

Long delay leads to DNAA

Najib, Irwan freed of CBT case for now

By **NURBAITI HAMDAN**
nurbaiti@thestar.com.my

KUALA LUMPUR: After six years of waiting for documents, the High Court has decided to put aside the RM6.6bil criminal breach of trust (CBT) case involving Datuk Seri Najib Razak and Tan Sri Mohd Irwan Serigar Abdullah.

Both men were granted a discharge not amounting to an acquittal (DNAA) due to the "inordinate delay" by the prosecution in the case that began in 2018.

Yesterday, Justice Muhammad Jamil Hussin allowed a notice of motion for a DNAA filed by the former prime minister and former Treasury secretary-general.

In his brief grounds of judgment, Justice Muhammad Jamil said the prosecution did not comply with the Criminal Procedure Code (CPC).

"The trial could not proceed although hearing dates were fixed several times. This is an inordinate delay," he said.

The court noted that the prosecution failed to adhere to Section 51A of the CPC, which requires the accused to be provided with certain documents before the commencement of a trial.

Justice Muhammad Jamil then made the order for both accused to be given a DNAA from all six charges.

"The DNAA order does not prejudice the prosecution's case. The prosecution can still re-charge them," he said.

He also mandated the return of the bail money to the accused. Najib and Mohd Irwan had each paid RM1mil in bail.

Earlier, lawyers Tan Sri Muhammad Shafee Abdullah, who represented Najib, and Datuk Seri K. Kumaraendran, who represented Mohd Irwan, submitted that the court could use its inherent power to grant a DNAA even when there was no application by the prosecution.

"This case has been going on for too long. It's been six years. I pray your lordship will conclude it today," Kumaraendran said.



Not out of the woods yet: Najib (left) and Mohd Irwan Serigar.

The court had previously heard from the prosecution, led by Deputy Public Prosecutor Muhammad Saifuddin Hashim Musaimi, that they had no control over the declassification of confidential documents to be used in the trial.

The documents involved are from the Cabinet meetings, the Finance Ministry, the Natural Resources and Environmental Sustainability Ministry, and the Transport Ministry.

On Oct 25, 2018, Najib, 71, and Mohd Irwan Serigar, 67, pleaded not guilty to six charges of CBT amounting to RM6.6bil in government funds involving payments to the International Petroleum Investment Company (Ipic).

Najib and Mohd Irwan were jointly accused of committing all the offences at the Finance Ministry Complex, Putrajaya, between Dec 21, 2016, and Dec 18, 2017.

They were charged under Section 409 of the Penal Code read together with Section 34 of the same Code, which provides for a maximum of 20 years' jail and whipping as well as a fine upon conviction.

Mohd Irwan later described the DNAA as a vindication for him.

"I was confident that there would be no case against me because everything, including payments, was done according to government procedures and with the cabinet's approval.

"I am vindicated. Hopefully, I can go and perform my umrah now," he said.