

**DALAM MAHKAMAH RAYUAN MALAYSIA
(BIDANG KUASA SIVIL)
RAYUAN SIVIL NO. W-02-432-2004**

DI ANTARA

AMANAHA RAYA BERHAD

**(sebagai Pentadbir Harta Pusaka Allahyarham
Raja Nong Chik Bin Raja Ishak)**

... **PERAYU**

DAN

1. **RAJA RAJMAH BINTI RAJA CHIK**
2. **RAJA HANIPUDDIN BIN RAJA NONG CHIK**
3. **RAJA SALLEHUDIN BIN RAJA NONG CHIK**
4. **RAJA HIZARUDDIN BIN RAJA NONG CHIK**
5. **RAJA TAHARUDDIN BIN RAJA NONG CHIK**
6. **RAJA NORAINI BINTI RAJA NONG CHIK**
7. **CIK NORMAH BINTI RAJA NONG CHIK**
8. **SYARIKAT LEMBAGA TENAGA PUTRA SDN BHD**
9. **FURUKAWA ELECTRIC CABLES (M) SDN BHD**
10. **SHORGA SDN BHD**
11. **MALAYAN ZIPS SDN BHD**
12. **CHOW SOON TAT @ CHEW SOON TAT** ... **RESPONDEN-**
13. **CHONG FOOK SIN** ... **RESPONDEN**

DAN

1. **RAJA DELILA BINTI RAJA NONG CHIK**
2. **RAJA NORLINA BINTI RAJA NONG CHIK**
3. **RAJA ISKANDAR BIN RAJA NONG CHIK**
4. **RAJA AKHBAR BIN RAJA NONG CHIK**
5. **RAJA YURIHANA BINTI RAJA NONG CHIK** ... **PENCELAH-**
PENCELAH
YANG DI
CADANGKAN

(Dalam Perkara Guaman Sivil No. S2-22-546-1998 di dalam
Mahkamah Tinggi Malaya di Kuala Lumpur)

ANTARA

AMANAH RAYA BERHAD
(sebagai Pentadbir Harta Pusaka Allahyarham
Raja Nong Chik Bin Raja Ishak) ... PLAINTIFF

DAN

1. RAJA RAJMAH BINTI RAJA CHIK
2. RAJA HANIPUDDIN BIN RAJA NONG CHIK
3. RAJA SALLEHUDIN BIN RAJA NONG CHIK
4. RAJA HIZARUDDIN BIN RAJA NONG CHIK
5. RAJA TAHARUDDIN BIN RAJA NONG CHIK
6. RAJA NORAINI BINTI RAJA NONG CHIK
7. CIK NORMAH BINTI RAJA NONG CHIK
8. SYARIKAT LEMBAGA TENAGA PUTRA SDN BHD
9. FURUKAWA ELECTRIC CABLES (M) SDN BHD
10. SHORGA SDN BHD
11. MALAYAN ZIPS SDN BHD
12. CHOW SOON TAT @ CHEW SOON TAT ... DEFENDAN-
DEFENDAN

CORAM:
LOW HOP BING, JCA
SULONG BIN MATJERAIE, JCA
RAMLY BIN HJ. ALI, JCA

LOW HOP BING, JCA
(DELIVERING THE JUDGMENT OF THE COURT)

[1] This application, by way of notice of motion in encl. (19a), is filed by the proposed interveners, seeking leave to intervene in this appeal as the second to sixth appellants.

[2] As the Rules of the Court of Appeal 1994 made no provision to regulate the instant application, R. 4 thereof mandates that the Rules of the High Court 1980 shall apply *mutatis mutandis*. In this regard, O.15 r.6(2)(b) of the Rules of the High Court 1980 gives the Court wide discretionary powers to order any person to be added as a party ie to grant leave to intervene where:

- (i) any person who ought to have been joined as a party or whose presence before the Court is necessary to ensure that all matters in dispute in the cause or matter may be effectually and completely determined or adjudicated upon; or
- (ii) any person between whom and any party to the cause or matter there may exist a question or issue arising out of or relating to or connected with any relief or remedy claimed in the cause or matter which in the opinion of the Court it would be just and convenient to determine as between the parties to the cause or matter.

[3] O.15 r.6(3) thereof sets out the test for granting or refusing leave to intervene. For this purpose, the applicant or applicants must show his or their interest in the cause or matter in dispute or, as the case may be, the question or issue to be determined as between him and any party to the cause or matter: ***Rajoo Selvappan & Ors v Abdul Bhari Kader Ibrahim & Ors*** (2005) 7 CLJ 326 HC, at pp 331 and 332.

