or to omit any item or items or to insert any additional item or items without the consent of the Contractor provided that the Contract Sum be not thereby increased or decreased in value more than twenty per cent.

(c) In the event of the Contract Sum being decreased by more than twenty per cent, provided that no other agreement is entered into, a sum shall be paid to the Contractor not exceeding five per cent of the amount by which the Contract Sum is decreased beyond such twenty per cent.

Payment for
Variations
and extras.
Final
measurement

13. (a) No variation shall vitiate this Contract. All variations and extras, authorised as herein provided, or subsequently sanctioned by the Superintending Officer in writing shall be measured by the Superintending Officer and the Contractor shall be given the opportunity of being present during such measuring and taking such notes and measurements as he requires. The Contractor shall be supplied with a copy of the measured bill on or before the date of the Superintending Officer's certificate in respect of such variations and extras and the valuation thereof, unless previously or otherwise agreed, shall be made in accordance with the following rules:

(i) The rates in the original Bills of Quantities after adjustment, if necessary, as provided in Clause 15 hereof, shall determine the valuation of extra work of similar character executed under similar conditions as work priced therein;

(ii) The said rates, where extra works are not of a similar character or executed under similar conditions as aforesaid, shall be the basis of rates for the same so far as may be reasonable; failing which, a fair valuation thereof shall be made based upon rates for similar work in the locality current at the time the extra works are executed;

(iii) Where extra work cannot properly be measured or valued, the Contractor shall be allowed day-work prices, plus fifteen per cent, which shall include for the use of all ordinary plant, tools, scaffolding, supervision and profit, provided that vouchers specifying the time and materials employed shall have been delivered for verification to the Superintending Officer at or before the expiration of the week following that in which such work shall have been done. Day-work prices for the purposes of this Contract shall be taken to mean the actual prime cost to the Contractor of his materials, transport and labour for the work concerned and the Contractor shall, if required by the Superintending Officer, produce his receipt bills and wages books in support thereof.

(iv) The said rates in the original Bills of Quantities shall determine the valuation of items omitted, provided, that if omissions vary the conditions under which any remaining items of work are carried out, the rates for such remaining items shall be valued under (ii) hereof.

(b) The Contractor shall submit claims for any work or circumstance on account of which he may consider that he is entitled to extra payment within one week from the time of the commencement of such work or occurrence of such circumstance and all such claims must be accompanied by full particulars and must state under which provision of the Contract it is claimed that payment shall be made.

(c) The amount to be allowed on either side in respect of variations and extras, ascertained as above described, shall be added to or deducted from the Contract Sum, as the case may be.

(d) The measurements and valuations of the works shall be completed within the "Period of Final Measurement" stated in the Appendix or if not so stated then within three months of the completion of the Works. Interim measurements and valuation shall be made whenever necessary to enable the Superintending Officer to issue certificates under Clause 38 hereof.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

14. The Superintending Officer shall be entitled to deduct any money the Contractor shall be liable to pay under the Contract to Government, from any sum which may become payable to the Contractor hereunder and the Superintending Officer in issuing his certificates as provided in Clause 38, shall have regard to any sums so chargeable against the Contractor; provided always that this provision shall not affect any other remedy, by action a law or otherwise, to which Government may be entitled for the recovery of such moneys.

Deduct-
from moneys
due to
Contract

15. (a) The Bills of Quantities shall form part of the Contract and shall be the basis of the Contract Sum. Should any errors or omissions appear in the Bills of Quantities, other than in the Contractor's rates and calculations, they shall be rectified and such rectification shall constitute a variation of the Contract and shall be dealt with as herein provided.

Bills of
Quantities

(b) Any error or omission in the rates and calculations of the Contractor in the Bills of Quantities submitted by him shall, before the signing hereof, be so rectified and adjusted that when correctly calculated, the total amount shall represent the same amount as that tendered by the Contractor and shall correspond to the amount shown on the copy of the Summary of the Bills of Quantities attached to and submitted with the Form of Tender. The total of the Summary of the Bills of Quantities submitted by the Contractor shall remain unaltered but the nett aggregate amount of errors in moneying-out items in the Bills of Quantities whether a nett deduction or a nett addition will be calculated as a percentage of the total of the Summary of the Bills of Quantities and all unit rates throughout the Bills of Quantities shall be subject to such percentage discount or premium as the case may be. Provided always that Provisional or Prime Cost Sums shall be excluded from the calculation and shall not be subject to such percentage discount or premium.

16. Where in any certificate on which the Contractor has received payment the Superintending Officer has included an amount in respect of any unfixed materials intended for incorporation in the Works, and placed on or adjacent to the site, such materials for any loss of or damage to which the Contractor shall be responsible shall not be removed except for use upon the Works without the authority of the Superintending Officer in writing.

Unfixed
materials
when taken
into account
not to be
removed
from site.

17. (a) Any defects, shrinkages or other faults either of materials or workmanship, which may appear within the Defects Liability Period stated in the Appendix hereto or if none stated then within six months due to materials or workmanship not in accordance with this Contract shall within a reasonable time after receipt of the Superintending Officer's written instruction be made good by the Contractor and at his own cost.

Defects after
completion

(b) If the Contractor shall fail to carry out any such instructions of the Superintending Officer, as by the preceding sub-clause provided, within such reasonable time as may be specified in the order, the materials or work so affected may, at the option of the Superintending Officer, be made good by him in such manner as he may think fit. In which case the cost thereby incurred shall be deducted from the sum remaining to be paid to the Contractor or failing such remainder it shall be recoverable as a liquidated demand in money.

(c) If any defects be such that, in the opinion of the Superintending Officer, it shall be impracticable or inconvenient to remedy the same, he shall ascertain the diminution in the value of the Works due to the existence of such defect and deduct the amount of such diminution from the sum remaining to be paid to the Contractor or failing such remainder it shall be recoverable as a liquidated demand in money.

18. The Contractor shall not without the written consent of the Superintending Officer first obtained assign this Contract or sub-contract all or any portion of the Works; provided that such consent shall not be unreasonably withheld to the prejudice of the Contractor. In the event of any portion of the Works being sub-contracted with the written consent of the Superintending Officer the Contractor shall be solely and personally responsible for the due observance by such authorised sub-contractors of all the terms, stipulations and Conditions herein expressed.

Sub-
contracting

19. The Contractor shall not cause, permit or suffer to be issued in satisfaction of any decree, judgement or other order given or to be given against the Contractor any notice of garnishment binding any property of the Contractor which is in the possession of the Government.

