

NAJIB FAILS TO GET FREEZE ORDER LIFTED

Ex-PM prohibited from removing or disposing assets to the value of US\$681m until disposal of case

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THE High Court yesterday affirmed its decision to freeze Datuk Seri Najib Razak's assets and limit the former prime minister to withdraw only RM100,000 monthly.

Judge Atan Mustaffa Yusof Ahmad made the decision after dismissing Najib's application to set aside the Mareva injunction granted to 1Malaysia Development Bhd (1MDB).

A Mareva injunction is an order

that freezes a defendant's assets from being dissipated pending the outcome of a legal action.

According to the order for injunction, the former Pekan member of parliament must not remove or dispose of any of his assets up to the value of US\$681 million worldwide until the disposal of the case.

1MDB and its subsidiaries — 1MDB Energy Holding Ltd, 1MDB Energy Ltd, 1MDB Energy (Langkat) Ltd, and Global Diversified Investment Companies Ltd — filed a US\$8 billion suit against Najib and several others two years ago.

Atan Mustaffa ruled that the plaintiffs had demonstrated that Najib was unjustly enriched by US\$681 million at the plaintiffs' expense, without legitimate commercial purpose, legal entitlement, or consideration.

"The plaintiffs have successfully demonstrated a plausible evidential basis as the evidence underscores that the said monies

raised under the aegis of Najib, was funnelled through multiple entities and eventually made it into his personal account in a rather expeditious manner.

"The plaintiffs have shown that Najib dishonestly received US\$681 million in his Ambank account, a sum traceable to them and lacking any legitimate purpose. This act goes against the plaintiff's objectives and interests, thereby establishing a strong case for fraudulent misappropriation.

"This enrichment is considered unjust, especially as Najib admitted to receiving the sum but claimed it was a political donation from a Saudi royal, offering no valid defences," he said.

Atan Mustaffa said the plaintiffs had demonstrated that Najib, while serving as prime minister and finance minister, committed misfeasance in public office by abusing his authority.

"Najib directed the creation of the 2013 bond, which resulted in

the misappropriation of US\$1,592,311,599 including a transfer of US\$681 million to his personal account.

"This was done with either malicious intent or reckless indifference, causing harm to the plaintiffs and the public.

"Moreover, in the SRC criminal trial, an acknowledgement was made regarding the receipt of the said sum. This acknowledgement, viewed in the context of the application to strike out the defence of qualified privilege, signifies a tacit admission of having received the contested sum," he said.

Atan Mustaffa said Najib's interpretation of the standard required for a Mareva injunction, as compared with an interlocutory injunction, appeared more nuanced than substantively grounded in existing jurisprudence.

He said the SRC trial discussed the US\$681 million, which is central to the Mareva injunction application.

"Najib's defence in the SRC criminal trial is relevant and highlights the importance of the trial's findings to this civil suit.

"The judgment from the SRC criminal trial showed that Najib's explanation about the funds as Arab donations was not persuasive, raising questions about his claims," he added.

On May 10 last year, 1MDB filed a total of 22 suits against various parties, including Najib, to recover RM96.6 billion in assets.

The Finance Ministry in a statement said six of the 22 writs were filed by 1MDB, while the remaining 16 were by its former subsidiary SRC International Sdn Bhd.

The suits were filed by both entities to recover more than RM96.6 billion in assets, including about RM300 million against various local parties.

The writs filed by 1MDB are against nine entities, including two foreign financial institutions, and 25 individuals.