

YKK (Malaysia) Sdn Bhd v Pengarah Tanah dan Galian Johor

[Civil Appeal No.: 01(F)-23-08/2019(J)]

Key issues: *The judgment herein concerns the alienation of a qualified title by way of a lease by a State Authority under the National Land Code 1965 (“NLC”).*

Facts

State Authority alienated a piece of land to a company for a term of 60 years (“**the lease**”), issued under the NLC. Before it expired, the land was acquired by the Plaintiff. Despite the Defendant’s refusal to renew the lease, the Plaintiff gave its renewal lease under Clause 7 of the lease. Defendant did not respond to the renewal notice. High Court decided in favor of the Plaintiff but the Court of Appeal reversed that decision.

Decision

The Federal Court dismissed the appeal, affirming the decision of the Court of Appeal and reversing the decision of the High Court. The Federal Court held that the alienation of land by way of section 76 of NLC read with Clause 7 does not give rise to a contractual lease between State and the lessee.

Law

The Federal Court found that pertaining to alienated lands by the State Authority, the rights of both the State Authority and the occupier of the lands is regulated by the NLC. The notion that the Defendant is bound by Clause 7 was held to not be the case because it does not conform to section 78(3) and 90A of the NLC. The case of *North East Plantations Sdn Bhd* was one of the cases relied on.

Further, the Federal Court went on to consider whether the Plaintiff’s claim in private law remedy is unsustainable and whether there was legitimate expectation owed by the Defendant. Upon analysing the case of *Ahmad Jefri Mohd Jahri v Pengarah Kebudayaan & Kesenian Johor & Ors* [2010] 5 CLJ 865, the Federal Court found that the private law remedy to be unsustainable for the public law element is evidently predominant. In considering the cases in paragraphs 93 to 100, the Federal Court found that the Defendant does not owe the plaintiff “legitimate expectation” for this doctrine cannot override the express statutory power vested in the State Authority.