Notice of
garnishment

20. (a) All specialists, merchants, tradesmen, and others executing any work or supplying and fixing any goods for which Prime Cost prices or Provisional Sums are included in the Bills of Quantities who may be nominated or selected by the Superintending Officer are hereby declared to be sub-contractors employed by the Contractor and are herein referred to as "nominated sub-contractors".

Nominated
sub-contractors

(b) The Superintending Officer or the Contractor, if so instructed in writing by the Superintending Officer, shall obtain tenders for sub-contractors' work in respect of which Prime Cost prices or Provisional Sums are included in the Bills of Quantities as aforesaid and the Contractor shall on

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

8

the written instructions of the Superintending Officer place such sub-contracts with the nominated sub-contractors.

(c) No nominated sub-contractor shall be employed upon or in connexion with the Works against whom the Contractor shall make what the Superintending Officer considers to be reasonable objections or (save where the Superintending Officer and Contractor shall otherwise agree) who will not enter into a sub-contract providing:

- (i) that the nominated sub-contractor shall, in respect of the sub-contract, duly observe all the terms, stipulations and Conditions herein expressed;
- (ii) that the nominated sub-contractor shall indemnify the Contractor against claims in respect of any negligence, omission or default by the nominated sub-contractor, his servants or agents or any misuse by him or them of any scaffolding or other plant the property of the Contractor or against any liability under any Workmen's Compensation Legislation in force;
- (iii) that payment without discount or deduction shall be made to the nominated sub-contractor by the Contractor within fourteen days of his receipt of the Superintending Officer's certificate under Clause 38 hereof which includes the value of such nominated sub-contractor's work.

(d) Before any such certificate is issued to the Contractor he shall, if requested by the Superintending Officer, furnish to him reasonable proof that all nominated sub-contractors' accounts included in previous certificate have been duly discharged; in default whereof the Government may pay the same upon a certificate of the Superintending Officer and deduct the amount thereof from any sums due to the Contractor. The exercise of this power shall not create privity of contract as between Government and the nominated sub-contractor.

(e) Should the Superintending Officer desire to secure final payment to any nominated sub-contractor before final payment is due to the Contractor and the nominated sub-contractor has satisfactorily indemnified the Contractor against any latent defects, then the Superintending Officer may in a certificate under Clause 38 hereof include an amount to cover the said final payment and upon payment thereof to the nominated sub-contractor the Contractor shall be discharged from all liability for the work or materials covered thereby save for such latent defects as aforesaid and he shall pay to the nominated sub-contractor the amount (subject to Clause 36 hereof) so certified whereupon the limit of the Retention Fund named in Clause 38 hereof shall be reduced by such certified amount.

Nominated
Suppliers.

20A. (a) All specialists, merchants, tradesmen and others supplying materials to be fixed by the Contractor for which Prime Cost Sums are included in the Bills of Quantities who may be nominated or selected by the Superintending Officer are hereby declared to be suppliers to the Contractor and are herein referred to as "nominated suppliers".

(b) The Superintending Officer or the Contractor, if so instructed in writing by the Superintending Officer, shall obtain tenders for materials in respect of which Prime Cost Sums are included in the Bills of Quantities as aforesaid and the Contractor shall on the written instructions of the Superintending Officer place such orders with the nominated suppliers.

(c) The Superintending Officer shall not (save where the Superintending Officer and Contractor shall otherwise agree) nominate as a supplier a person who will not enter into a contract of sale which provides:—

- (i) that the materials or goods to be supplied shall be to the reasonable satisfaction of the Superintending Officer,
- (ii) that the nominated supplier shall make good by replacement or otherwise any defects in the materials or goods supplied which appear within such period as is therein mentioned and shall bear any expenses reasonably incurred by the Contractor as a direct consequence of such defects, provided that:—
 - (1) where the materials or goods have been used or fixed such defects are not such that examination by the Contractor ought to have revealed them before using or fixing,
 - (2) such defects are due solely to defective workmanship or material in the goods supplied and shall not have been caused by improper storage by the Contractor or by misuse or by any act or neglect of either the Contractor or the Superintending Officer or the Government or by any person or persons for whom they may be responsible,
- (iii) that delivery of the materials or goods supplied shall be commenced and completed at such times as the Contractor may reasonably direct,
- (iv) that payment without discount or deduction shall be made to the nominated supplier by the Contractor within fourteen days of his receipt of the Superintending Officer's certificate under Clause 38 hereof which includes the value of such nominated supplier's materials.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

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(d) Before any such certificate is issued to the Contractor he shall, if required by the Superintending Officer, furnish to him reasonable proof that all nominated suppliers' accounts included in previous certificates have been duly discharged; in default whereof the Government may pay the same upon a certificate of the Superintending Officer and deduct the amount thereof from any sums due to the Contractor. The exercise of this power shall not create privity of contract as between Government and the nominated supplier.

(e) Should the Superintending Officer desire to secure final payment to any nominated supplier before final payment is due to the Contractor and the nominated supplier has satisfactorily indemnified the Contractor against any latent defects, then the Superintending Officer may in a certificate under Clause 38 hereof include an amount to cover the said final payment and upon payment thereof to the nominated supplier, the Contractor shall be discharged from all liability for the materials covered hereby, save for such latent defects as aforesaid and he shall pay to the nominated supplier the amount (subject to Clause 36 hereof) so certified whereupon the limit of the Retention Fund named in Clause 38 hereof shall be reduced by such certified amount.

21. (a) If established industrial rates and conditions of employment (as hereinafter defined) exist in the district in which this Contract is to be performed, the Contractor shall in respect of all workmen employed by him in and for the performance of this Contract pay rates of wages and observe conditions of employment not less favourable than such established industrial rates and conditions of employment. Fair wages.

(b) If no established industrial rates and conditions exist in the said district the Contractor shall in respect of the said workmen pay rates of wages and observe conditions of employment not less favourable than the established industrial rates and conditions existing in other districts for similar work carried on under similar circumstances.

(c) In the absence of any established industrial rates and conditions the Contractor shall in respect of the said workmen pay rates of wages and observe conditions of employment not less favourable than those established for Government employees engaged in similar trades or occupations.

(d) In this clause the expression "established industrial rates and conditions" means rates of wages and hours and conditions of employment established for the trade or industry concerned by agreement, negotiation or arbitration the parties to which are organisations of employers and trade unions representing respectively substantial proportions of the employers and workmen engaged in the said trade or industry.

