

19/85

No.48 of 1984

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA

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B E T W E E N :

1. LIM YEE TECK
2. LIM YEE BEE
3. LIM YEE HOH

Appellants  
(Plaintiffs)

- and -

SHELL MALAYSIA TRADING  
SENDIRIAN BERHAD

Respondent  
(Defendant)

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RECORD OF PROCEEDINGS

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KINGSFORD DORMAN  
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London, WC2A 3UB

Solicitors for the  
Appellants

STEPHENSON HARDWOOD  
Saddlers' Hall,  
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Solicitors for the  
Respondent

No.48 of 1984

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(Defendant)

RECORD OF PROCEEDINGS

INDEX OF REFERENCE

No.	Description of Document	Date	Page No.
<u>IN THE HIGH COURT OF MALAYA AT KUALA LUMPUR</u>			
1	Specially indorsed Writ with Statement of Claim	23rd September 1974	1
2	Defence and Counterclaim	2nd October 1974	5
3	Reply and Defence to Counterclaim	25th October 1974	9
4	Judges Notes of Proceedings	11th July 1980	12
5	Order of the High Court	11th July 1980	22
6	Grounds of Decision of Mr. Justice Datuk Wan Hamzah bin Salleh	23rd February 1981	24

---

No.	Description of Document	Date	Page No.
<u>IN THE FEDERAL COURT OF MALAYSIA AT KUALA LUMPUR</u>			
7	Notice of Appeal	4th August 1980	30
8	Memorandum of Appeal	4th April 1981	33
9	Order of the Federal Court	24th March 1982	41
10	Grounds of Judgment of the Federal Court	26th May 1982	43
11	Order granting conditional leave to appeal	21st June 1982	53
12	Order granting final leave to appeal to H.M. the Yang Di- Pertuan Agong	7th February 1983	55

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E X H I B I T S

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Exhibit Mark	Description of Document	Date	Page No.
<u>AGREED EXHIBITS</u>			
AE1	Letter Federal Capital Planning Authority to Tetuan Shell Malaysia Trading Sdn.Bhd.	19th February 1971	57
AE2	Translation of letter Shearn Delamore to Collector of Land Revenue	6th June 1972	58
AE3	Translation of letter from Collector of Land Revenue to Shell	5th December 1972	59
AE4	Translation of letter from Shell to Collector of Land Revenue	11th December 1972	60
AE5	Agreement between the Respondent and the Appellants	29th December 1972	61
AE6	Translation of letter from Collector of Land Revenue to Shell	20th January 1973	66
AE7	Translation of letter from Collector of Land Revenue to Shell	16th October 1973	67
AE8	Translation of letter from Shell to Collector of Land Revenue	1st November 1973	69
AE9	Translation of letter from Collector of Land Revenue to Shell	10th November 1973	71
AE10	Letter from Shearn Delamore to the Appellants	27th November 1973	72
AE11	Letter Allen & Gledhill to Shearn Delamore	5th December 1973	74

Exhibit Mark	Description of Document	Date	Page No.
AE12	Letter Shearn Delamore to Allen & Gledhill	17th December 1973	75
AE13	Translation of letter Collector of Land Revenue to Shell	22nd February 1974	76
AE14	Letter Allen & Gledhill to Shearn Delamore	28th February 1974	78
AE15	Translation of letter from Shell to the Collector of Land Revenue	11th March 1974	79
AE16	Translation of letter from the Collector of Land Revenue to Shell	20th April 1974	81
AE17	Translation of letter from the Director of the Federal Territory Land Office to Shell	21st August 1974	83
AE18	Letter Shearn Delamore to Ng & Ng	2nd October 1974	84
AE19	Letter Ng & Ng to Shearn Delamore	3rd October 1974	85
AE20	Application by Shell to the Collector of Land Revenue	3rd October 1974	86
AE21	Translation of letter from Shell to the Director of the Federal Territory Land Office	7th October 1974	88
AE22	Order of the High Court in Malaya at Kuala Lumpur in Originating Motion No.41 of 1975	2nd June 1975	89

