



JUBILANT: The plaintiffs with other members from the Temuan tribe outside the court yesterday.

Court affirms land belongs to Orang Asli

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PUTRAJAYA, Mon. — The Court of Appeal today affirmed the decision of a lower court which declared that a 15.39ha plot in Kampung Bukit Tumpoi, Dengkil, belonged to seven Orang Asli from the Temuan tribe.

Judge Datuk Gopal Sri Ram said the Orang Asli had ownership of the land under a customary community title of a permanent nature.

"The trial judge did not fall into any error when he held that the Orang Asli had rights to the land," he said in his 59-page judgment.

Concurring with Sri Ram in the unanimous decision were Datuk Arifin Zakaria and Datuk Nik Hashim Nik Abdul Rahman. They have since been elevated to the Federal Court.

The land was acquired by the Government to build the Kuala Lumpur-Nilai highway in 1995.

The plaintiffs — Sagong

Tasi, 73, Kachut Tunchit, 40, Dabat Chabat, 74, Kepal Kepong, 64, Sani Saken, 37, Ilas Senin, 42, and Tok Batin Tukas anak Siam, 54 — sued the Selangor Government, the Federal Government, the Malaysian Highway Authority (MHA) and United Engineers (M) Bhd for loss of their land and dwellings.

The four defendants appealed against the decision while the Orang Asli cross-appealed.

Sri Ram said the appellate court also agreed with the April 2002 ruling of the High Court in Shah Alam that the Orang Asli be compensated under the Land Acquisition Act 1960, which paid a higher amount, instead of the Aboriginal People's Act 1954.

"The Aboriginal People's Act deals only with claims which the Orang Asli may have for fruit or rubber trees. It has nothing to do with the deprivation of their customary land," he said.

The appellate court also

allowed the cross-appeal of the Orang Asli for exemplary damages, which the High Court did not order.

Sri Ram said high-handed tactics were employed by MHA but it was fortunate the police were present to keep the peace.

He said the plaintiffs' houses and meeting halls were forcibly demolished and they were asked to go and fend for themselves "in unkind weather".

"Looking at the evidence in totality, I am satisfied that this is a proper case for an award for exemplary damages," he said.

Sri Ram remarked that the incident was a sad case because of the treatment the Orang Asli received from the defendants, especially the State that was supposed to protect them.

Datuk Dr V. Cyrus Das, who appeared for the Orang Asli, said the decision was strong vindication of the land rights of the Orang Asli in the peninsula.