

Messrs Jerald Gomez & Associates were solicitors for the plaintiffs in this suit filed against Bank Kerjasama Rakyat Malaysia Berhad, a lawyer and 3 other persons. The claim for misrepresentation, negligence, fraud and breach of trust revolves around a 10-acre parcel of land in Penang worth RM 7.5 million.

4 • The Sun / Thursday / August 23, 2001

National News

Five sued over purchase of land

By S. Tamarai Chelvi

JALA LUMPUR, Wed: An elderly couple, saddled with a RM23.5 million loan payment, are suing the purchaser of their land and four others for alleged breach of trust and misrepresentation.

Ismail Mohamad, 75, and Saadiah Abdullah, 64, allege that the buyer of their land, Ismail Husin, charged the land to a bank to return for a RM16 million loan.

They claim that Ismail charged the three pieces of land, using the original title deeds, to secure a loan for a company in which he holds equity.

The suit, filed through Messrs Jerald Gomez &

Associates on Dec 23, 1999, will be heard before judge Datuk Arifin Zakaria tomorrow.

Lawyer Abdul Aziz Ahmad, his law firm Messrs Sajali & Aziz, Bank Kerjasama Rakyat Malaysia Berhad, and Vest Hong Enterprise Sdn Bhd are also named as the defendants.

The couple, in their statement of claim, say Ismail approached them and agreed to buy their properties in Seberang Perai Selatan, Penang for RM7.5 million.

They say Ismail asked them to enter a sales and purchase agreement on July 30, 1999 and agreed to pay RM200,000 as deposit - RM150,000 to be paid upon execution of the agreement and the remaining

RM50,000 one month after that.

They say Ismail assured them the full payment would be made within two months.

The couple claim that on July 26, 1999, the bank approved a RM16 million loan to Vest Hong for the purchase of machinery and working capital.

They allege that Ismail and Aziz released the title deeds to the bank as security for the loan and that under the charge, they are liable to repay at least RM23,528,346.

They are seeking a declaration that the charge over their properties is null and void.

They also want a rescission of the sales and purchase agreement and an order for the title deeds to

be returned to them.

In the alternative, they want Ismail to perform his part by paying RM7.3 million for the land.

Ismail, Aziz and his law firm, in their defence, deny liability or making any representations to the plaintiffs.

Ismail claims that he had informed the couple that he was purchasing the properties on behalf of Vest Hong.

The bank said it has no knowledge of the fraud and confirmed that the signature on the charged document belonged to the plaintiffs.

Vest Hong contends that it purchased the properties from Ismail as the beneficial owner and that the transaction was done with the plaintiffs' knowledge and consent.

NEW STRAITS TIMES

NEW STRAITS TIMES, THURSDAY 2003 9th OCTOBER

NATION

14 TUESDAY, AUGUST 5, 2003

Lawyer panicked, says witness

KUALA LUMPUR, Mon. — A son-in-law of an elderly couple, who claimed to have been misrepresented by a lawyer in a RM7.5 million land sale, said the lawyer panicked when he confronted him three months after the sale and purchase agreement was signed.

Azlan Hassan, 42, said he, together with a woman lawyer by the name of Kim, confronted lawyer Abdul Aziz Ahmad at his office in late October 1999 after he (Azlan) went to Bank Kerjasama Rakyat Malaysia Berhad (Bank Rakyat) to find out why the bank had not released a loan.

The loan was to Ismail Husin, who had purchased a 10-acre (4.5ha) land belonging to Azlan's in-laws, Ismail Mohamad, 76, and his wife Saadiah Abdullah, 65, who claimed they had yet to receive the full payment.

(The SPA was signed on July 30, 1999.) Cross-examined by counsel Azlan Khamis, representing Aziz and the legal firm Sajali & Aziz, Azlan Hassan said during the meeting, Aziz had shown him and Kim several documents such as a mortgage form and a loan offer letter, which he had never seen before.

Azlan, who was asked by his in-laws to pursue the payment, said Aziz "looked panicky when Miss Kim posed so many questions to him".

Asked by the couple's counsel, Jerald Gomez, during re-examination to elaborate, Azlan said: "His spectacles and the pen he was holding fell when he showed me the documents which I had never seen before."

Azlan was testifying in a suit brought by his in-laws against Ismail Husin, Aziz, the legal firm, Bank Rakyat and Vest Hong Enterprise Sdn Bhd for alleged misrepresentation, negligence, fraud and breach of trust over the SPA for the land in Seberang Perai Selatan, Penang.

In their statement of claim dated Dec 23, 1999, they alleged that Ismail Husin and Aziz never told them that, among others, the bank had approved a RM16 million loan facility to Vest Hong Enterprises to finance the purchase of machinery.

They claimed that the loan was not for financing the purchase of the land and that the title deed had been released to the bank as security for the loan facility.

The couple want, among others, a declaration, a rescission of the SPA and an order that the title deed be returned free from encumbrances.

In their defence, Ismail Husin, Aziz, the legal firm, and the bank denied that they had attempted to cheat or defraud the couple. Vest Hong Enterprise claimed that the couple had consented to execute a charge on the property in favour of the bank in order to make certain payments.

Hearing continues on Wednesday.

Broker: I wanted to find buyer for 4.5ha land

KUALA LUMPUR, Wed. — A 51-year-old self-employed man who purchased three parcels of land in Penang for RM7.5 million about four years ago told the High Court today that he had no intention of buying the land when he first met the owners in 1996.

"I wanted to find a buyer for the land and did not discuss buying the land for myself," said Ismail Hussin, who describes himself as a land broker with no fixed income.

He agreed with counsel Mohd Fuad Husaini, who represented Bank Kerjasama Rakyat Malaysia, that with his unreliable income he could not afford to buy the land or obtain financing to purchase it.