22. In the event of any dispute or difference arising as to the rates of wages to be paid or the conditions of employment to be observed in accordance with Clause 21 hereof, such dispute or difference shall, unless otherwise disposed of, be referred to the Commissioner for Labour for decision, provided that in the event of any party being aggrieved, and appeal shall lie to an Appeal Tribunal to be appointed by the Yang di-Pertuan Agong or the Ruler in Council as the case may be. Dispute as to wages

23. The Contractor shall keep proper wages books and time sheets showing the wages paid to and the time worked by all workmen employed by him in and for the performance of this Contract and shall produce such wages books and time sheets on demand for inspection by any person duly authorised by the Superintending Officer in that behalf, and shall furnish to the Superintending Officer or his authorised representative such information relating to the wages and conditions of employment of such workmen as the Superintending Officer or his duly authorised representative may from time to time require. Wages books and time sheets.

24. No child under the age of fourteen years by English reckoning shall be employed in any work to be performed under this Contract. Children under 14.

25. The Contractor shall recognise the freedom of all workmen employed by him in and for the performance of this Contract to be members of registered trade unions and shall not in any manner prevent or discourage or attempt to prevent or discourage any such workman from becoming a member of a registered trade union or discriminate against any such workman who is a member of a registered trade union. Trade unions.

25A. The Contractor shall comply with all the provisions of the Employees' Provident Fund Ordinance, 1951 (F.M. Ordinance No. 21 of 1951) as amended and with the provisions of all Regulations and Rules from time to time made thereunder and shall in particular be responsible for the payment into the Employees' Provident Fund of all contributions required under that Ordinance in respect of all persons employed by the Contractor or any authorised sub-contractor in and for the performance of this Contract. Employees' Provident Fund Contributions.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

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Default in
payment of
wages.

26. In the event of default being made in the payment of any money in respect of wages and/or Employees' Provident Fund contributions of any workman employed by the Contractor in and for the performance of this Contract and if a claim therefor is filed in an office of the Department of Labour and proof thereof is furnished to the satisfaction of an officer of the said Department, the Superintending Officer may, failing the payment of the said money by the Contractor make payment of such claim to the Commissioner for Labour or his representative out of any moneys at any time due to the Contractor under this Contract and such payment shall be a payment made to the Contractor under and by virtue of this Contract.

Damage to
persons and
property.

27. (a) *Injury to person*.—The Contractor shall indemnify Government in respect of any liability, loss, claim or proceedings whatsoever whether arising at common law or by statute in respect of personal injuries to or death of any person whosoever arising out of or in the course of or caused by the execution of the Works unless due to any act or neglect of Government or its servants.

(b) *Injury to property*.—The Contractor shall be liable for and shall indemnify Government in respect of any liability, loss, claim or proceedings and for any injury or damage whatsoever arising out of or in the course of or by reason of the execution of the Works to any property real or personal due to any negligence, omission or default of himself, his agents or his servants or of any authorised sub-contractor or to any circumstances within his control.

Workmen's
Compensation.

28. (a) The Contractor shall forthwith and as a condition precedent to the commencement of any work under this Contract take out at his own expense with an insurance company to be approved by the Superintending Officer in writing a policy or policies of insurance indemnifying the Contractor and the Government including for this purpose every officer and department thereof from all liabilities arising out of claims by any and every workman employed in and for the performance of this Contract for payment of compensation under or by virtue of the Workmen's Compensation Legislation or any other law amending or replacing such Legislation and from all costs and expenses incidental or consequential thereto.

(b) The said policy or policies so taken out shall be endorsed as follows:

Endorsement "A".—"It is hereby understood and agreed that in the event of any workman employed by the within Insured or by the Insured's Contractors as referred to in Endorsement 'B' hereon or any dependent of such workmen, bringing or making a claim under the Workmen's Compensation Legislation in force in Malaysia against any officer of the Government of Malaysia or any State thereof for personal injury or disease sustained whilst at work on any contract covered by the terms and conditions of the within policy which the Insured may be carrying out for the said officer or Government, the Company will indemnify the said officer or Government against such claim, and any costs, charges and expenses in respect thereof, provided always that the Company shall be entitled to have the sole conduct and control of all proceedings connected with claims covered by this endorsement. Nothing in the endorsement shall be construed as affecting the Insured's right to recover damages in any other way under the said legislation."

Endorsement "B".—"It is hereby understood and agreed that the indemnity herein granted is intended to cover the legal liability of the Insured to workmen in the employment of contractors performing work for the Insured while engaged in the business and occupation in respect of which the within policy is granted but only so far as regards Claims under the Workmen's Compensation Legislation in force in Malaysia."

(c) The said policy or policies so taken out shall be deposited with the Superintending Officer and the Contractor shall maintain it or them in full force and effect by payment of all premiums from time to time on the first day on which the same ought to be paid and until the completion of this Contract and upon demand the Contractor shall produce to the Superintending Officer the last receipt for payment of such premiums.

(d) If any default is made by the Contractor in complying with the terms of this clause the Superintending Officer may without prejudice to any other remedy available to Government for breach of any terms of this Contract:

(i) withhold all payments which would otherwise be due to the Contractor under this Contract and out of such moneys so withheld satisfy any claims for compensation by workmen that would have been borne by an insurance company had the Contractor not made default in maintaining a policy of insurance and/or

(ii) pay such premiums as have become due and remain unpaid and deduct the amount of such premiums from any moneys due or to become due to the Contractor.

(e) Nothing in this clause shall be construed to take away or to waive or any manner to modify the right of the Government to be indemnified by the Contractor in respect of all compensation, costs and other expenses whatsoever which by reason of the Contractor's default or otherwise become payable by the Government under the said Legislation or other law.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.

(cont'd)

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29. (a) The Contractor shall insure against loss or damage by fire all works and buildings constructed or in course of construction in pursuance of or for the purposes of this Contract and all materials and other things delivered on to the site and approved by the Superintending Officer and ready for incorporation in such works and buildings and shall keep the same insured until such works, buildings and things respectively are handed over to the Superintending Officer. Fire Insurance.

(b) The said insurance shall be effected with an insurance company to be approved in writing by the Superintending Officer and in the name of the Government for the full value of the works executed together with all materials on site including any materials supplied by or the property of the Government; and the Contractor shall deposit with the Superintending Officer the policies and the receipts for the premiums paid for such insurances.

(c) In case of failure by the Contractor to effect or renew such insurance the Superintending Officer may himself effect or renew such insurance and pay the premium in respect thereof and deduct the amount so expended from any moneys due or to become due to the Contractor.

(d) In the event of loss or damage by fire to any works, building materials or things insured under this clause all moneys received by Government under the insurance policies shall be paid by the Superintending Officer to the Contractor by such instalments as the Superintending Officer may deem reasonable and shall be applied by the Contractor in or towards the rebuilding, repair or replacement of the works, buildings, materials or things destroyed or damaged and the Contractor shall on receipt of such moneys proceed with all due diligence to effect such rebuilding, repair or replacement as aforesaid and shall have no claim to any payment in respect thereof beyond the payment to him of the said moneys; provided that in case of any such loss or damage by fire as aforesaid the Superintending Officer shall allow the Contractor such extension of time for the performance of this Contract as shall be just and reasonable.

