

Court of Appeal affirms stand that Najib used position for gratification

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PUTRAJAYA: Datuk Seri Najib Razak closed his eyes and chose not to verify the origins of the millions that came into his bank accounts, says the Court of Appeal.

In a summary judgment, a three-man panel of the appellate court chaired by Justice Abdul Karim Abdul Jalil agreed with the trial judge at the High Court that Najib's contention that he had justifiable reasons not to suspect anything untoward in the flow of the RM42mil from SRC International Sdn Bhd was simply a "flawed" defence.

"The appellant had deliberately shut his eyes and chose not to verify

the origins of the funds, but instead relied wholly on others, whilst at the same time spending the RM42mil for his own purposes and benefit," he said in upholding Najib's conviction on three money laundering charges.

Najib was found guilty of three money laundering charges under Section 4(1)(b) of the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.

On the three charges of criminal breach of trust (CBT), where Najib was convicted under Section 409 of the Penal Code, the Court of Appeal found that the evidence had clearly

showed that monies - RM27mil, RM5mil and RM10mil - were transferred into Najib's accounts and utilised by him.

Justice Abdul Karim said the trial judge was right to hold Najib as an "agent" of SRC, who was entrusted with the dominion of the RM42mil from the company, which he dishonestly misappropriated and converted for his own use, resulting in a wrongful gain to him and wrongful loss to the 1Malaysia Development Bhd (1MDB)-linked company, adding that Najib failed to raise any reasonable doubt in the prosecution's case in respect to the CBT charges.

"Hence, we find the appellant's conviction on all three CBT charges is safe," he added.

The appellate court also found Najib's conviction for abuse of power under Section 23(1) of the Malaysian Anti-Corruption Commission Act to be safe.

Najib, in his defence, had said that his actions and decisions at two Cabinet meetings he chaired regarding SRC were done in the name of national interest.

Justice Abdul Karim said Najib's "fingerprints" could be seen from the time of SRC's formation, the SRC loan application to the Retirement

Fund Inc (KWAP), his intervention in the loan application, his influence in the approval of the government guarantees, the rushed disbursement of the RM4bil loan, among others.

"The appellant has since shown a total lack of interest in the usage of the RM4bil," the judge said.

The court said it did not find any error from the High Court in rejecting Najib's defence in respect to the power abuse charge.

"We find the charge against the appellant for using his position for gratification has been proven beyond reasonable doubt."