Fuad was cross-examining Ismail Hussin at the hearing of a suit by Ismail Mohamad and wife, Saadiah Abdullah, for alleged misrepresentation, negligence and breach of trust over the sale and purchase agreement for the land covering 4.5ha in Seberang Perai Selatan, Penang.

The couple named Ismail Hussin, lawyer Abdul Aziz Ahmad, Messrs Sajali & Aziz, Bank Kerjasama Rakyat Malaysia Berhad and Vest

Hong Enterprise Sdn Bhd as defendants.

During cross-examination by counsel Azlan Khamis, who represented Abdul Aziz and the legal firm, Ismail Hussin said he purchased the land from the couple to help his friend, Zulkifli Jalaluddin, obtain a bank loan for Vest Hong from Bank Rakyat.

He also said before signing the SPA for the land with Ismail Mohamad and Saadiah, he did not tell them that he was re-selling the land at a higher price to Vest Hong.

In their statement of claim, the couple alleged that Ismail Hussin and Abdul Aziz never told them that, among others, the bank had approved a RM16 million loan facility to Vest Hong to finance the purchase of machinery.

They claimed the title deeds had been released to the bank as security for the loan facility.

The couple want, among others, a rescission of the SPA and an order that the title deeds be returned free from encumbrances.

Hearing continues before judge Datuk Arifin Zakaria.

The Sun / Wednesday / October 10, 2001

Expert tells court of differences in couple's signatures

By M.K. Ezanor

KUALA LUMPUR, Tues: A handwriting expert told the High Court here today he found differences in several documents allegedly signed by an elderly couple.

Lim Yok Chaw, of the Chemistry Department, said the couple's signatures in the charge documents and charge annexure were different from those in the sales and purchase agreement and specimen.

He said he had received the documents and specimen of the couple's signatures from their lawyer, Messrs Jerald Gomez & Associates.

Lim was testifying in a civil suit brought by Ismail Mahmod, 75, and Saadiah Abdullah, 65, against five parties, including a law firm and a bank, for alleged breach of trust and misrepresentation.

Lim told judge Datuk Arifin Zakaria that Ismail's signature was different in terms of the angularity of the signature, the connecting stroke between two alphabets, the formation of alphabets, the pen lift and

the differences were in terms of alphabet design, pen pressure and penmanship.

The couple claim that the sale of their 4.05ha land, worth RM7.5m in 1999, to Ismail Husin has resulted in severe losses as they have yet to receive the balance sale price of RM7.3 million.

They also claim that they are now responsible for a RM23.5 million mortgage on the land.

In the suit against Ismail Husin, lawyer Abdul Aziz Ahmad, law firm Messrs Sajali & Aziz, Bank Kerjasama Rakyat Malaysia and Vest Hong, the couple are seeking the return of the land or in the alternative, payment of the outstanding RM7.3 million.

Ahmad Badri Idrus, representing Ismail Husin, applied to cross-examine Lim on a later date.

He said the issue is technical and needs further study, and that the chemistry report has only been served on the defendants today.

Azlan Khamis, for Abdul Aziz and his law firm, asked for two more samples of the couple's signatures for analysis.

Arifin granted their applica-

Pensioner: I trusted lawyer and so I signed documents

By Sujatani Poosparajah
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KUALA LUMPUR, Mon. — A pensioner told the High Court today that he trusted a lawyer to handle a sale and purchase agreement to sell his land for RM7.5 million and signed many documents without asking what they were.

"I did not ask (lawyer Abdul Aziz Ahmad), I just signed as he had instructed," said Ismail Mohamad, 76.

Questioned by counsel Azlan Khamis, for Abdul Aziz, Ismail Mohamad said the lawyer had told him that after an initial deposit of RM200,000 was paid to him (Ismail Mohamad), the balance of the purchase price would be settled in three months.

He said Abdul Aziz only told him to come to his office to sign the SPA (on July 30, 1999, at the legal firm of Sajali and Aziz, which is the third defendant in the suit).

When asked why he did not obtain advice or the services of another

lawyer before signing the SPA, Ismail Mohamad said: "Because I trusted Abdul Aziz."

He said Abdul Aziz did not force him to sign but told him to sign many documents.

Ismail Mohamad said he knew the transaction was important but said he did not understand its contents.

"I did not suspect anything during that time."

He said he banked in a cheque for RM150,000 given to him by Abdul Aziz (part of the deposit) at Tabung Haji when he returned to Penang a few days after signing the SPA.

Ismail Mohamad was testifying in a suit brought by him and his wife Saadiah Abdullah, 64, against Ismail Husin (the purchaser), Abdul Aziz, the legal firm, Bank Kerjasama Rakyat Malaysia Berhad and Vest Hong Enterprise Sdn Bhd for alleged misrepresentation, negligence, fraud and breach of trust over the SPA for his 10-acre (4.5ha) land in Seberang Perai Selatan, Penang.

In their statement of claim dated

Dec 23, 1999, they alleged that Ismail Husin and Abdul Aziz never told them that, among others, the bank had approved a RM16 million loan facility to Vest Hong Enterprises to finance the purchase of machinery.

They claimed that the loan was not for financing the purchase of the land and that the title deed had been released to the bank as security for the loan facility.

The couple want, among others, a declaration, a rescission of the SPA and an order that the title deed be returned free from encumbrances.

In their defence Ismail Husin, Abdul Aziz, the legal firm, and the bank denied that they had attempted to cheat or defraud the couple.

Vest Hong Enterprise claimed that the couple had consented to execute a charge on the property in favour of the bank in order to make certain payments.

Counsel Jerald Gomez is representing the couple.

Hearing continues before judge Datuk Arifin Zakaria.