30. (a) No work on this Contract shall be commenced unless and until the Contract Agreement shall have been executed by all parties thereto nor until the Security Deposit stipulated under Clause 37 hereof shall have been deposited with the Government and the receipt thereof produced for the inspection of the Superintending Officer. Date for possession and completion.

(b) Possession of the site as complete as may be reasonably possible but not so as to constitute a tenancy, shall be given on or before the "date for possession" stated in the Appendix to the Contractor who shall thereupon and forthwith commence the Works and regularly proceed with and complete the same (except such painting or other decorative work as the Superintending Officer may instruct him to delay) on or before the "date for completion" stated in the Appendix subject nevertheless to the provisions for extension of time hereinafter contained.

(c) In the event of any delay in giving possession of the site, the date of giving possession of the site shall be certified by the Superintending Officer and such certified date shall be considered as the date of commencement. The Contractor shall not be entitled to claim for any loss or damage caused by such want of possession.

(d) When the Works have been completely executed according to the provisions of the Contract and to the satisfaction of the Superintending Officer, the date of such completion shall be certified by him and such date shall be the date of commencement of the Defects Liability Period as provided in Clause 17 hereof.

31. If the Contractor fails to complete the Works by the date in the Appendix or within any extended time under Clause 32 hereof and the Superintending Officer certifies in writing that in his opinion the same ought reasonably so to have been completed the Contractor shall pay or allow to Government a sum calculated at the rate stated in the Appendix as liquidated and ascertained damages for the period during which the said Works shall so remain or have remained incomplete and the Superintending Officer may deduct such damages from any moneys due to the Contractor. Damages for non-completion.

32. If, in the opinion of the Superintending Officer, the works be delayed by *force majeure* or by reason of any exceptionally inclement weather or by reason of directions given by the Superintending Officer consequential upon disputes with neighbouring owners or by reason of Superintending Officer's Instructions given in pursuance of Clause 1 hereof or in consequence of the Contractor not having received in due time necessary instructions from the Superintending Officer for which he shall have specially applied in writing, or by reason of civil commotion, local combination of workmen, strike or lock-out affecting any of the trades employed upon the Works or by the works of nominated sub-contractors or by the works of other contractors or tradesmen engaged by Government which are not referred to in the Bills of Quantities and/or Specification, then in such case the Superintending Officer shall make a fair and reasonable extension of time for completion of the Works. Upon the happening of a strike or lock-out the Contractor shall immediately give notice thereof in writing to the Superintending Officer, but he shall nevertheless use constantly his best endeavours to prevent delay and shall do all that may reasonably be required to the satisfaction of the Superintending Officer to proceed with the Works. Delay and extension of time.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

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Failure by
Contractor to
comply with
Superintending
Officer's
instruction.

33. If the Contractor, after receipt of a written notice from the Superintending Officer requiring compliance within seven days, fails to comply with such further drawing and/or Superintending Officer's Instructions the Superintending Officer may employ and pay other persons to execute any work whatsoever which may be necessary to give effect thereto and all costs incurred in connection therewith shall be recoverable from the Contractor by the Superintending Officer as a debt or may be deducted by him from any moneys due or to become due to the Contractor.

Determination
of Contract
by the
Superintending
Officer.

34. (a) *Default.*— If the Contractor shall make default in any of the following namely:
- (i) without reasonable cause wholly suspends the Works before completion;
 - (ii) fails to proceed with the works with reasonable diligence;
 - (iii) refuse or to a substantial degree persistently neglects after notices in writing from the Superintending Officer to remove defective work or improper materials,
- then, if any such default shall continue for seven days after a notice sent by registered post to the Contractor from the Superintending Officer specifying the same, the Superintending Officer may without prejudice to any other rights herein contained thereupon by notice sent by registered post determine this Contract: provided that notice hereunder shall not be given unreasonably or vexatiously and such notice shall be void if Government is at the time of the notice in breach of this Contract.
- (b) *Bankruptcy or Assignment.*— If the Contractor
- (i) commits an act of bankruptcy; or
 - (ii) becomes insolvent or compounds with or makes any assignment for the benefit of his creditors; or
 - (iii) assigns or sub-contracts the Contract or any portion thereof without the written permission of the Superintending Officer;
- then, and in any such event, the Superintending Officer may without prejudice to any other rights herein contained by a notice sent by registered post determine this Contract.
- (c) In either of the above cases the following shall apply, namely:
- (i) The Government may carry out and complete the Works departmentally or employ and pay a contractor or other person or persons to carry out and complete the Works and he or they may enter upon the site and use all materials, temporary buildings, plant and appliances thereon, and may purchase all materials necessary for the purposes aforesaid.
 - (ii) The Contractor shall if so required by the Superintending Officer assign to Government without further payment the benefit of any contract for the supply of materials and/or works intended for use under this Contract or for the execution of any works and Government shall pay the agreed price (if unpaid) for such materials or works supplied or executed after the said determination.
 - (iii) The Contractor shall during the execution or after completion of the Works under this clause as and when required remove from the site his temporary buildings, plant, appliances and any materials within such reasonable time as the Superintending Officer may specify in a written notice to him and in default Government may without being responsible for any loss or damage remove and sell the same holding the proceeds less all costs incurred to the credit of the Contractor.
 - (iv) Until completion of the Works under this clause no payment shall be made to the Contractor under this Contract; provided that, upon completion as aforesaid and the verification within a reasonable time of the accounts therefor, the Superintending Officer shall certify the amount of expenses properly incurred by Government; and if such amount added to the moneys paid to the Contractor before such determination exceeds the total amount which would have been payable on due completion the difference shall be a debt payable to Government by the Contractor; and if the said amount added to the said moneys be less than the said total amount the difference shall be a debt payable by Government to the Contractor.
 - (v) In the event of the completion of the Works being undertaken departmentally, allowance shall be made when ascertaining the amount to be certified as expenses properly incurred by Government, for the cost of supervision, interest and depreciation on plant and all other usual overhead charges and profit, as would be incurred were the work carried out by a contractor.

Effect of war
riots, floods,
etc.

35. If during the performance of this Contract a state of war in which the Government is involved or any state of riot, civil commotion or general strike or any earthquake, flood or tempest arises or exists which has materially affected the fulfilment of this Contract any question respecting the continuance suspension or determination of this Contract shall be settled by mutual agreement between the Superintending Officer and the Contractor or failing such agreement shall be settled as provided in Clause 40 of this Contract.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.

