

# Najib fails to reinstate suit against former A-G



**PUTRAJAYA:** Datuk Seri Najib Razak has failed in his bid to reinstate a RM1.9 million civil suit against former attorney-general Tan Sri Tommy Thomas (*pic*) over alleged misfeasance in public office arising from his prosecution in the 1Malaysia Development Bhd (1MDB) case.

A three-member Court of Appeal bench led by Datuk Ravinthran N. Paramaguru said yesterday they unanimously agreed with the Kuala Lumpur High Court's 2022 decision to dismiss the ex-prime minister's suit.

The court ordered Najib to pay Thomas RM12,000 in costs.

Najib, as the appellant, had sued Thomas, as respondent, for misfeasance, malicious process and negligence over the exercise of his prosecutorial discretion under Article 145(3) of the Federal Constitution over the 1MDB

and International Petroleum Investment Company (IPIC) cases.

Sitting with Datuk Wong Kian Kheong and Datuk Nadzarin Wok Nordin, Ravinthran, who read out the decision, said they disagreed with the High Court's decision that Thomas has immunity and that his actions were non-justiciable.

Ravinthran said the High Court also found that the civil suit filed by Najib was premature as the criminal cases had not even started when it was filed in 2021.

"With respect to the issue of immunity and justifiability, we disagree with the High Court's decision, as Article 145(3) does not confer immunity to the A-G with respect to civil suits taken against him personally.

"The cases cited by the High Court do not apply as there are criminal cases where the discre-

tion of the A-G was challenged.

"However, we agree with the High Court decision that since the criminal cases had not commenced when the civil suit was filed, the action for misfeasance, malicious process and negligence are clearly premature.

"We also find that the tort of malicious process does not exist in our law," he said.

In 2023, High Court judge Datuk Ahmad Bache ruled that Najib's suit against Thomas constituted a collateral attack on the prosecution of all criminal charges against the former.

In 2021, Najib filed the suit alleging he had been wrongly prosecuted for corruption in the 1MDB and IPIC cases as well as abuse of power under the Malaysian Anti-Corruption Commission Act 2009 and the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001.