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Compromise only through third party?

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COULD the third round of talks between Malaysia and Singapore to thrash out the outstanding package of issues be the last before Malaysia, jaded by the stalemate in past negotiations, refers the matter to a third party for a resolution?

Although the intervention of an arbitrator, as both sides concurred, would be sought only as a last resort, Malaysia in particular has not discounted such a possibility as it sees the move as the only way out of the current sticky situation.

Malaysia can either seek the help of an arbitrator or bring its case to an international court of justice or a tribunal for a decision. Prime Minister Datuk Seri Dr Mahathir Mohamad, in an immediate response to the impasse, also made it clear that the matter may have to go to an arbitrator if all else failed.

"Worst comes to the worst, we may have to go for arbitration," he said in response to a question by journalists in Kuala Lumpur on Friday if future meetings to resolve the water pricing problem were necessary as earlier ones had failed to achieve the desired result.

Singapore, despite its seemingly accommodating attitude when it hosted the second round ministerial-level meeting in the republic for two days earlier this week, had actually not budged from its stand of wanting all outstanding matters to be discussed in a package.

While the Malaysian delegation head, Foreign Minister Datuk Seri Syed Hamid Albar, demonstrated his optimism at the end of the meeting on Tuesday that negotiations were finally "heading somewhere" when Singapore agreed to discuss the water issue separately from the rest of the package, his Singapore counterpart gave the local media a completely contradictory statement.

Singapore expressed reservations about Malaysia's proposal to tackle the water issue, an upward revision of the price of raw water supplied to the republic by Johor, away from the package.

Malaysia's stand had received the onslaught of the republic's media, which said that the talks met a snag after Malaysia switched tack on the agreement to discuss the longstanding bilateral issues as a package.

Kuala Lumpur wanted to discuss the water issue first as it was the stumbling block to existing cordial relations between the two nations and if the matter was not resolved, it would be impossible to reach an understanding on other issues.

Syed Hamid has made it clear that the third round of talks must be treated with some sense of urgency and the talks must move towards something positive.

He said Singapore must realise that everything that was being negotiated belonged to Malaysia or Malaysian workers, adding that negotiations would be pointless if there "was no possibility of seeing the light at the end of the tunnel".

However, if the third meeting also fails to reach an agreement, the matter would first be referred back to the prime ministers of the two countries for a decision on the next course of action.

Prime Minister Datuk Seri Dr Mahathir Mohamad and his Singapore counterpart Goh Chok Tong had reached an understanding on the sidelines of the Asean Summit in Hanoi in December, 1998, to deal with all the outstanding issues in a package.

Besides the water supply, the package of issues covering the Points of Agreement (POA) were on the Keretapi Tanah Melayu (KTM) land in Singapore and the relocation of the Malaysian Customs, Immigration and Quarantine complex in Tanjung Pagar, the use of Malaysia airspace by low-flying Singapore airforce jets and the Central Provident Fund (CPF) withdrawals by Peninsular Malaysia workers who are no longer working in Singapore.

The meeting in Singapore, described as stop-and-start talks, was blamed on the Malaysians for the delay as the delegates had to take time to study certain proposals by Singapore. Like the Kuala Lumpur talks, it was apparently a nonstarter. Earlier talks at officers' level also did not get anywhere.

The only thing that the two parties could agree on was to hold a followup meeting at the officers' level before reporting to the respective ministers for a decision on the date of the third round of talks that should take place in Kuala Lumpur.

During the meeting in Putrajaya, the first at ministerial level after three rounds of talks at senior officers' level three years ago failed to reach an agreement, Malaysia expressed its willingness to supply water, either raw or treated, to Singapore for another 100 years, at a negotiated price, provided the republic is agreeable to a satisfactory resolution of the outstanding package of issues.

Kuala Lumpur has also agreed to review the pricing spelt out in the existing "water supply" agreement, sealed in 1961 and 1962 and which expires in 2011 and 2061 respectively, separately.

Clause 17 of the existing "water supply" agreement provided for a price review after 25 years and according to Syed Hamid, if a fresh agreement was not reached, before the expiry of the existing agreements, then Malaysia would cease to supply water to the republic.

Malaysia now wants the two agreements to be backdated, despite strong objection by Singapore which claimed that the two agreements are valid and legally binding as enshrined under the 1965 Separation Agreement and must be honoured.

According to them, the terms of the agreements cannot be unilaterally changed.

It is obvious that both sides have refused to give way and are not about to do so in the near future although Singapore had agreed in principle to resolve the CPF issue, but would not do anything until the rest of the issues are resolved.

If both parties have drifted to the point of no return, what better way to come to a compromise if not through the "goodwill" of a third party?