

# Najib has to answer charges

Prosecution manages to prove prima facie case

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**KUALA LUMPUR:** Come Dec 3, former prime minister Datuk Seri Najib Razak will have to answer the allegations that he had established SRC International Sdn Bhd for his private interest and used his position for the gratification of RM42mil of SRC funds to his own advantage.

High Court judge Justice Mohd Nazlan Mohd Ghazali said Najib's interest in SRC, a subsidiary of sovereign wealth fund 1Malaysia Development Bhd, could not be characterised as one that was entirely professional in the public office context.

"In my judgment, because of his position as the prime minister and the finance minister, he was able to cause the establishment of SRC, which although stated to be a strategic natural resources development company for the country, it was in truth designed to be and did become, for all intents and purposes, a vehicle utilised by the accused for his own private advantage," Justice Nazlan said at the end of the prosecution's case here yesterday.

The judge said Najib had an "overarching authority" in SRC where as the prime minister, he held the power to appoint and dismiss the directors as prescribed by the company articles, and as the sole shareholder of the company under the Ministry of Finance Inc (MOF Inc) and eventually as the adviser emeritus of SRC.

"In other words, the accused had established SRC for his private interest," Justice Nazlan said.

In his 22-page decision, which was read out for almost an hour, Justice Nazlan broke down his ruling into three segments; on abuse of power, criminal breach of trust and money laundering.

On abuse of power, he particularly highlighted Najib's failure to avoid a conflict of interest during Cabinet meetings and this had supplied the criminal intention against him - as it was shown that he had



**Day in court:**  
Najib leaving the Kuala Lumpur Courts Complex.

interests in SRC, a company that he controlled.

The evidence before the court, thus far, had shown that Najib participated in the decision-making process at the meetings of the Cabinet which he chaired where two Government Guarantees (GG) for the loans extended by the Retirement Fund Inc (KWAP) to SRC were approved.

"This clearly is a decision or action, at least on two occasions, taken by the accused in relation to the GG which was to guarantee KWAP the repayment of the loan by SRC, in which the accused had an interest.

"In fact the accused himself, as the prime minister who chaired the meetings, had tabled the Cabinet paper on the second GG at the meeting which approved the same on 8 Feb 2012," Justice Nazlan said, adding that there was no disclosure or attempt to excuse himself from the said meetings.

The RM4bil loans, the judge said, would not have been approved by

KWAP Investment Panel if not for the GG.

"SRC, the entity, was the subject matter of the decision to grant GG at these Cabinet meetings.

"Given the accused's control over SRC, the accused could cause the transfers of the company funds, in respect of the three transactions totalling RM42mil through intermediary companies, credited into his personal accounts and expended to his own advantage.

"This is gratification to the accused, pure and simple," he said.

On criminal breach of trust, Justice Nazlan found that Najib's position in the company had rendered him to fall squarely within the concept of a "shadow director" and any communication from the suspected shadow director ought to be objectively examined by the court in light of all the evidence.

The court also found Najib to have entrustment with dominion over the property of SRC, which was the RM42mil in funds.

Meanwhile, on the third aspect of

money laundering, the court found Najib to have knowledge that the RM42mil was proceeds of an unlawful activity or in the best case for the defence, the accused had failed without reasonable excuse to take steps to ascertain whether or not the RM42mil was the proceeds of an unlawful activity.

Justice Nazlan said the prosecution had successfully adduced credible evidence proving each and every essential ingredient of the offences of abuse of position for gratification, criminal breach of trust and money laundering as framed in the charges.

"As such, I now call upon the accused to enter his defence in respect of all seven charges," he said.

Najib is facing a maximum of 20 years in jail if found guilty of the charges.

Watch the video  
[thestartv.com](http://thestartv.com)