(cont'd)

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36. (a) The words "Prime Cost" or the initials "P.C." applied in the Bills of Quantities to goods to be obtained and fixed by the Contractor, shall mean, unless otherwise stated in the said Bills of Quantities, the nett sum paid to the Merchant after deducting all trade discounts for such goods in the ordinary course of delivery, but not deducting discount for cash.

Prime cost,
provisional
sums and
artists.

(b) Items in the Bills of Quantities containing the words "Prime Cost" or the initials "P.C." shall be dealt with as follows, namely:

The Superintending Officer shall debit the Contractor with all such items as they are carried out to the money column in the priced Bills of Quantities; he shall then credit the Contractor with such sums [as defined in sub-clause (a)] as are actually paid by him which correspond to the several "Prime Cost" or "P.C." amounts and an amount in each case proportional to the respective sums, if any, added by the Contractor in carrying out the items to the money column as aforesaid, provided that where in the opinion of the Superintending Officer the Contractor has incurred expense for special packing or special carriage the Superintending Officer shall allow for the same as part of the sums actually paid by the Contractor. Any goods or works for which "P.C." sums are provided in the Bills of Quantities to be included in the Contract Sum may, if the Superintending Officer so decides, be treated as Provisional Sums and dealt with under sub-clause (c) next-following:

(c) The Provisional Sums mentioned in the Bills of Quantities for materials to be supplied or for work to be performed by nominated sub-contractors or for other work or fittings to the Works shall be paid and expended at such time and in such amounts in favour of such persons as the Superintending Officer shall direct and sums so expended shall be payable by the Contractor without discount or deduction or (without prejudice to any rights of the Contractor under the Contract referred to in Clause 20 hereof) by Government to the said nominated sub-contractors or suppliers. The value of works which are executed by the Contractor in respect of Provisional Sums or in additional works shall be ascertained as provided in Clause 13 hereof. At the settlement of the accounts the amount paid by the Contractor to the said nominated sub-contractors or suppliers and the said value of such works executed by the Contractor shall be set against all such Provisional Sums or any sum provided for additional works and the balance after allowing *pro rata* for the Contractor's profit at the rates contained in the Contractor's original Bills of Quantities (*vide* Clause 3 hereof) shall be added to or deducted from the Contract Sum; provided that no deductions shall be made by or on behalf of Government in respect of any damages paid or allowed by any nominated sub-contractor to the Contractor the intention being that the Contractor and not Government shall have the benefit of any such damages.

(d) The Contractor shall permit the execution of work by artists or tradesmen who are not nominated sub-contractors and who may be engaged by the Superintending Officer.

(e) Where the Contractor in the ordinary course of his business directly carries out works for which Provisional Sums are contained in the Bills of Quantities and where such works are set out in the Appendix hereto and the Superintending Officer is prepared to accept tenders from the Contractor for such works the Contractor shall be permitted to tender for the same or any of them without prejudice to Government's right to reject the lowest or any tender. If the tender of the Contractor for any work included in any Provisional Sum is accepted, such tender shall be held to include the profit and the Contractor shall not be entitled to profit, *pro rata*, on the amount stated in his tender notwithstanding any provision to the contrary in Clause 36 (c) herein.

37. The Contractor shall, as a condition precedent to the commencement of any work under this Contract, deposit with Government, a cash amount or an approved banker's guarantee equal to five per cent of the Contract Sum as a fund (hereinafter referred to as the "Security Deposit"). It is agreed that the Superintending Officer may utilize and make payments out of or deductions from the said Security Deposit in accordance with the terms of this Contract.

Security
Deposit.

38. (a) When work to the value of the sum referred to in the Appendix (or less at the discretion of the Superintending Officer) has been executed by the Contractor in accordance with the terms of this Contract the Superintending Officer shall at that time and once (or more often at the discretion of the Superintending Officer) during the course of each succeeding month issue to the Contractor a certificate showing the estimated total value of the work done up to the date of such certificate.

Progress
payment.

(b) An amount in respect of unfixed materials and things properly supplied and stored upon the site and ready and fit for early incorporation in the Works may, unless in the opinion of the Superintending Officer there is reason to the contrary, be included in the estimated total value of work from time to time certified under this clause as having been done by the Contractor but if so included the amount in respect of such unfixed materials and things shall be separately stated and the amount of materials and things certified shall not exceed 75 per cent of their full value.

(c) Within a number of days not exceeding that referred to in the Appendix of the issue of any such certificate the Government will make a payment to the Contractor in connection with the work and/or materials referred to in that certificate.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

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(d) Such payment shall after taking into account any payments previously made and amounts previously retained as hereinafter mentioned amount only to ninety per centum of the estimated total value of the work and/or materials certified to have been done and/or supplied the remaining ten per centum being retained as a fund (hereinafter called the Retention Fund) which fund shall be additional to the Security Deposit deposited in accordance with the terms of this Contract.

Provided that when the sums retained as Retention Fund amount in the aggregate to a sum equivalent to five per centum of the Contract Sum then any subsequent payment made in connection with any subsequent certificate issued by the Superintending Officer shall amount to the full value of the work and/or materials certified in any such certificate to have been executed and/or supplied less all payments previously made and less all sums previously retained as part of the Retention Fund.

(e) When the Works have been completed no payment shall be made on the final certificate issued under this clause until the Contractor shall have satisfied the Superintending Officer by means of either

(i) a statutory declaration made by or on behalf of the Contractor, or

(ii) a certificate signed by or on behalf of the Commissioner for Labour,

to the effect that the workmen who have been employed by the Contractor on the Works including workmen employed by nominated sub-contractors and by authorised sub-contractors engaged directly by the Contractor have received all wages due to them in connection with such employment and that all dues the Labour Code and all contributions to the Employees' Provident Fund required under the Ordinance have been paid.

(f) No certificate of the Superintending Officer shall be considered conclusive evidence as to the sufficiency of any work or materials to which it relates nor shall it relieve the Contractor from his liability to amend and make good all defects shrinkages other faults or damage as provided by this Contract.

Payment of
Security
Deposit and
Retention
Fund.

39. (a) The Retention Fund (or any balance thereof remaining for the credit of the Contractor) shall be retained and shall not become payable to the Contractor during a period of ^{six} number of months after the completion of the Works as is referred to in the Appendix and all thereafter become payable and be paid to the Contractor only if and when all shrinkages ~~and~~ faults and damage shall have been amended and made good in accordance with the terms of Clause 17 of this Contract and only after the Contractor shall have complied with the terms of sub-clause (e) of Clause 38 of this Contract.