Exhibit Mark	Description of Document	Date	Page No.
AE23	Translation of letter from the Director of the Federal Territory Land Office to Shell	12th November 1975	90
AE24	Translation of letter from Shearn Delamore to the Director of the Federal Territory Land Office	17th January 1976	93
AE25	Translation of letter from Shearn Delamore to the Director of the Federal Territory Land Office	16th February 1976	95
AE26	Translation of letter from the Director of the Federal Territory Land Office to Shearn Delamore	21st February 1976	97
AE27	Translation of letter from the Director of the Federal Territory Land Office to Shearn Delamore	6th March 1976	99
AE28	Translation of letter from the Director of the Federal Territory Land Office to Shell	30th March 1976	101
AE29	Translation of letter Shearn Delamore to the Director of the Federal Territory Land Office	10th June 1976	103
AE30	Translation of letter from the Director of the Federal Territory Land Office to Shearn Delamore	23rd June 1976	105
AE31	Translation of letter from the Director of the Federal Territory Land Office to Shearn Delamore	22nd September 1976	107

Exhibit Mark	Description of Document	Date	Page No.
AE32	Letter from Shearn Delamore to the Director of the Federal Territory Land Office	26th November 1976	109
AE33	Translation of letter from the Director of the Federal Territory Land Office to Shearn Delamore	11th May 1977	110
AE34	Letter from Shearn Delamore to Director of the Federal Territory Land Office	11th July 1977	112
AE35	Translation of letter from the Director of the Federal Territory Land Office to Shearn Delamore	20th July 1977	114
AE36	Translation of letter from the Director of the Federal Territory Land Office to Shearn Delamore	28th November 1977	116
AE37	Translation of letter from Shearn Delamore to the Director of the Federal Territory Land Office	14th January 1978	117
AE38	Translation of Notice to Remedy Breach of Condition	14th January 1978	118
AE39	Translation of letter from Shearn Delamore to the Director of the Federal Territory Land Office	6th March 1978	119
AE40	Notice to Remedy Breach of Condition	1st April 1978	121
AE41	Translation of letter from Shearn Delamore to the Collector of Land Revenue	20th April 1978	122

DOCUMENTS TRANSMITTED TO THE JUDICIAL COMMITTEE  
BUT NOT REPRODUCED

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<u>Description of Document</u>	<u>Date</u>
Document of Title for grant for Land No.9982 Lot 162, Sec.63 Town of Kuala Lumpur, District of Kuala Lumpur	
Draft Agreement between the Respondents and the Appellants	
Certificate of Fitness from Municipal Architect's Department	6th March 1972
Form 9A	May 1972
Letter from Shell to Mr.Lim Yee Hoh	13th July 1971
Letter from Allen & Gledhill (for Mr. Lim Yee Hoh and Others) to Shell	24th August 1971
Letter from Shell to Shearn Delamore	25th August 1971
Letter from Shearn Delamore to Allen & Gledhill	11th September 1971
Letter from Allen & Gledhill to Shearn Delamore	16th September 1971
Letter from Allen & Gledhill to Shearn Delamore	11th January 1972
Letter from Shearn Delamore to Allen & Gledhill	19th January 1972
Letter from Allen & Gledhill to Shearn Delamore	20th January 1972
Letter from Shearn Delamore to Allen & Gledhill	22nd January 1972
Letter from Allen & Gledhill to Shearn Delamore	28th February 1972
Letter from Shearn Delamore to Allen & Gledhill	13th May 1972
Letter Exhibit AE2 Shearn Delamore to Collector of Land Revenue	6th June 1972
Letter from Shearn Delamore to Allen & Gledhill	30th June 1972



<u>Description of Document</u>	<u>Date</u>
Letter from Allen & Gledhill to Shearn Delamore	7th August 1972
Letter from Shearn Delamore to Allen & Gledhill	10th August 1972
Letter from Shearn Delamore to Allen & Gledhill	19th October 1972
Letter from Allen & Gledhill to Shearn Delamore	30th December 1972
Letter from Ng & Ng to Pendaftar Geran-Geran Tanah	3rd June 1975
The originals of all those letters and documents appearing as translations	
Notice of Motion	3rd June 1982
Affidavit Lim Yee Teck	30th April 1982
Notice of Motion	4th September 1982
Affidavit Ks Narayanan	4th September 1982

No. 1

SPECIALLY INDORSED WRIT  
WITH STATEMENT OF CLAIM

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No.1  
Specially  
indorsed Writ  
with Statement  
of Claim  
23rd September  
1974

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR  
CIVIL SUIT NO. 1185 OF 1974

BETWEEN

1. Lim Yee Teck,  
2. Lim Yee Bee and  
3. Lim Yee Hoh,  
c/o Bangunan Yee Seng (4th Floor),  
15, Jalan Raja Chulan,  
Kuala Lumpur

... Plaintiffs

AND

Shell Malaysia Trading Sendirian Berhad,  
Bangunan Shell,  
No. 2 Jalan Suleiman,  
Kuala Lumpur

... Defendant

SPECIALLY INDORSED WRIT

The Honourable Tan Sri Sarwan Singh Gill, P.S.M. Chief  
Justice of the High Court in Malaya, in the name and on behalf  
of His Majesty the Yang Di-Pertuan Agong.

