

JUDGMENT Express

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Loyal Synergy Sdn Bhd
v. Pentadbiran Tanah Daerah Timur Laut
Pulau Pinang

[2026] 4 MLRA

LOYAL SYNERGY SDN BHD

v.

PENTADBIR TANAH DAERAH TIMUR LAUT PULAU PINANG

Court of Appeal, Putrajaya

Lim Chong Fong, Ahmad Fairuz Zainol Abidin, Evrol Mariette Peters JJCA

[Civil Appeal No: P-01(A)-372-06-2024]

25 February 2026

Land Law: Acquisition of land — Appeal against order of High Court allowing in part, application for increase in compensation and rejecting claim for higher rate of compensation — Written opinions of assessors relied on by Judge in determining compensation payable not disclosed to parties prior to delivering decision — Whether Judge erred in failing to provide parties with written opinions — Whether Judge disregarded Federal Court’s pronouncement in Tegas Sejati Sdn Bhd v. Pentadbir Tanah Dan Daerah Hulu Langat & Anor — Law to be applied where appeal remained pending

The respondent had awarded compensation of RM1 million to the appellant for the acquisition of 452 square meters of the appellant’s land, based on a valuation of RM2,212.39 per square meter. The appellant contested the award and applied for a higher market value of RM4,377.62 (‘higher rate’) based on the report of its valuer, who had used different comparable transactions. The High Court Judge (‘HCJ’) relied substantially on the written opinions of 2 assessors who had assisted the court, and allowed the appellant’s application in part by increasing the total compensation payable to RM1,200,400.00, and rejected the claim for the higher rate. The written opinions were not disclosed to the parties prior to the delivery of the said decision. Hence the instant appeal which turned on the single determinative issue of whether the HCJ had erred in failing to provide the parties with the written opinions. The appellant contended that the HCJ had disregarded the Federal Court’s pronouncement in *Tegas Sejati Sdn Bhd v. Pentadbir Tanah Dan Daerah Hulu Langat & Anor* (‘*Tegas Sejati*’) that the constitutional right to adequate compensation under art 13 of the Federal Constitution required transparency and fairness in land reference proceedings, and that s 40C of the Land Acquisition Act 1960 mandated the disclosure of the assessors’ written opinions to the relevant parties and the inclusion of the same in the record of proceedings and appeal. The decision in *Tegas Sejati*, however, was not brought to the attention of the HCJ by the appellant.



Held (allowing the appeal; ordered accordingly):

(1) The use of the written opinions of the assessors as a foundation for the court's decision, while denying the parties sight of them, was to deny the parties the right to be heard on a central component of the case and offended the core principle of *audi alteram partem*. (para 14)

(2) It was untenable for the appellant to contend that the HCJ had disregarded *Tegas Sejati* when the same was never brought to the attention of the HCJ in the first place, and to criticise the HCJ for failing to consider an authority which was never cited or relied upon by the appellant in the proceedings before the High Court. (para 22)

(3) The court in this instance was bound by the pronouncement in *Tegas Sejati* and must give effect to the same. The binding force of a Federal Court's pronouncement attached not to the date of the trial but to the point of appellate determination. Where an appeal remained pending, the law to be applied was the law as declared by the apex court at the time the appellate court rendered its decision. To hold otherwise would compel appellate courts to knowingly affirm errors of law, thereby endorsing decisions that the Federal Court had pronounced to be untenable. (paras 23 & 25)

(4) The Federal Court in *Tegas Sejati* had intended that such written opinions be disclosed to the parties at the stage that would enable the parties to make meaningful submissions both to the court and, where relevant, to the assessors prior to the delivery of the decision. Any other interpretation would render the pronouncement in *Tegas Sejati* devoid of practical utility and undermine its very purpose. (para 28)

(5) To suggest that the parties could have adequately and fairly advanced their case without access to the very data underpinning the court's reasoning was contrary to both logic and fundamental notions of procedural fairness. (para 30)

Case(s) referred to:

China Airlines Ltd v. Maltran Air Corp Sdn Bhd & Another Appeal [1996] 1 MLRA 260 (refd)