(b) The Security Deposit (or any balance thereof remaining for the credit of the Contractor) shall be released on the completion of the whole of the Works comprised in this Contract and shall be refunded immediately upon the giving of the certificate under sub-clause (d) of Clause 30 of this Contract.

Arbitration.

40. Provided always that in case any dispute or difference except a dispute or difference as to rates of wages or conditions of employment of workmen employed by the Contractor in and for the purpose of this Contract including workmen employed by nominated sub-contractors and by authorised sub-contractors engaged directly by the Contractor shall arise between Government or the Superintending Officer on its behalf and the Contractor, either during the progress or after completion of the Works or after the determination, abandonment, or breach of the Contract, as to the construction of the Contract or as to any matter or thing arising thereunder, or as to the withholding by the Superintending Officer of any certificate to which the Contractor may claim to be entitled, then the Superintending Officer shall determine such dispute or difference by a written decision given to the Contractor. The said decision shall be final and binding on the parties unless the Contractor within 14 days of the receipt thereof by written notice to the Superintending Officer disputes the same in which case or in case the Superintending Officer for 14 days after a written request to him by the Contractor fails to give a decision as aforesaid, such dispute or difference shall be referred to the arbitration and final decision of a person nominated and appointed by agreement between the Superintending Officer and the Contractor or, in event of his death or unwillingness or inability to act, or, if the Superintending Officer and Contractor fail to agree, of an arbitrator nominated by the chief executive officer of the Government providing the funds for this Contract and the award of such Arbitrator shall be final and binding on the parties. Such reference, except on the question of certificates, shall not be commenced until after the completion or alleged completion of the Works, unless with the written consent of the Superintending Officer and the Contractor. The Arbitrator shall have power to review and revise any certificate, opinion, decision, requisition or notice and to determine all matters in dispute which shall be submitted to him, and of which notice shall have been given as aforesaid, in the same manner as if no such certificate, opinion, decision, requisition or notice had been given. Upon every or any such reference the costs of and incidental to the reference and award shall be in the discretion of the Arbitrator, who may determine the amount thereof, or direct the same to be taxed as between solicitor and client or as between party and party, and shall direct by whom and to whom and in what manner the same shall be borne and paid. This submission shall be deemed to be a submission to arbitration within the meaning of the Arbitration Enactment.

Stamp Duty

41. The proper Stamp Duty, if any, on this Contract will be borne by Government.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

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APPENDIX

Clause.

13	Six months (6)	Period of Final Measurement (if none stated is three months).
17 and 39 (a)	Twelve (12) months	Default Liability Period (if none stated is six months).
30	15th April, 1970	Date for Possession.
	15th April, 1971 for Listed Rooms	
30	12th October, 1971 for the Rest of the Works	Date for Completion.
	\$650/- per day for Listed Rooms	
31	\$3,000/- per day for the Rest of the Works	Liquidated and ascertained damages at the rate of \$650/- per day per \$3,000/- per day
36 (a)		Work, covered by Provisional Sums, for which the Contractor will be permitted to tender.
38 (a)	Dollars fifty thousand (\$50,000/-)	Value of work to be done before certificate will be issued.
38 (c)	Fourteen days	Period for honouring of certificate.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

FORM OF TENDER NO. 12.00 H-H ON 23.2.1970

IKAT TINGGI...
KL...A

(P.W.D. 203a)

THIS FORM TO BE USED WHERE QUANTITIES FORM PART
OF THE CONTRACT

CONTRACT NO 100/100/100 of 1970 for the under-mentioned Works
entered into on the 14th day of JUNE 1970 by the under-
signed parties, refers to this Form of Tender which is and shall be read and
construed as part of the said Contract.

Sgd. XXX
(Contractor)

Sgd. XXX
PENGARAH KERJA RAYA
NEGERI TANAH MELAYU

Sgd. XXX
(Witness)

Sgd. XXX
(Witness)

Date 16/6/70

Date 17/6/70

GOVERNMENT OF ~~THE~~ MALAYSIA

PUBLIC WORKS DEPARTMENT

FORM OF TENDER

TENDER FOR...
...
(1) ... (2) ...
(3) ...

in accordance with DRAWINGS NOS. 264-301/7 (1 to 11)
222-502 to 222-511; 222A-550 to 222A-559; 222A-570/1; 222/2 and 280/1

and any other detail drawings supplied in amplification thereof.

Copies of the Contract Agreement, the above Drawings, Bills of Quantities
and/or Specification may be seen at the place specified in the Tender Notice
during office hours on any working day until the final date for the submission

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

To

Engarub Korja Raya,

Jat. Ho, Jalan Maxwell,

Selangor Darul Amir.

SIR,

Under and subject to the Conditions of Tendering annexed hereto, the undersigned does hereby tender and offer to execute and perform the works and provisions and supply all labour and materials and everything of every kind respectively named, shown, described and alluded to in, or to be inferred from, the Form of Contract Agreement, Conditions of Contract, Bills of Quantities and/or Specification and Drawings, to be executed and supplied on the part of the Contractor, for the Works above described, in conformity with the said Bills of Quantities and/or Specification and Drawings and under and subject to the said Conditions of Contract for the lump sum named herein below.

2. The undersigned agrees to be bound by and submit to the said Conditions of Contract and priced Bills of Quantities and/or Specification and agrees that the said priced Bills of Quantities, after rectification of any errors therein in the undersigned's prices and calculations, as by the Conditions of Contract provided, shall form a basis for the valuation of interim certificates and any variation or extra work which may from time to time be ordered by the Superintending Officer.

ALTERNATIVE 'A'

3. And further, the undersigned agrees to complete the Works within 104 weeks from the date of possession of site or within such extended time as by the Conditions of Contract provided.

ALTERNATIVE
'B' & 'C'
REJECTED

4. The total amount of this tender in accordance with 4 summary of the Bills of Quantities is the lump sum of Dollars seven million, one hundred and seventy three thousand, eight hundred and seventy nine and cents seventy nine only

i.e., \$ 7,173,879.79 or below

5. The undersigned desires to be permitted to tender, in due course, for the following work which the undersigned in the ordinary course of business directly carries out and for which Provisional Sums have been included in the amount of this tender:

* Accepted Alternative 'A' 7,206,944.39 (Dollars seven million, two hundred and six thousand, nine hundred and forty four and cents thirty nine only)

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

SALINAN

ALTERNATIVE "B"

(Completion of the +Listed Rooms in 52 weeks and the rest of the Project
in Contractor's own time)

- (a) Listed Rooms: 52 Weeks from date of possession of site.
(b) Rest of the Project: 104 Weeks from date of possession of site.