To:

Shell Malaysia Trading Sendirian Berhad,  
Bangunan Shell,  
No. 2, Jalan Suleiman,  
Kuala Lumpur.

WE COMMAND YOU, that within eight (8) days after the  
service of this Writ on you, inclusive of the day of such  
service, you do cause an appearance to be entered for you in  
an action at the suit of Lim Yee Teck, Lim Yee Bee and Lim  
Yee Hoh.

AND TAKE NOTICE that in default of your so doing the  
Plaintiff may proceed therein and judgment may be given in  
your absence.

WITNESS NOOR AZIAN SHAARI Senior Assistant Registrar  
of the High Court in Malaya this 24th day of September 1974.

Sgd: Messrs Ng & Ng  
Plaintiffs' Solicitors

L.S. Illegible  
Senior Assistant Registrar  
High Court, Kuala Lumpur

Cont'd ...2/-

NB. This Writ is to be served within twelve months from the date thereof, or, if renewed, within six months from the date of last renewal, including the day of such date, and not afterwards.

The Defendant (or Defendants) may appear hereto by entering an appearance (or appearances) either personally or by Solicitor at the Registry of the High Court at Kuala Lumpur.

A Defendant appearing personally may, if he desires, enter his appearance by post, and the appropriate forms may be obtained by sending a Postal Order for \$3.00 with an addressed envelope to the Registrar of the High Court at Kuala Lumpur. 10

If a Defendant enters an appearance he must also deliver a defence within fourteen (14) days from the last day of the time limited for appearance, unless such time is extended by the Court or a Judge, otherwise judgment may be entered against him without notice, unless he has in the meantime been served with a summons for judgment.

STATEMENT OF CLAIM

20

1. The Defendant is the registered proprietor of all that piece of land held under Grant of Land No. 9982 for Lot No. 162, Section 63 in the Town of Kuala Lumpur in the District of Kuala Lumpur (hereinafter called "the said land").

2. By an agreement in writing dated the 29th day of December, 1972 the Defendant agreed to sell and the Plaintiffs agreed to purchase a portion of the said land in area 61,050.9 square feet (hereinafter called "the said portion") at the price of \$167,889.98.

3. Clause 2 of the said agreement provides that the Defendant shall apply to the appropriate authority for subdivision of the said land so as to result in the issue of two separate documents of title in respect of the said portion and in respect of the

Cont'd ...3/-

balance of the said land.

4. The Defendant has refused and still refuses to apply to the appropriate authority for subdivision of the said land in accordance with Clause 2 of the said agreement.

And the Plaintiffs claim:-

- (1) Specific performance of the said Agreement;
- (2) Damages for breach of agreement;
- (3) Costs of this action; and
- (4) Further or other relief as the Court deems fit and proper.

10

Dated this 23rd day of September 1974.

Sgd: Messrs Ng & Ng  
Plaintiffs' Solicitors

And the sum of \$200/- (or such sum as may be allowed on taxation) for costs, and also, in case the Plaintiff obtained an order for substituted service, the further sum of \$300/- (or such sum as may be allowed on taxation). If the amount claimed be paid to the Plaintiff or his advocate and solicitor or agent within four days from the service hereof, further proceedings will be stayed.

20

Provided that if it appears from the indorsement of the Writ that the Plaintiff is resident outside the scheduled territories as defined in the Exchange Control Ordinance, 1953 or is acting by order or on behalf of a person so resident, or if the defendant is acting by order or on behalf of a person so resident, proceedings will only be stayed if the amount claimed is paid into Court within the said time and notice of

Cont'd

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No. 1  
Specially  
indorsed Writ  
with Statement  
of Claim  
23rd September  
1974

(continued)

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No.1  
Specially  
Endorsed Writ  
with Statement  
of Claim  
23rd September  
1974

(continued)

such payment is given to the Plaintiff, his advocate and  
solicitor or agent.

