

JUDGES: NAJIB'S CONDUCT A NATIONAL EMBARRASSMENT

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Appeal court upholds conviction, sentence and fine against ex-PM, stating that flow of RM42m from SRC into his personal accounts not done in national interest

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THE Court of Appeal yesterday branded Datuk Seri Najib Razak's conduct in the misappropriation of funds from SRC International Sdn Bhd, a former subsidiary company of 1Malaysia Development Berhad (1MDB), as a national embarrassment.

A panel of three judges branded him as such before ruling that his conviction, along with the 12-year jail sentence and RM210 million fine, for misappropriating RM42 million of the company funds should be upheld.

However, the court allowed Najib's application for a stay of execution of the sentence pending a further appeal at the Federal Court.

Najib's lawyers informed the court that they had filed the appeal immediately upon hearing the verdict.

Judge Datuk Abdul Karim Abdul Jalil, who chaired the bench alongside justices Datuk Has Zanah Mehat and Datuk Vazeer Alam Mydin Meera, delivered the ruling via video-conferencing at the Palace of Justice here.

Reading from a summary of the judgment, Karim said the flow of RM42 million from SRC into Najib's personal accounts was not something that could be said to have been done in national interest.

"There is no national interest here, just a national embarrassment," he said, noting that SRC had been set up as a strategic resource vehicle to maintain strategic stakes in key resources like coal, uranium and iron, as well as oil and gas.

The judge said Najib, 68, had been actively involved in ensuring the RM4 billion loan from the Retirement Fund Inc (KWAP) was disbursed to SRC, allegedly for the company to invest in such

resources.

However, he said, Najib became indifferent to the whereabouts of the funds once the money was released to SRC.

"He did not enquire from SRC as to what happened to the funds, how it was utilised and for what purpose. He even instructed the second finance minister then to keep off from SRC.

"This conduct can be indicative of only one thing and that is he was free to utilise it for his personal benefit."

Karim said Najib's fingerprint on SRC's wrongdoings could be seen right from its establishment, the loan application, intervention in the loan application and influence in the issuance of government guarantees for the loan.

He said Najib had even rushed the disbursement of the loan for non-existent investments.

"The evidence negates Najib's contention that he was motivated by national interest and not personal gain when he pushed the cabinet to issue the government guarantees for the loan."

The judges also ruled that there was ample evidence to show that Najib had complete control of SRC as he used his positions as prime minister and finance minister to exercise his authority over the company.

On the flow of the RM42 million, the court ruled that it was obvious the money belonged to SRC before it ended up in Najib's personal accounts.

"The money trail is all there. The evidence adduced by the prosecution shows the movement of the money was done through acts of dishonest misappropriation.

"The money not only ended up in his (Najib's) accounts, but was utilised by him."

On Najib's arguments that the transfer of funds had been done without his knowledge, the court found there was overwhelming evidence to show the banks had acted upon valid transfer instruc-

tions from SRC before finally being credited into his account.

Karim noted that Najib never complained about the funds ending up in his account, but was quite content to receive and utilise the funds.

"The natural thing for any account holder who has mistakenly or inadvertently received funds into his account would be to return it and correct the error.

"However, Najib never did any such thing."

On Najib's defence that the funds had been utilised for corporate, social responsibility projects, the judge said there was no evidence to support the assertion.

"The expenditures were for personal benefit of the appellant, directly and indirectly, and in some cases for political purposes to advance his own political career."

On the Arab donations defence, the court found Najib's argument that the money had been given to him by the Saudi Royal family as unbelievable.

"We, too, found this Arab donation defence untenable. Firstly, the evidence clearly shows that the funds originated from SRC. If it was a personal donation from the Saudis, there is no reason for it to be deposited into SRC's account, which is a government-linked company owned by the Ministry of Finance.

"We agree with the prosecution's contention that circumstances surrounding a letter allegedly issued by the Saudi Royalty clearly show it is a fabrication."

Karim said based on the evidence, it was clear the High Court did not make any mistake in convicting Najib.

"Najib had deliberately shut his eyes and chose not to verify the origins of the funds.

"At the same time, he spent the RM42 million for his own purposes and benefit."

The prosecution in Najib's case was led by Datuk V. Sithambaram, who was assisted by deputy public prosecutors Donald Joseph Franklin, Sulaiman Kho Kheng Fuei and Mohd Ashrof Adrin Kamarul, while Najib's defence was headed by Tan Sri Muhammad Shafee Abdullah.