Douglas Ding Jangan & 4 Ors v Kerajaaan Negeri Sarawak & 5 Ors
[Civil Appeal No.: 01(F)-42-11/2018(Q)]

Key issues: *The judgment herein concerns the issue of cross appeals.*

Facts

High Court decided partially in favour of the Appellants, so the Appellants appealed. In the Court of Appeal, the 1st to 5th Respondents ("**R1 to R5**") filed cross appeals purportedly to vary the decision of the High Court. Subsequently, the 6th to 8th Respondents ("**R6 to R8**"), who were not part of the proceedings in the lower courts, applied to intervene and it was allowed by the Court of Appeal. The Court of Appeal the cross appeals of both R1 to R8 to be heard.

Decision

The Federal Court dismissed the cross-appeals filed by the R1 to R8 for they were bad in law and of no effect. The Federal Court held that the notices of the cross appeals do not fall within the ambit of rule 8 of the Rules of Court of Appeal ("**RCA**").

Law

The Federal Court found that the law on cross appeals within the Malaysian jurisdiction suffices. The case of *Leisure Farm* which was affirmed in *Majlis Peguam v Cecil Wilbert Mohanaraj Abraham [2019] 5 MLJ 159* was relied on. In *Leisure Farm*, the Federal Court found that a cross-appeal cannot be recast as an appeal in itself to set aside the judgment of the High Court.

Here, the Federal Court held that a cross-appeal must be one which varies part of the decision of the lower courts which the appellant is appealing against. However, the cross appeal here was directed at the decision of the lower court which was not appealed against by the High Court. In paragraph 39, the Federal Court laid out the definition and what would amount to the term "*vary*".