

Anwar vs Dr M: Bailouts and family-linked businesses

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Anwar Ibrahim is citing an RM214.2 million contract awarded to a company linked to then-prime minister Dr Mahathir Mohamad in the former's defence against a defamation suit by the latter.

The prime minister is relying on the defence of justification (ready to prove allegations in court) by citing, among others, the award of the fibre-optic contract to Opcom Cables Sdn Bhd.

Anwar's statement of defence was filed at the Shah Alam High Court via e-filing last night.

He claimed that Mahathir's family members were directors of Opcom Cables including eldest son Mirzan (1994-2021), second son Mokhzani (2009-2019), third son Mukhriz (1994-2019), and Mukhriz's wife Norzieta Zakaria (1995-2021).

Mahathir was the prime minister and finance minister when the contract was

awarded.

The plaintiff is suing the defendant over claims that the former had amassed wealth for personal riches while in power.

According to the defence, PKR president Anwar claimed that as the prime minister and finance minister at the material time, the plaintiff was in control of the Minister of Finance Incorporated (MOF Inc), which in turn held the golden share that allowed the government to make key decisions in Telekom, which carried out direct-negotiation with Opcom for the supply of fibre optics.

“At the material period, Opcom Cables were controlled by and/or belonging to the plaintiff’s family members as explained in Paragraph 60 (in the statement of defence). In other words, the plaintiff’s family members had substantial interests in Opcom Cables.

“Kencana Petroleum is and/or, for all intents and purposes, a company which belongs to and/or is controlled by Mokhzani.

“Despite having only been set up in 2001 and without any known track record, Kencana Petroleum was awarded a major fabrication licence by Petronas.

“The said fabrication licence was awarded to Kencana Petroleum at the time

when the plaintiff was the prime minister,” Anwar contended.

Bailout claim

In support of his justification defence, the defendant contended that during the 1997 financial crisis, the plaintiff as then prime minister and finance minister was behind the government bailout of several struggling companies, including KPB (now known as Pos Logistics Berhad), which saw Mirzan being its majority shareholder and director.

Anwar claimed that sometime after July 1997, he rejected a request from then finance minister Mahathir to bail out KPB, which had net liabilities of RM423.94 million for the financial year ending Dec 31, 1997.

The defendant claimed the plaintiff became upset with the former’s response, with the former allegedly claiming that Mirzan or he himself (Mahathir) would be embarrassed if the matter was presented to Parliament for debate.

“Despite the defendant’s refusal to entertain KPB’s request for financial assistance and his response to the plaintiff above, the defendant was later informed by Mohd Hassan Marican, who was the former president and CEO of Petronas, that the plaintiff had directed Petronas to bail out KPB,” Anwar alleged.

Anwar claimed that despite raising his objection about the move to Mahathir, the plaintiff ignored the objection and allegedly stated that Petronas was not under the control of the Treasury.

Petronas is subject to the direction of a sitting prime minister per Section 3 of the Petroleum Development Act 1974.

Anwar claimed that Mahathir's tenure as premier in the 1990s was tainted with cronyism, such as the plaintiff's alleged support of the financially-troubled company Perwaja Group.

Anwar claimed that auditor PricewaterhouseCoopers (PWC) - in its audit report handed to then-premier Mahathir in 1998 - had found gross mismanagement of Perwaja Group by its then chairperson Eric Chia and incriminating evidence that the plaintiff allowed Chia and its management to enter major contracts without tender and with no referral to the Perwaja Board and Treasury.

"Despite the findings made by PWC as explained, the plaintiff continued to support and/or did not take any action against Eric Chia and the management of the Perwaja Group. This is to the detriment of the Finance Ministry, public funds and the country," the defendant claimed.

Ulterior motive

Anwar also claimed Mahathir's lawsuit was filed with an ulterior motive as the latter never took any legal action against publications and prominent members of society who raised similar allegations.

He pointed out that Mahathir's civil action was only filed when the Pakatan Harapan chairperson became prime minister.

"The present action was filed with the aim of undermining the defendant's credibility as the current prime minister as well as the present federal government, and to create a racial divide in view of the upcoming state elections for Selangor, Negeri Sembilan, Penang, Kelantan, Terengganu, and Kedah.

"The plaintiff has recently made numerous and baseless public attacks on the present federal government led by the defendant for the sole purpose of undermining their credibility in view of the upcoming state elections for Selangor, Negeri Sembilan, Penang, Kelantan, Terengganu and Kedah," Anwar claimed.

The defendant claimed there is no basis for Mahathir's lawsuit as the former's allegedly defamatory statement could not lower, injure, and reduce the latter's reputation in the mind of the right-thinking members of society.

"The defendant avers that the reputation and credibility of the plaintiff have been

and will be judged on the basis of his own conduct.

“His malicious and baseless attacks on the present government led by the defendant in an attempt to redeem himself politically at any cost, including but not limited to instigating racial turbulence and undermining political, economic, and social stability, has led to him no longer being perceived as a credible person,” Anwar claimed.

Malay rights

The defendant noted that part of Mahathir’s attacks comprised of allegations that the present government is not properly upholding the rights of the Malays, among others.

“The plaintiff, who was prime minister for 22 years and 22 months and also the minister for finance and education for a substantial number of years, had every opportunity to create and implement policies to uplift the Malays. Instead, when no longer in power now, he raises these issues in an attempt to undermine the defendant and to remain politically relevant.

“Instead of prioritising the welfare of the Malays, the plaintiff’s tenure as prime minister was tainted with various financial controversies including bail-outs and privatisation policies which benefited a selected few, as opposed to the Malay

community at large.

“The state of the Malays, which is so criticised by the plaintiff now, is largely the result of his leadership since he has been the longest-serving prime minister of the country. The plaintiff’s current rhetoric was never matched by his actions when he was in positions of power,” Anwar claimed.

Mahathir lost his Langkawi parliamentary seat during the 15th general election last year.

Mahathir is represented by counsel Muhammad Rafique Rashid Ali, while lawyer Alliff Benjamin Suhaimi acted for Anwar.

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