Ikris Bina Sdn Bhd v. Jianseng Construction Sdn Bhd [2019] MLRHU 1262 (refd)

JCT Limited v. Muniandy Nadasan & Ors and Another Appeal [2016] 2 MLRA 562 (refd)

Ling Peek Hoe & Anor v. Ding Siew Ching & Another Appeal [2017] 4 MLRA 372 (refd)

Multar Masngud v. Lim Kim Chet & Anor [1981] 1 MLRA 157 (refd)

Ng Hoo Kui & Anor v. Wendy Tan Lee Peng & Ors [2020] 6 MLRA 193 (refd)

Tegas Sejati Sdn Bhd v. Pentadbir Tanah Dan Daerah Hulu Langat & Anor And Another [2024] 3 MLRA 272 (folld)



UEM Group Bhd v. Genisys Integrated Engineers Pte Ltd & Anor [2010] 2 MLRA 668 (refd)

Watt or Thomas v. Thomas [1947] AC 487 (refd)

Woon Ngee Yew And Ors v. Ng Yoon Thai And Ors [1940] 1 MLRA 481 (refd)

Legislation referred to:

Federal Constitution, art 13

Land Acquisition Act 1960, s 40C

Counsel:

For the appellant: Tan Kah Hoo (Loh Li Lian with her); M/s Gan Teik Chee & Ho

*For the respondent: Syarifah Syazwani Syed Hussin (Siti Zuhairah Zulkifli with her);
State Legal Advisor*

[For the High Court judgment, please refer to *Loyal Synergy Sdn Bhd lwn. Pentadbir Tanah Daerah Timur Laut Pulau Pinang* [2024] MLRHU 984]

JUDGMENT

Evrol Mariette Peters JCA:

Introduction

[1] This was an appeal against the compensation awarded by the High Court to the Appellant, whose property was compulsorily acquired by the Respondent under the Land Acquisition Act 1960 (“Land Acquisition Act”) for a road project.

The Factual Background

[2] The case concerned the compulsory acquisition by the Respondent of 452 square meters from a larger parcel of land owned by the Appellant in Penang.

[3] The Respondent had initially awarded compensation of RM1 million to the Appellant based on a valuation of RM2,212.39 per square meter. Dissatisfied, the Appellant contested this in the High Court, arguing for a significantly higher market value of approximately RM4,377.62 per square meter, which it claimed was supported by its valuer’s report, who used different comparable transactions.

[4] During the proceedings at the High Court, two assessors were appointed to assist the learned High Court Judge (“the Assessors”). Their written opinions (“the Written Opinions”) were pivotal to the final decision of the learned High Court Judge, who had increased the compensation to RM2,450.00 per square meter.

[5] The learned High Court Judge had, therefore, allowed the Appellant’s application in part, increasing the total compensation from RM1 million to



RM1,200,400.00, but rejected the Appellant's claim for the higher rate of RM4,377.62 per square meter.

[6] The Appellant, dissatisfied, appealed to this Court ("this Appeal").

The Issues

[7] Although the Appellant had advanced numerous grounds of appeal, including constitutional objections under art 13 of the Federal Constitution and challenges to the valuation methodology adopted, we were of the considered view that this Appeal ultimately turned on a single, determinative issue, namely, whether the learned High Court Judge had erred in failing to provide the Parties with the Written Opinions.

[8] We allowed the Appeal based on the following reasons.

Contentions, Evaluation And Findings

[9] The starting point for an appellate court is the presumption that any decision appealed against is correct in every respect. Therefore, to succeed in this Appeal, the Appellant in the present case must convince this Court that the decision appealed against was wrong; and if this Court was not so convinced, this Appeal would fail.

[10] This principle, expounded in *Watt or Thomas v. Thomas* [1947] AC 487, has been assimilated into Malaysian jurisprudence through several cases including *Ng Hoo Kui & Anor v. Wendy Tan Lee Peng & Ors* [2020] 6 MLRA 193, *UEM Group Bhd v. Genisys Integrated Engineers Pte Ltd & Anor* [2010] 2 MLRA 668 and *Ikris Bina Sdn Bhd v. Jianseng Construction Sdn Bhd* [2019] MLRHU 1262.