This Writ was issued by M/s. NG & NG of 11th  
Floor, Bangunan Yee Seng, Jalan Raja Chulan, Kuala Lumpur  
for the said Plaintiffs whose address is c/o Bangunan Yee  
Seng (4th Floor), No. 15, Jalan Raja Chulan, Kuala Lumpur.

This Writ was served by me at \_\_\_\_\_ on the  
Defendant on \_\_\_\_\_ the \_\_\_\_\_ day of 1974 at the  
hour of \_\_\_\_\_

Indorsed this \_\_\_\_\_ day of \_\_\_\_\_ 1974.

10

NO. 2

DEFENCE AND COUNTERCLAIM

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR  
CIVIL SUIT NO. 1185 OF 1974

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

Between

1. Lim Yee Tack,
2. Lim Yee Bee and
3. Lim Yee Hon,  
c/o Bangunan Yee Seng (4th Floor)  
15, Jalan Raja Chulan,  
Kuala Lumpur

... Plaintiffs

and

Shell Malaysia Trading Sendirian Berhad,  
Bangunan Shell,  
No. 2 Jalan Suleiman,  
Kuala Lumpur

... Defendant

No. 2  
Defence and  
Counterclaim  
2nd October  
1974

DEFENCE AND COUNTERCLAIM

D E F E N C E

1. Except as hereinafter appears the Defendant admits Paragraphs 1, 2 and 3 of the Statement of Claim but will refer to the said agreement for the full terms and effect thereof. Clause 2 of the said agreement required the Defendant to make application for the subdivision of the said land so as to result in the issue of separate documents of title in continuation in respect of the said portion and in respect of the balance of the said land (hereinafter called the filling station site).
2. Paragraph 4 of the Statement of Claim is denied. The Defendant applied under Section 137 of the National Land Code for the subdivision of the said land in the manner required by Clause 2 of the said agreement on the 5th day of June 1972 by lodging Borang 9A together with four copies of the site plan showing the proposed subdivision with the Pemungut Hasil Tanah, Pejabat Tanah, Kuala Lumpur and paying the prescribed fee of \$20/-. Receipt No. 933159 dated 16th June 1972 for \$20/- was duly received from the Pemungut Hasil Tanah, Kuala Lumpur on the 22nd June 1972
3. By letter dated the 16th October 1973 referring to the said application for subdivision, the Pemungut Hasil Tanah required the

Defendant to confirm their agreement in writing to the surrender of the filling station site in exchange for a 30 year lease before the said application for subdivision could be considered by the State Authority. The Defendant by letter dated the 1st November 1973 requested the Pemungut Hasil Tanah to reconsider his requirement for the surrender of the filling station site so that a title in continuation could be issued in respect of both portions of the said land as envisaged by the sale agreement.

4. By letter dated the 10th November 1973 the Pemungut Hasil Tanah, Kuala Lumpur replied that the Defendant's request for the issue of a land title in continuation in respect of the filling station site could not be considered because it was contrary to the Government policy. Subsequently by letter dated the 21st February 1974 the Pemungut Hasil Tanah confirmed that if the Defendant chose not to surrender the filling station site to the Government with a view to the Government subsequently issuing a 30 year lease in accordance with official policy their application for the subdivision of the said land would not be entertained.

5. Clause 6 of the said agreement between the Plaintiffs and the Defendant provided that if for any reason subdivision was refused or if for any other reason it should not be legally possible to subdivide the said land in accordance with the provisions of the sale agreement the Defendant should refund the earnest money of \$16,789/- to the Plaintiffs whereupon the agreement would be null and void and cease to have any further force or effect.

6. On receipt of the letter from the Pemungut Hasil Tanah dated the 10th November 1973 advising that the issue of titles in continuation in respect of both portions of the said land could not be considered, the Defendant through their solicitors by letter dated the 27th November 1973 returned the said earnest

money to the Plaintiffs and advised them that as it was impossible to subdivide the said land so as to result in the issue of separate documents of title in continuation for both portions, the sale agreement was at an end pursuant to the provisions of Clause 6 thereof.

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No. 2  
Defence and  
Counterclaim  
2nd October  
1974

(continued)

7. The Plaintiffs through their then solicitors returned the Defendant's cheque for the earnest money on the 5th day of December 1973 and contended that the sale agreement was still in full force and effect. The Defendant through their solicitors thereupon reiterated the contents of their letter of the 27th November 1973 and advised that the said earnest money was ready for payment to their clients at any time.