The total amount of this tender in accordance with the above conditions
are:-

TOTAL For Alternative "A" -	_____	\$7,173,879.79
<u>DEDUCT</u> P.C. & Provisional Sums	_____	\$5,520,650.00
Total Builder's work For Alternative "A"	_____	\$1,653,229.79
* <u>ADD</u> Any Adjustments Required	_____	\$ 24,798.45
TOTAL Builder's Work For Alternative "B"	_____	\$1,678,028.24
<u>ADD</u> P.C. & Provisional Sums	_____	\$5,520,650.00
<u>TOTAL TENDER SUM FOR ALTERNATIVE "B"</u>	_____	<u>\$7,198,678.24</u>

SILORIKAT PEMBINAAN RAYA SDN. BERHAD

Sgds x x x

Pengarah Urusan

+ Listed Rooms: Please refer attached sheet.

* Delete whichever is not applicable.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

ALTERNATIVE "C"

(Completion of the ⁺Listed Rooms in 52 Weeks and the rest of the Project
in 78 Weeks)

(a) Listed Rooms: 52 Weeks from date of possession of site

(b) Rest of the Project: 78 Weeks from date of possession of site

The total amount of this tender in accordance with the above conditions
are:-

TOTAL FOR ALTERNATIVE "A" _____	87,173,879.79
<u>DEDUCT</u> P.C. & Provisional Sum _____	85,520,690.00
Total Builder's Work For Alternative "A" _____	81,653,229.79
<u>*ADD</u> Any Adjustments Required _____	\$ 33,064.60
TOTAL Builder's Work for Alternative "C" _____	81,686,294.39
<u>ADD</u> P.C. & Provisional Sum _____	85,520,690.00
<u>TOTAL TENDER SUM FOR ALTERNATIVE "C"</u> _____	<u>87,206,984.39</u>

SEHARIKAT PEMBINAAN HAYA SDN. BERHAD

Sgd: x x x

Pengarah Urusan

+ Listed Rooms: Please refer attached sheet.

* Delete whichever is not applicable.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

* LISTED ROOMS

(As stated in Alternatives "B" and "C")

RADIO HOUSE

Rooms G1 to G52 inclusive

Rooms G54 to G56 inclusive

Rooms G58 to G59 inclusive

Rooms G80 to G81 inclusive

Rooms G84 to G85 inclusive

Room G90

Rooms G105 to G106 inclusive

Rooms G109 to G110 inclusive

Rooms G116 to G121 inclusive

Room G126

Rooms F1 to F38 inclusive

Rooms F45 to F48 inclusive

Rooms F55 to F58 inclusive

Rooms F80 to F82 inclusive

Rooms F84 to F88 inclusive

Room F101

Room F103

Room F107

Rooms F109 to F112 inclusive

Telecoms Department Equipment Room

LARGE AUDITORIUM

Stage Area

audience seating - note that we have an antenna system for the wireless receivers (translation) for the audience to be imbedded in the screen.

Catwalks, etc.

Lobby

Control Room

Narrator's Studio No.1

Narrator's Studio No.2

Public Address Room

Lighting Control Room

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

6. Whereas it is understood that you reserve to yourself the right to accept or to refuse this tender, whether it be lower or higher than any other tender, or of the same amount, the undersigned agrees that this tender shall remain valid and shall not be withdrawn within ~~forty-two (42)~~ days from the final date for submission of tenders. **sixty (60)**

7. And further, the undersigned agrees, in the event of your acceptance of this tender, to execute the formal Contract Agreement and to deposit the Security Deposit and the Workmen's Compensation and Fire Insurance Policies and produce the receipts paid, for inspection, within ten days from posting, or deliver if by hand, of notification of acceptance.

8. The undersigned confirms, after personal scrutiny, that the documents and drawings used by the undersigned in compiling this tender are true copies of the documents and drawings included in the Tender Table Documents.

UNITED TRADING COMPANY BHD.

Signature of Tenderer... *[Signature]*
Tamparuk Ulucon

Address... 5-B Jalan Barat,
Petaling Jaya, Selangor

Date... 23.2.70

Witness to Signature of Tenderer... *[Signature]*

Address... 5-B Jalan Barat,
Petaling Jaya, Selangor

Date... 23.2.70

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

4

CONDITIONS OF TENDERING

1. The whole of the works set forth in the Drawings, Bills of Quantities and/or Specification will be let on Contract, subject to the Conditions of Contract.
2. (a) Each tenderer must submit, enclosed and sealed in an envelope addressed as stipulated in the Tender Notice, a genuine tender on the Form of Tender provided, together with a copy of the summary of the Bills of Quantities duly filled in and attached thereto.
(b) Each tenderer must enter, in the space provided on the Form of Tender, the time he will require to complete the Works.
(c) ~~Tenderers shall NOT submit the priced Bills of Quantities with this Tender. Any tenderer, however, shall, upon written request, submit as soon as possible after such notification, a priced copy of the Bills of Quantities (a blank copy will be provided for this purpose). Such copy shall be fully priced and monied out in ink and signed by the tenderer and shall be consistent in all respects with the amount tendered.~~
(d) ~~Tenderers shall NOT submit the priced Bills of Quantities with this Tender. Any tenderer, however, shall, upon written request, submit as soon as possible after such notification, a priced copy of the Bills of Quantities (a blank copy will be provided for this purpose). Such copy shall be fully priced and monied out in ink and signed by the tenderer and shall be consistent in all respects with the amount tendered.~~
3. (a) Tenders and documents in connexion therewith as specified above, must be delivered to the place and at or before the time stipulated in the Tender Notice.
(b) In the case of a tender not being delivered by hand, the tenderer must arrange for his tender and other documents to be posted in time to reach the stipulated place not later than the stipulated time.
(c) Any tender delivered after the stipulated time, from whatever cause arising, will not be considered.
(d) In no case will any expenses incurred by a tenderer in the preparation of this tender be allowed.
4. In the event of any tenderer being supplied, at his request, with copies of any of the Tender Table Documents, it shall be the sole responsibility of the tenderer to scrutinise such copies and satisfy himself that they are exact copies of those included in the Tender Table Documents. In the event of any discrepancy being found between any such copies supplied to the tenderer and those included in the Tender Table Documents it shall be the sole responsibility of the tenderer to apply to the officer receiving the tenders to have such discrepancy rectified before the final date for submission of tenders stipulated in the Tender Notice.
next: (A)
5. Tenders shall remain valid for ~~forty-two (42)~~ ^{sixty (60)} days from the final date for submission of tenders stipulated in the Tender Notice and no tenderer may withdraw his tender within that period.
6. The Government shall not be bound to accept the lowest or any tender.
7. The accepted approved tenderer (if any) shall be notified of such acceptance by letter within ~~forty-two (42)~~ ^{sixty (60)} days during which by paragraph 5 hereof the tender is to remain valid and the said tenderer shall within the time stated in the Form of Tender first execute the formal Contract Agreement and then on the same day he shall deposit the Security Deposit for the due performance of the Contract, and also the Workmen's Compensation and Fire Insurance Policies and shall produce for inspection the receipts for premiums paid, all as referred to in the Conditions of Contract. The period for executing the formal Contract Agreement may, however, be extended if the officer receiving the tenders is satisfied that adequate reasons exist for so doing.
8. Every notice to be given to a tenderer may be posted to the tenderer's address given in the tender and such posting shall be deemed good service of such notice.
9. The words "approved tenderer" shall mean that the tenderer shall be approved by the officer receiving the tenders and shall have complied with these conditions of tendering in every respect.
10. The word "tenderer" in these conditions shall be deemed to include two or more persons. The word "his" may also mean "her" or "their" and the word "he" may also mean "she" or "they".
11. Non-compliance with the above conditions in any respect shall render the tender liable to rejection and the fee paid by the tenderer to become a Registered Contractor with the Public Works Department shall be forfeited by him to the Government, at the absolute discretion of the officer receiving the tenders.