[11] However, this does not mean that the hands of the appellate court are tied. The exception to the general rule mentioned above is when the findings are clearly wrong: *China Airlines Ltd v. Maltran Air Corp Sdn Bhd & Another Appeal* [1996] 1 MLRA 260; or where crucial evidence has been misconstrued, or disregarded: *Multar Masngud v. Lim Kim Chet & Anor* [1981] 1 MLRA 157; or if the trial judge is shown to have misdirected himself on the evidence, or to have rejected evidence for a wrong reason, or to have drawn an inference from evidence which was equally capable of supporting a different inference, it then may be the duty of an appellate court to interfere: *Woon Ngee Yew And Ors v. Ng Yoon Thai And Ors* [1940] 1 MLRA 481.

[12] In *Woon Ngee Yew And Ors v. Ng Yoon Thai And Ors*, it was stated by McElwaine CJ in the following passage:

An Appellate Court should be very loath to differ on a finding of fact by a Court which has seen and heard the witnesses but if the learned Judge can be shown to have misdirected himself on the evidence, or to have rejected evidence for a wrong reason or to have drawn an inference from evidence which was equally capable of supporting a different inference it may be the duty of an Appellate Court to interfere.



Whether The Learned High Court Judge Erred In Failing To Provide Parties With Written Opinions

[13] The learned High Court Judge, in determining the compensation payable for the acquired land, relied substantially upon the Written Opinions. It was an uncontroverted fact, evident from the record, that the Written Opinions were not disclosed to the Parties prior to the delivery of the decision of the learned High Court Judge.

[14] The principles governing the conduct of a land reference hearing are clear. While a judge is not bound by the opinions of assessors, their written opinions form crucial evidence which the court must consider. The parties, in turn, must be afforded a reasonable opportunity to address that evidence. To use the reports as a foundation for the court's decision while denying the parties sight of them is to deny the parties the right to be heard on a central component of the case. This offends the core principle of *audi alteram partem*.

[15] This Court drew guidance from the authoritative pronouncement in *Tegas Sejati Sdn Bhd v. Pentadbir Tanah Dan Daerah Hulu Langat & Anor And Another* [2024] 3 MLRA 272. In that case, the Federal Court affirmed that the constitutional right to adequate compensation under art 13 of the Federal Constitution requires transparency and fairness in land reference proceedings. It was further held by the Federal Court that s 40C of the Land Acquisition Act mandates the disclosure of the assessors' written opinions to the relevant parties and their inclusion in the record of proceedings and appeal.

[16] Section 40C of the Land Acquisition Act and art 13 of the Federal Constitution read:

Land Acquisition Act 1960

Section 40C - Opinion of assessors

The opinion of each assessor on the various heads of compensation claimed by all persons interested shall be given in writing and shall be recorded by the Judge.

Federal Constitution

Article 13 - Rights to property

- (1) No person shall be deprived of property save in accordance with law.
- (2) No law shall provide for the compulsory acquisition or use of property without adequate compensation.

[17] The failure to disclose the assessors' written opinions to the parties in *Tegas Sejati* had breached procedural fairness and amounted to non-compliance with s 40C of the Land Acquisition Act. The Federal Court, in that case, had rejected the view that written opinions of the assessors were merely internal or immune from scrutiny, emphasising that parties must have the opportunity to



review and respond to material influencing compensation. The appeal in *Tegas Sejati* was, therefore, allowed and the matter remitted for rehearing before a different High Court Judge.

[18] A further issue that had engaged our consideration was whether the decision in *Tegas Sejati* was applicable to the present appeal, particularly in light of the fact that it had not been raised before the learned High Court Judge at the time His Lordship delivered the impugned decision.

[19] Upon a careful perusal of the record and the relevant cause papers, it became evident that the Federal Court's decision in *Tegas Sejati* had never been brought to the attention of the learned High Court Judge. There was nothing to suggest that it was cited, relied upon, or even alluded to by any of the Parties during the proceedings below.

[20] This omission was all the more significant considering that the Appellant's submissions were filed in March 2024, subsequent to the delivery of the Federal Court's decision on 29 February 2024. Notwithstanding the availability of that decision at the material time, no reference whatsoever was made to *Tegas Sejati* in those submissions.

