

**DALAM MAHKAMAH TINGGI MALAYA DI SHAH ALAM
DALAM NEGERI SELANGOR DARUL EHSAN
[SAMAN PEMULA NO: BA-24NCvC-1127-06/2023]**

**Dalam Perkara mengenai Hakmilik
GRN 48236 No. Lot 623 (dulu dikenali
sebagai CT No. 22358 No. Lot 623)
Mukim Kajang, Daerah Hulu Langat,
Negeri Selangor.**

Dan

**Dalam Perkara mengenai Kaveat
Pendaftar Perserahan No. 46846/2021
bertarikh 06.12.2021**

Dan

**Dalam Perkara mengenai Seksyen 320,
321, 417 dan 418 Kanun Tanah Negara**

Dan

**Dalam Perkara mengenai Seksyen 44,
45, 50 dan 51 Akta Relief Spesifik 1950**

Dan

**Dalan Perkara mengenai Aturan 7, 28,
55A dan 73 Kaedah-Kaedah
Mahkamah 2012**

ANTARA

**DAHAN CIPTA SDN. BHD
(NO. SYARIKAT: 268138-A)**

... PLAINTIF

DAN

**1. PENGARAH TANAH DAN GALIAN
SELANGOR**

**2. PENDAFTAR HAKIMILIK NEGERI
SELANGOR**

3. POLIS DIRAJA MALAYSIA

4. KERAJAAN MALAYSIA

**5. YONG TSHU KHIN
[NO. K/P: 540916-13-5659]**

**... DEFENDAN –
DEFENDAN**

GROUND OF JUDGMENT

- [1] The Plaintiff brought this action against the 1st to 5th Defendants to seek the removal of a Registrar’s Caveat No. 46846/2021 entered on 6-12-2021 on the land held under title GRN 48236 No. Lot 623 Mukim Kajang Daerah Hulu Langat, Negeri Selangor (“**Land**”) and ancillary relief, including an injunction to restrain the 5th Defendant from registering any other caveat on the Land title without an order of Court.
- [2] The Registrar’s Caveat was entered based on a Police Report No. THSL/10988/21 lodged by the 5th Defendant. By the time the Originating Summons came up for hearing, the action had been discontinued as against the 1st to 4th Defendants because police investigations had concluded and the title to the Land had been released to the Plaintiff.
- [3] There is a long history behind the dispute over the Land which concluded with the decision of the Federal Court in *MMCE Properties Sdn Bhd v Yong Tshu Khin & Anor and Other Appeals* [2018] 6 MLRA 515.

- [4] Briefly and insofar as it is relevant to present case, the Land was originally registered in the names of Letchumanan a/l Nagappa (“**Letchumanan**”) and Ramasamay @ Raman a/l Kamachee (deceased). MMCE Properties Sdn Bhd (“**MMCE**”) entered into a joint venture agreement with the registered proprietors to develop the Land.
- [5] Disputes arose between MMCE and the registered proprietors that ended with an arbitration award in favour of MMCE, in effect ordering that the Land be transferred to MMCE if the registered proprietors failed to pay the sum of money awarded to MMCE (“**Award**”).
- [6] Before any transfer of the Land, MMCE purported to sell the Land to the 5th Defendant and one Annie Quah Lay Nah (“**Yong and Annie**”). That sale also ended up in Court with Yong and Annie suing for specific performance and obtaining an interim injunction to restrain MMCE from selling the Land.
- [7] While matters were still pending in Court, the registered proprietors then sold the Land to the Plaintiff on 17-8-1993. Upon discovery of Letchumanan’s bankruptcy at the time, a second sale and purchase agreement was entered on 26-6-1995.
- [8] Meanwhile, the Plaintiff settled the sum owed to MMCE from the registered proprietors on 5-11-1993 and MMCE discontinued the action to enforce the Award on 29-11-1993. Yong and Annie intervened in the Plaintiff’s enforcement proceedings the following day.
- [9] The pending actions then apparently went nowhere for several years. To further complicate matters, Letchumanan later purported to enter into a Consent Judgment with Yong and Annie on 2-3-1999, agreeing to transfer his ½ share of the Land to Yong and Annie for RM180,000.00. On 6-3-2008, Letchumanan filed another action

against Yong, Annie and his solicitors to set aside the Consent Judgment.

[10] All actions were consolidated and tried. The Judgment of the High Court went on appeals and in the conclusion of the saga, the Federal Court held that based on the terms of the Award, MMCE did not become the beneficial owner of the Land under the Award, the beneficial interest to the Land had passed to the Plaintiff upon payment of the full purchase price to the registered proprietors. Consequently, it was ordered that:

- (a) Title to the Land deposited in the High Court be handed over to the Plaintiff;
- (b) Yong and Annie's caveats on the Land be removed;
- (c) Compensation sum paid by the Selangor State Government for acquisition of part of the Land and held by stakeholders be released to the Plaintiff;
- (d) The deposit of RM40,000.00 paid by Yong and Annie to MMCE be returned and that damages be paid by MMCE to Yong and Annie for breach of contract, to be assessed. The Consent Judgment and MOT executed thereunder be set aside; and
- (e) The sum RM180,000.00 paid pursuant to the Consent Judgment be returned to Yong and Annie.

[11] The Federal Court had thus finally determined the Plaintiff's right to title to the Land and extinguished any interest that Yong and Annie were claiming to the Land. That the 5th Defendant had no caveatable interest in the Land was *res judicata*.

[12] Notwithstanding the aforesaid, the 5th Defendant in these proceedings was still intent on seeking a Court order by way of a counterclaim (i) that the police be ordered to investigate the Plaintiff

and MMCE for cheating and other offences, and the matter of an alleged missing sum of RM90,000.00 held as stakeholders pursuant to the Consent Judgment; and (ii) that the Registrar's Caveat remain and (or) the 5th Defendant be permitted to enter a (further) caveat pending said investigations.

[13] As the 5th Defendant was unrepresented, this Court explained to him that it was outside the jurisdiction of the Court to order any police investigations. It was also explained that the issue of the 5th Defendant's claimed interest to the Land has been finally determined by the Federal Court and so he should refrain from lodging any other caveats on the Land. He refused to give an undertaking not to lodge further caveats as he wished to file for a review of the Federal Court decision.

[14] In the circumstances, this Court dismissed the counterclaim and allowed the Plaintiff's prayer for an injunction to restrain the 5th Defendant from lodging any caveats on the Land without leave of Court. I also awarded costs of RM7,000.00 to be paid by the 5th Defendant to the Plaintiff.

Bertarikh: 24 FEBRUARI 2025

(ELAINE YAP CHIN GAIK)
PESURUHJAYA KEHAKIMAN
MAHKAMAH TINGGI MALAYA
SHAH ALAM

Counsel:

Bagi pihak plaintiff - Vilasiny Gannasen; T/n Vilasiny Gan & Co

Bagi pihak defendan kelima - Tidak diwakili

Cases referred to:

MMCE Properties Sdn Bhd v Yong Tshu Khin & Anor and Other Appeals

