

PUTRAJAYA: Judges can be criticised, the Court of Appeal said yesterday.

And contempt proceedings against the public and lawyers should be sparingly used, judge Datuk Gopal Sri Ram said.

"Oversensitivity to criticism will lead to intellectual ignorance or, even worse, intellectual arrogance," he said, adding that such proceedings were a powerful weapon in the judicial armoury.

As such, he said, only in the rarest of occasions should contempt action be taken as judges were not beyond criticism.

He said it would be contempt of court if a particular statement alleged that a judge took a bribe or a judicial officer was stupid.

Sri Ram made this remark in allowing an appeal by a British expatriate to set aside a fine, of RM3,000 by a lower court which had found him guilty of contempt.

The contempt proceedings stemmed from a civil suit between Tiew Keng Huat alias Teo Keng Huat and 12 members of the Pantai Panaroma Owners and Residents' Association in Kuala Lumpur.

In setting aside the conviction and fine, Sri Ram allowed an application by tax consultant Richard Thornton's counsel, Wong Kian Kheong, for higher costs to be paid as Tiew had interfered with the liberty of Thornton.

Sitting with Sri Ram were Datuk Suriyadi Halim Omar and Datuk Abdul Hamid Embong. Their decision was unanimous.

An elated Thornton, 73, told reporters outside the court, "I am overjoyed by the decision of this court".

Sri Ram said Thornton could not have committed contempt merely on the grounds of an error in an affidavit.

He described the proceedings as "a storm in a tea cup" and that there was no prima facie contempt against Thornton.

"His affidavit did not bring the justice system into disrepute nor was it a scurrilous attack on the judge," he said.

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Sri Ram said if the court started to act on erroneous affidavits, then it would be flooded with contempt of court cases.

"Such affidavits are filed by lawyers and some do not even know how to talk in court," he said.

Sri Ram said if the contempt jurisdiction was improperly exercised, the administration of justice would come to a grinding halt and this would be a terrible state

of affairs.

On Sept 8, 2003, Tiew filed an action against the 12, which included Thornton, seeking a declaration that he was a committee member of the association.

In November, the judge made a decision in favour of Tiew who then obtained a writ of sale and seizure, which included an order to enter Thornton's premises by force to recover costs.

Thornton applied to the court to vary the order through an affidavit on Dec 10, 2004 and filed an additional affidavit a month later.

That was when Tiew initiated contempt proceedings, against Thornton, alleging that he had made offending statements in one of his affidavits.

Among them were that the judge did not record any committal proceedings or take action against Thornton.

On Dec 8, last year, the High Court found Thornton guilty of contempt of court and fined him RM3,000.

He paid the fine but filed an appeal.