

Najib loses bid against ex-AG

Appellate court rejects former PM's attempt to revive his RM1.9mil lawsuit

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

PUTRAJAYA: The Court of Appeal has dismissed an appeal by Datuk Seri Najib Razak to reinstate his RM1.9mil lawsuit against former attorney general Tan Sri Tommy Thomas over alleged public misfeasance.

A three-judge panel, chaired by Justice Ravinthran N. Paramaguru, said the appellate court agreed with the High Court's finding that Najib's civil suit was premature as the criminal cases

had not started when the suit was filed.

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

However, Justice Ravinthran said the appellate court disagreed with the High Court's finding on the issue of Thomas' immunity and that his actions were non-justiciable.

"With respect to the issue of immunity and justiciability, we disagree with the High Court's decision, as Article 145(3) of the

Federal Constitution does not confer immunity on the Attorney General with respect to civil suits taken against him personally.

"The cases cited by the High Court do not apply, as there are criminal cases in which the discretion of the Attorney General was challenged," he said.

The court then dismissed Najib's appeal with costs of RM12,000..

Other judges on the panel were Justices Wong Kian Kheong and Nadzarin Wok Nordin.

Najib was appealing against the

decision by the High Court on Nov 25, 2022, that struck out his lawsuit against Thomas over claims that Thomas had committed misfeasance in public office when he was prosecuted in the 1Malaysia Development Bhd (1MDB) cases.

In his lawsuit, Najib claimed that Thomas had acted maliciously in preferring the charges against him, in relation to the 1MDB and International Petroleum Investment Company (Ipic) cases.

Thomas served as AG from June 4, 2018, to Feb 28, 2020.

Najib sought a court declaration that Thomas committed the tort of misfeasance in public office.

He is also claiming special damages of RM1.9mil comprising costs incurred for engaging an audit team to review documentation and prepare his defence for the criminal proceedings.

Najib's lawyer Datuk Firoz Hussein Ahmad Jamaluddin told the press that he would take instructions from Najib on whether to appeal the Court of Appeal's decision.