

**Court verdict – ‘ Sun rises in the east’ and Najib did no wrong in 1 MDB  
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The Court of Appeal explained that judicial notice can be taken if a matter is considered as a fact, for example, “the sun rises in the east and sets in the west”.

Justice Yaacob Md Sam, who wrote the unanimous decision last week, said this in relation to the appeals court taking judicial notice that Prime Minister Najib Abdul Razak did not commit any wrongdoing with regard to 1MDB.

This was based on the much-publicised press conference by attorney-general Mohamed Apandi Ali on Jan 26, 2016 and the MACC's statement.

Justice Yaacob said the findings by the AG and the MACC were widely reported and the fact that they were in the public domain cannot be disputed.

"The fact that such findings were therefore notorious also, cannot in all fairness, be entertained as a serious contention.

"We are of the considered view that judicial notice ought to be taken by this court of the fact that the AG had made a decision that the plaintiff did no wrong (Najib) in regard to the 1MDB issue. Such a decision by the AG is within the framework of our Federal Constitution i.e. Article 145, final.

"The facts had therefore been established without the need of further formal proof of the same by witnesses," he added in the 33-page judgment, which was obtained today.

Therefore, Justice Yaacob said it is sufficient that Najib had proven that the injunction imposed on DAP lawmaker Tony Pua (*photo*) is justified.

Justice Yaacob said this in his decision to [dismiss](#) Pua's appeal to set aside a High Court's interim injunction against him obtained by Najib.

The other two judges in the three-member Court of Appeal panel were Abang Iskandar Abang Hashim and Zaleha Yusof.

Najib had filed a defamation suit against Pua last April. This was over a Facebook live session in which the DAP MP alleged that Umno and PAS had colluded to table the amendment of the Syariah Courts (Criminal Jurisdiction) Act (Act 355) to divert attention from 1MDB.

Justice Yaacob agreed that Pua's claims of collusion and Najib being the “biggest thief” in the country were defamatory.

He said the issue of collusion was merely an assumption whereas the 1MDB issue had already been explained.

### **'Done no wrong'**

With regard to the judicial notice, Justice Yaacob cited Section 57 of the Evidence Act.

Here, Justice Yaacob said Najib argued that the AG had cleared him with regard to the RM2.6 billion allegation. The judge cited the press statement issued by Apandi.

Justice Yaacob also said the bench agreed with Najib's lawyer Mohd Hafarizam Harun's submission that 1MDB had been scrutinised and investigated by the Parliament's Public Accounts Committee.

He noted that investigations were carried out by the police, MACC, Bank Negara and the AG's Chambers and the findings were disclosed to the public.

"The plaintiff (Najib) had done no wrong in relation to the 1MDB allegation," the judge said.

Although this was an application to dismiss Pua's appeal against the interim injunction, Justice Yaacob however went further to state that the Petaling Jaya Utara MP's defence of justification, fair comment and qualified privilege were bound to fail.

Following the judgment, numerous politicians pointed out that Apandi's press statement was related to MACC's investigation of SRC International Sdn Bhd, a former 1MDB subsidiary.

Last November, Deputy Prime Minister Ahmad Zahid Hamidi [revealed](#) that the police have resubmitted their investigation papers on 1MDB to the AG's Chambers. There has been no development since then.

Pua has vowed to appeal the Court of Appeal's decision.

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