L-J.C.K., K.L.

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)SALINAN

(P.W.D. 202a)

CONTRACT NO. PWD/141/48.109. of 1970... for the under-mentioned Works entered into on the 17th day of JUNE 1970 by the under-signed parties, refers to this Letter of Acceptance of Tender which is and shall be read and construed as part of the said Contract.

SGD. X K X (Contractor)	SGD. X K X PENGARAH KERJA RAYA NEGERI TANAH MELAYU
SGD. X K X (Witness)	SGD. X K X (Witness)
Date 16/6/70	Date 17/6/70

GOVERNMENT OF ~~SEKEL~~ MALAYSIA

PUBLIC WORKS DEPARTMENT

ACCEPTANCE OF TENDER

To: KHARITAT PERSEMAJUAN RAYA SEUDIRIAN BERHAD, 2-B, JALAN BARAT, PENGALING JAYA, SELANGOR. (Contractor)	Office of the PENGARAH KERJA RAYA, INDU PARI BAT, JAMBATAN KERJA RAYA, JALAN MADRID, KUALA LUMPUR.
--	--

Date 6th April, 1970.

Reference No. B15/229/6

TENDER FOR THE ERECTION AND COMPLETION OF THE INSTALLATION
.....
MALAYSIAN BROADCASTING CENTRE AT BUKIT PUERI,
.....
K.L. COMPRISING (1) RADIO HOUSE (2) OFFICE
.....
BOOTH AND (3) LARGE AUDITORIUM

You are hereby informed that your tender for the above-mentioned Works is accepted, subject to the Conditions of Contract, Specification and/or Bills of Quantities, Form of Tender and this letter, in the sum of Dollars ~~seven~~ million, two hundred and six thousand nine hundred and forty four and cents thirty nine only (Alternative 'C')

i.e., \$ 2,206,944.39

EXHIBIT

"D5"

Relevant Portions
of Second
Contract etc.
(cont'd)

2 You will be notified when the Contract documents are ready for your signature.

3. Attention is drawn to the Conditions of Tendering whereby you will be required, on the day that you execute the formal Contract Agreement, to deposit with Government the cash amount of \$ ~~50,000~~ ^{50,000/22} (being 5 per cent. of the Contract Sum) as Security Deposit for the due performance of this Contract. You will also be required, at the same time, to deposit with the Superintending Officer, the Workmen's Compensation and Fire Insurance Policies and to produce for inspection the receipts for premiums paid.

4. The date for possession of site, as referred to in the Conditions of Contract, shall be the 15th April, 1970 but no work under this Contract shall commence unless and until you have complied with the provisions of paragraph 3 of this letter.

5. This letter is sent to you in duplicate. Please return the original, duly signed and witnessed, where indicated, to this office and retain the copy.

Sgds **Yusoff bin Haji Ibrahim**
- Pengarah Kerja Raya,
REKABIRU TUNJANG MELAYU.

The undersigned hereby acknowledges receipt of the above letter, copy of which has been retained, and confirms that no terms, conditions or stipulations additional to those contained in the Tender Table Documents have been imposed by the issue of this letter.

SEKUTANG PASIRUTAN RAYA MELU, BEMAH.

Sgds **X X X** Sgds **X X X**
Pengarah **M** (Witness)
(Contractor)

Address **71, Jalan Barat,** Address **71, Jalan Barat,**
Petaling Jaya. **Petaling Jaya.**

Date **7/4/70** Date **7/4/70**

EXHIBIT "D6"

LETTER, P.W.D. TO PERMANENT SECRETARY
TREASURY - 26TH JULY 1968

26bh, Julai,

(275)dIm.B15/229/Q.6.

10 Setia Usaha Tetap.
Perbandahara'an,
Malaysia,
KUALA LUMPUR.

Tuan,

Malaysia Broadcasting Centre,
Radio House - Large Auditorium

20 As you are aware, the contractor for the above project has been instructed to use deformed steel bars manufactured by Malayawata Steel Berhad. The steel bar manufacturer has informed the contractor that they would require a guarantee from the P.W.D. as to payment for the steel bars supplied. As this request cannot be acceded to by the Department, the contractor has written to us, authorising the deduction from his progress payment an amount (which will be specified) to be paid to Malayawata.

30 However, according to Treasury Instruction 99(f) "vouchers should not be made out in favour of more than one person," except with the written approval of the Treasury. It would be much appreciated if the contractor's request could be approved, as he has been prevented from obtaining his materials from his normal suppliers and the progress of the works under this contract has been considerably delayed.

Yang benar,

Sgd.

b.p. Pengarah Kerja Raya,
Negeri Tanah Melayu.
(L. CHIN YUN HOWE, JSM)

LCYH/K.

EXHIBIT

"D6"

Letter,
P.W.D. to
Permanent
Secretary
Treasury

26th July 1968

O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA
(APPELLATE JURISDICTION)

B E T W E E N :

MALAYAWATA STEEL BERHAD Appellants
(Plaintiffs)

- and -

1. THE GOVERNMENT OF THE
FEDERATION OF MALAYSIA

2. OFFICIAL ASSIGNEE
FEDERATION OF MALAYSIA
OF THE PROPERTY OF
NG KENG HOOI

Respondent
(Defendants)

RECORD OF PROCEEDINGS

COWARD CHANCE,
Royex House,
Aldermanbury Square,
London EC2V 7LD

Solicitors for the Appellants

Stephenson Harwood,
Saddlers Hall,
Gutters Lane,
London EC2V 6BS

Solicitors for the Respondents