[4] It is common ground that the applicants herein are the lawful beneficiaries of the estate of the deceased in question, and that they have beneficial interest in that estate. This beneficial interest is clearly and directly related to the subject matter of the instant appeal: see eg ***Sanders Lead Co Inc v Entores Metal Brokers Ltd*** (1984) 1 WLR 452. The applicants' right against or liability to the other parties, who also include the other lawful beneficiaries in the same estate, would be directly affected by any order which may be made in the instant appeal. There can be no doubt that the applicants have fulfilled the test of establishing their interest for the purposes of obtaining leave to intervene: ***Inai Etike Sdn Bhd v Mohd Fadzil bin Wadi & Ors*** [1995] 4 MLJ 731; ***Soo Hong & Leong Kew Moi & Ors v United Malayan Banking Corp Bhd & Anor*** [1997] 1 MLJ 690, CA; ***Takang Timber Sdn Bhd v Government of Sarawak & Anor*** [1998] 4 MLJ 42, HC; and ***Oscam SPA v Overseas Union Bank (Malaysia) Bhd & Anor; Lim Keng Siew & Anor (Third Parties)*** [1999] 3 CLJ 399, HC. (Malaysian High Court Practice MLJ. Under O.15 r.6(2)(b).)

[5] We therefore unanimously allow this application and grant leave to the applicants to intervene in the instant appeal. Costs in the cause of this appeal.

DATUK WIRA LOW HOP BING

Judge
Court of Appeal Malaysia
PUTRAJAYA

Dated this 8 May 2009

COUNSEL FOR APPELLANT:

Messrs Shook Lin & Bok
Advocates & Solicitors for the Appellant/Plaintiff
Tingkat 20, Bangunan Kumpulan AmBank
55 Jalan Raja Chulan
50200 Kuala Lumpur

COUNSEL FOR RESPONDENT:

Messrs Cheang & Ariff
Advocates & Solicitors for the 1st, 3rd, 8th and 11th
Respondents/Defendants
No. 39, Court 39
Jalan Yap Kwan Seng
50450 Kuala Lumpur

Messrs Khairul Azman, Noorilan, Nooron & Partners
Advocates & Solicitors for the 2nd Respondents/Defendants
Suite A-F, Tingkat 15
Bangunan Angkasaraya
Jalan Ampang
50450 Kuala Lumpur

Messrs Lee Hishamuddin
Advocates & Solicitors for the 9th Respondents/Defendants
Level 16, Menara Phileo
189 Jalan Tun Razak
50400 Kuala Lumpur

Messra Ranjit Ooi & Robert Low
Advocates & Solicitors for the 10th Respondents/Defendants
53, Jalan Maarof, Bangsar
59000 Kuala Lumpur

Messrs Lim & Yeoh
Advocates & Solicitors for the 12th Respondents/Defendants
145-M, Jalan Maharajalela
50150 Kuala Lumpur

Messrs Thomas Philip Kwa & Lou
Advocates & Solicitors for the 13th Respondents/Defendants
B-10-9, Megan Avenue 11
No. 12, Jalan Yap Kwan Seng
50450 Kuala Lumpur

Messrs G. Ragumaren & Co.
Advocates & Solicitors for the Interveners
No. 56-1, RGA Chambers
Jalan Telawi, Bangsar Baru
59100 Kuala Lumpur

REFERENCE:

1. ***Rajoo Selvappan & Ors v Abdul Bhari Kader Ibrahim & Ors*** (2005) 7 CLJ 326 HC, at pp 331 and 332
2. ***Sanders Lead Co Inc v Entores Metal Brokers Ltd*** (1984) 1 WLR 452
3. ***Inai Etike Sdn Bhd v Mohd Fadzil bin Wadi & Ors*** [1995] 4 MLJ 731
4. ***Soo Hong & Leong Kew Moi & Ors v United Malayan Banking Corp Bhd & Anor*** [1997] 1 MLJ 690, CA
5. ***Takang Timber Sdn Bhd v Government of Sarawak & Anor*** [1998] 4 MLJ 42, HC
6. ***Oscam SPA v Overseas Union Bank (Malaysia) Bhd & Anor; Lim Keng Siew & Anor (Third Parties)*** [1999] 3 CLJ 399, HC