#### COUNTERCLAIM

The Defendant repeats Paragraphs 3 to 7 of its Defence and says that as it was impossible to subdivide the said land so as to result in the issue of separate titles in continuation to the subdivided portions as required by Clause 2 of the said agreement the Defendant was entitled to refund the said earnest money to the Plaintiffs pursuant to the provisions of Clause 6 of the said agreement and that thereupon the said agreement became null and void.

And the Defendant counterclaims:

1. A declaration that in the events that have happened the said agreement is null and void.
2. Such further or other relief as may seem just.

Delivered at Kuala Lumpur this 2nd day of October 1974.

Sgd: Messrs Shearn Delamore  
& Co  
.....  
Defendant's Solicitors



IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No. 2  
Defence and  
Counterclaim  
2nd October  
1974

This Statement of Defence and Counterclaim is filed Messrs.  
Shearn Delamore & Co and Eraw & Napier, Solicitors for the  
Defendant, whose address for service is No. 2 Benteng,  
Kuala Lumpur.

(continued)

REPLY AND DEFENCE TO  
COUNTERCLAIM

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

CIVIL SUIT NO. 1185 OF 1974

No. 3  
Reply and  
Defence to  
Counterclaim  
25th October  
1974

BETWEEN

10 1. Lim Yee Teck,  
2. Lim Yee Bee and  
3. Lim Yee Hoh,  
c/o Bangunan Yee Seng  
(4th Floor);  
15, Jalan Raja Chulan,  
Kuala Lumpur ... Plaintiffs

AND

Shell Malaysia Trading Sendirian Berhad  
Bangunan Shell,  
No. 2 Jalan Suleiman,  
Kuala Lumpur ... Defendant

REPLY AND DEFENCE TO COUNTERCLAIM

REPLY

20 1. The Plaintiffs join issue with the Defendant on their  
Defence.

2. DEFENCE TO COUNTERCLAIM

2. As to the Counterclaim the Plaintiffs will object that  
on the facts therein alleged the Defendant is not  
entitled to the declaration that the said agreement is  
null and void.

30 3. As for paragraph 2 of the Defence and Counterclaim the  
Plaintiffs do not admit that an application was made as  
alleged. If an application was in fact made, the  
Plaintiffs were not told of such application either at  
the time of execution of the said agreement or at any  
time thereafter.

4. If an application was made it was not made within the  
meaning of or pursuant to Clause 2 of the said agreement.

5. If the said application was made pursuant to the said Clause 2 the Defendant has not pursued it in fulfilment of their duties under the agreement in that they refused to comply with a requirement of the Pemungut Hasil Tanah set out in the letter dated 22nd February, 1974 that after subdivision and issuance of the two titles in continuation they should surrender the filling station site to the authorities in return for a title of 30 years.
6. As regards paragraphs 3 and 4 of the Defence and Counterclaim the Plaintiffs say that in not complying with the said request the Defendant is in breach of the said agreement. 10
7. Paragraph 5 of the Defence and Counterclaim is admitted but the Plaintiffs deny that subdivision has been refused or that it is not legally possible to sub-divide the said land in accordance with the provisions of the said agreement.
8. The Plaintiffs admit that the Defendant received the letter referred to in paragraph 6 of the Defence and Counterclaim but deny that the said letter had the force and effect of making subdivision impossible. 20  
If the letter from the Pemungut Hasil Tanah dated the 10th day of November 1973 had the effect of making subdivision impossible as alleged, the Plaintiffs aver that the Defendant failed to do all necessary acts and things under the Defendant's implied duty to pursue the application for subdivision so as to give efficacy to the said agreement.
10. In the premises, if the Defendant had placed themselves in such a position that they are not ready willing and 30

Cont'd ...3/-

able to perform the said agreement they cannot now be admitted to say that subdivision is refused or that it is not legally possible to subdivide the said land in accordance with the terms of the said agreement.

11. Paragraph 7 of the Defence and Counterclaim is admitted.

10 12. Save as hereinbefore expressly admitted the Plaintiffs deny each and every allegation in the Defence and Counterclaim as if the same were set out specifically and traversed seriatim.

The Plaintiffs pray that the Counterclaim be dismissed with costs.

Dated the 25th day of October 1974.

