

Felda settlers' victory opens Pandora's box
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Suddenly the term Felda settlers has taken on a new dimension. They braved threats from a politician and a federal agency that was supposed to look after their welfare, not to sue them.

The same agency had cheated them and was exposed yesterday when a court awarded the settlers damages amounting to RM11 million.

This marks the proud legacy of the Felda Kemahang 3 settlers, in Tanah Merah, Kelantan, who sued the Federal Land Development Authority (Felda) in 2002, for cheating them for six years over the extraction quality of their palm fruit.

Although Felda chairperson Yusof Nor was quoted by several newspapers today that the award was a result of the technicality brought about by the non-attendance of its lawyer at the hearing, one cannot deny retired Federal Court judge, Gopal Sri Ram and Justice James Foong's findings in their judgment.

Sri Ram in writing his last judgment before retiring noted that the Felda solicitors had been aware of the hearing date.

"In fact, solicitors for the applicants (settlers) took the unusual but cautious step of writing to the respondents' solicitors reminding them of the trial date. Despite this, neither counsel nor solicitors for the respondents were present," said the respected judge.

Present Federal Court judge Foong, when sitting at the Court of Appeal had said in his decision that Felda exists to assist the settlers.

NONE"Instead, we have here a situation of the first defendant (Felda) cheating the settlers. In a position of authority over the plaintiffs in the allotment of land in the said scheme, Felda had after the suit was filed, threatened to evict the plaintiffs from the scheme for pursuing the action.

"Such intimidation weighs against Felda. The third defendant (Felda Palm Industries Sdn Bhd) is no better since they are associated with or is part of Felda. Given the circumstances and having taken into account all other relevant factors into consideration, we are of the view that the trial judge's award of this amount is justified," Foong ruled in the majority decision.

All this is contained in the written judgments of the court annals.

These are the judges' findings and are not removed. If what Yusof said is right why is Felda now facing a slew of similar suits from settlers echoing that of the Felda Kemahang case?

Lawyer Yusfarizal Yusof, who represented the Kemahang settlers said Yusof's assertion was wrong as the High Court judge had also heard the testimony of witnesses and had evaluated the facts, before deciding the case on its own merits.

Felda must buck up

Lawyer and PKR politician Sivarasa Rasiah, representing 766 settlers in Felda Seriting and

Raja Alias (right), who had filed a RM200 million suit against Felda earlier this month said the statutory body must ensure the original purpose of its set-up, that is to assist the Malays is adhered to.

NONE "They have to return to the original objective of its setting up and not try and shortchange the settlers as alleged in the suit," he said.

"I think Najib who was present at Felda Seriting last night (Wednesday night) may have realised this and is trying to win them over those who had filed the suit.

"However, I do not think the settlers would be impressed by the efforts made by Najib," he said.

In the Felda Seriting and Raja Alias case, the settlers claimed they were paid on an oil extraction grade which averaged 18.9 percent, lower than the Malaysian Palm Oil Board's recommended 22 percent.

The settlers had sent their random samples of the fruit to two different independent laboratories and found the results showed the much higher rate of 24 and 25.5 percent, a difference of 6 to 6.5 percent over that of Felda Palm Industries's.

johor labis felda settlers court case 120609 01 Besides Felda Seriting and Raja Alias settlers who filed their suit this year, another 400 settlers in Felda Maokil, Labis (left) had last year filed a RM71.8 million suit against the federal authority in Johor Baru under similar circumstances.

PKR Felda Bureau chief Suhaimi Said was quoted to have said more suits will follow, including in Najib's home state of Pahang.

Suhaimi said the settlers had lodged police reports as far back as 10 years ago but they did not know anyone who could offer help.

Lawyer Wan Rohimi Wan Daud who represented the Felda Kemahang and Felda Maokil settlers also predicted that more will step forward to take legal action.

Feldda will be better prepared

Second generation settlers have also come up to question the Federal authority diverging from its original purpose and intent.

bersih ec constitutional putrajaya 181207 sivarasa Sivarasa (right) said he expects a battle following the yesterday's triumph by the Felda Kemahang settlers.

"Of course, following yesterday's victory I think Feldda will come better prepared. I think we are in for a tough time in courts."

"But we are prepared for any eventuality and buoyed by the success of the Feldda Kemahang settlers, we will help the settlers gain their right," he said.

Sivarasa said the settlers have toiled and work hard in their plantations, so they deserved to be well remunerated. There should have been no shortchanging of efforts as this is a basic right.

No more review

Another lesson to be learnt from the Felda Kemahang 3 case on the legal side is that there should be no review of a finding made by another panel by the Federal Court.

In the past many lawyers had argued the use of Rule 137 of the Federal Court the court's inherent jurisdiction where it states:

For the removal of doubts it is hereby declared that nothing in these Rules shall be deemed to limit or affect the inherent powers of the Court to hear any application or to make any order as may be necessary to prevent injustice or to prevent an abuse of the process of the Court.

palace of justice istana kehakimanThe ruling yesterday affirmed an earlier decision in the Anwar Ibrahim case to get documents, that the right to review is limited as it cannot overturn the decision of the other panel.

This was affirmed by President Court of Appeal Alauddin Md Sheriff in yesterday's decision when he ruled that the court does not have jurisdiction to hear the review, especially after another panel led by Chief Justice Zaki Azmi had arrived at a decision.

With this precedent being set , no decision of the apex court, the highest court in the land, can be subjected to review.

In the past, the Federal Court had exercised its power to review the Asean Security Paper Mill Sdn Bhd case, and following that a slew of reviews at the courts had been attempted.

But Justice Hashim Yusoff, who was also sitting at yesterday's proceedings, pointed out that there would have been no end to the issue if yesterday's review had been allowed.

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