

Speech Act doesn't stop Najib from suing WSJ, says lawyer
Malaysian Insider
Feb 24, 2016

The Speech Act does not protect The Wall Street Journal (WSJ) from being sued, says lawyer Azhar Harun in rejecting the explanation that the US law made it difficult for the prime minister to sue the daily for defamation.

Azhar, also known as Art Harun, said the act did not protect WSJ from being sued, but meant that a defendant, if he or she won a defamation case in Malaysia, would not be able to "enforce" the Malaysian court's judgment in the US.

This inability to enforce the court's judgment in the US should matter less than the fact that winning the suit would clear Najib's name, he added.

"(The Speech Act) means if a defamed person sues WSJ in (Malaysia)... that person may win the suit if he or she could prove his or her case.

"However, the Speech Act does not enable that person to go to America... to seek to enforce the (Malaysian) defamation judgement that he or she obtains.

"Meaning, if the (Malaysian) courts awards him or her (compensation), he or she cannot go to (the US) to seek to make WSJ pay," Art said on his Facebook page today in response to an explanation by Yuktes Vijay, the special officer at the Prime Minister's Office.

Yuktes said since the act provided protection against foreign libel judgments, Prime Minister Datuk Seri Najib Razak would find it hard to "pursue the matter".

"The implication of this act makes it difficult for the prime minister to bring a suit against WSJ. He said unlike the United Kingdom's legal system, which placed the burden to prove a statement on the defendant, which in the prime minister's case would be WSJ, the US legislation placed the justification of bad intent on the defendant."

Art said the effect of the act would only be to prevent Najib from obtaining monetary compensation and questioned whether this was really important.

"Would Najib be more concerned to obtain monetary compensation or to protect his reputation by proving in court that WSJ is (lying)?"

"Wouldn't it do much to his repute to sue... WSJ and win his case even though he can't enforce any judgement for monetary compensation," he said.

Other lawyers in October last year also said Najib seeking damages was secondary to clearing his name.

WSJ broke the news in July last year about RM2.6 billion that went to Najib's personal

bank accounts, of which the largest sum of US\$681 million was transferred before the general election in May 2013.

WSJ has been reporting regularly on the case and its finance editor Ken Brown recently said the money did not come from the Saudis but from a few companies and bank accounts that were "related" to state-owned investment firm 1Malaysia Development Berhad.

Najib, Malaysia's anti-graft agency and the attorney-general (A-G) have said the money was a political donation from the Saudi royal family.

The A-G said a large portion of it had been returned to the donor as it was not used.
– February 24, 2016.

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