[21] In fact, the Appellant had only sought disclosure of the Written Opinions in June 2024, which was well after the learned High Court Judge had delivered his decision on 10 May 2024 and had issued his written grounds of judgment on 15 May 2024. The chronology was, therefore, significant: by the time the request was made, the adjudicative process at first instance had already been concluded. We further observe that, upon receiving the request, the learned High Court Judge had duly furnished the Written Opinions to the Appellant in June 2024.

[22] In these circumstances, we were of the considered view that it was untenable for learned Counsel for the Appellant to contend that the learned High Court Judge had disregarded the Federal Court authority of *Tegas Sejati*. Since it was never brought to the attention of the learned High Court Judge in the first place, it does not lie in the mouth of Counsel to criticise the learned High Court Judge for failing to consider an authority which Counsel himself had not cited or relied upon during the proceedings below.

[23] Be that as it may, the fact remains that the Federal Court's decision in *Tegas Sejati* had in fact been delivered prior to the decision of the learned High Court Judge. As an appellate court, we are bound by that pronouncement and must give effect to it.

[24] In any event, the cases of *Ling Peek Hoe & Anor v. Ding Siew Ching & Another Appeal* [2017] 4 MLRA 372 and *JCT Limited v. Muniandy Nadasan & Ors and Another Appeal* [2016] 2 MLRA 562 affirm that it would be both jurisprudentially incongruous and fundamentally unjust for an appellate court, hearing a live



appeal, to uphold a legal position later declared erroneous by the Federal Court simply because the lower court's decision predated that authoritative ruling.

[25] The binding force of a Federal Court pronouncement attaches not to the date of the trial, but to the point of appellate determination. Where an appeal remains pending, the law to be applied is the law as declared by the apex court at the time the appellate court renders its decision. To hold otherwise would compel appellate courts to knowingly affirm errors of law, thereby endorsing decisions that the Federal Court has pronounced to be untenable.

[26] We further noted that, although the Respondent had acknowledged the binding pronouncement in *Tegas Sejati* that the Written Opinions ought to be furnished to the Parties, Counsel nevertheless sought to characterise the learned High Court Judge's failure to do so as a mere technical or immaterial irregularity. Counsel for the Respondent additionally contended that *Tegas Sejati* did not prescribe the timing for the provision of such Written Opinions, and that it was sufficient that they were eventually supplied after the grounds of judgment had been issued.

[27] We were of the view that this position was untenable. The Written Opinions were not peripheral to the adjudicative process; they were central and instrumental to it. They formed an integral part of the evidential and analytical framework upon which the Court arrived at its determination.

[28] It was plain that the Federal Court in *Tegas Sejati* intended that such Written Opinions be disclosed to the parties at a stage that would enable them to make meaningful submissions both to the Court and, where relevant, to the Assessors, prior to the delivery of the decision. Any other interpretation would render the pronouncement in *Tegas Sejati* devoid of practical utility and undermine its very purpose.

[29] Such conclusion was further reinforced by the learned High Court Judge's grounds of judgment, which meticulously set out the Court's analysis and acceptance of the various adjustments proposed by the Assessors, encompassing factors such as time, location, size, terrain, shape, and frontage. The final compensation awarded was, in essence, a mathematical derivation from these assessed variables.

[30] In such circumstances, to suggest that the Parties could have adequately or fairly advanced their case without access to the very data underpinning the Court's reasoning was contrary to both logic and fundamental notions of procedural fairness.

Conclusion

[31] In the upshot, based on the aforesaid reasons, and after judicious consideration of all the evidence before this Court, submissions of both Parties, and grounds of judgment of the learned High Court Judge, we unanimously allowed this Appeal, with the following Orders:



- a) The Judgment and Order of the High Court are set aside;
 - b) The matter is remitted to the High Court for a rehearing;
 - c) There shall be a specific direction that any written opinion or report provided by any assessor appointed for the rehearing shall be furnished to the Parties within a reasonable time prior to the hearing of the submission of final arguments; and
 - d) There shall be no order as to costs.
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