Sgd: Messrs Ng & Ng  
Solicitors for Plaintiffs

20 This Reply and Defence to Counterclaim is filed by M/s. Ng & Ng Solicitors for the Plaintiffs whose address for service is at 11th Floor, Bangunan Yee Seng, Jalan Raja Chulan, Kuala Lumpur.

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No. 3  
Reply and  
Defence to  
Counterclaim  
25th October  
1974

(continued)

JUDGE'S NOTES OF PROCEEDINGS

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR.

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

Civil Suit No. 1185 of 1974.

No. 4  
Judge's Notes  
of Proceedings  
11th July 1980

Between

- 1. Lim Yee Teck
  - 2. Lim Yee Bee
  - 3. Lim Yee Hoh
- ... Plaintiffs

And

Shell Malaysia Trading Sdn Bhd ... Defendant

10

Before me in Open Court

This 8th day of July, 1980

Sgd.

Datuk Wan Hamzah

High Court, Malaya.

Mr George for Plaintiffs (K.S. Narayanan with him).

Mrs. S.B. Menon for Defendant (Miss Guan Lee with her).

Parties have agreed that witnessess will not be called in this case and that they will only rely on documents in the form of two agreed bundles and on submissions by Counsel, save and except that in the event of question of damages has to be proved evidence on that will be led at a later stage.

20

Mr. George:

AB1 page 39: The stand taken by the Defendant was that it was not legally possible to subdivide the land according to the terms of the Agreement. The Plaintiffs contend that the application for subdivision was not made pursuant to the meaning of clause 2 of the Agreement. Next, the Plaintiffs say that in any event the

30

(continued)  
application had not been refused. On the contrary  
the Authorities were prepared to issue title in  
continuation. Finally Plaintiffs contend that what-  
ever may be the fate of the Defendant's application  
there is no legal impediment to the Defendant getting  
separate title in continuation.

The issues to be considered are three questions:

- (1) Was it legally possible for the Defendant  
to have obtained subdivision of the land  
so as to result in separate titles in  
continuity being obtained for each of the  
portions as set out in the sale and  
purchase Agreement?
- (2) Did the Defendant duly apply for  
subdivision within the meaning and  
pursuant to clause 2 of the Agreement?
- (3) If they did so was the application duly  
refused?

Agreement at page 27 of AB1. Clauses 2 and 6.  
Parties are agreed that the word legal in clause 6  
was incorrectly typed and should read "legally".

Question whether it was not legally possible to  
subdivide so as to result in separate titles in  
continuity: Grant on page 1 of AB2. Restriction in  
interest: Nil. Express conditions: Nil. The title  
is a registry title as defined in the National Land  
Code. Definition of Registry Title, as opposed to  
Land Office Title as defined. Plan attached to the  
Agreement, at page 31 of AB1: the rectangular portion  
of the land supposed to be sold to the Plaintiffs.

(continued)

Power of proprietor to subdivide land in sections 135 and 138 of the National Land Code. Authority to approve subdivision of land held under a Registry title is State Commissioner. Section 137: application in Form 9A. Section 138: Collector to refer application to State Commissioner. Section 138(2)(a). Section 92(2)(a). Right of owner to subdivide the land.

Pengarah Tanah dan Galian, Wilayah Persekutuan v. Sri Lembeh Enterprise Sdn Bhd (1979) 1 MLJ 135.

10

Section 186.

Collector of Land Revenue, Federal Territory v. Garden City Development Berhad (1979) 1 MLJ 223.

AP1 page 35. Letter dated 16.10.1973. Reply at page 36. Pemungut's letter at page 38. There was misunderstanding by Shell. Pemungut's letter at page 43.

The second issue: Did the Defendant duly apply for subdivision in the meaning and pursuant to the relevant clause in the Agreement? Clause 2 of the Agreement. The Pemungut was not making decision. He was merely a conduit pipe to approach the State Commissioner.

20

The Defendant misunderstood what the Pemungut stated, vide page 45 of AP1. In this letter the Defendant stated that it was not prepared to surrender the subdivided lot. In para 2 of this letter Defendant stated that there was no need for change of user. If there was no such need there was no obstacle to the subdivision.

30

British Movietonews Ltd. v. London and District  
Cinemas Ltd (1952) AC 185.

Even if the State Commissioner had decided to  
refuse the application for subdivision the Defendant  
could have brought appeal to the Court against his  
decision. Section 418.

10 The reason why the Defendant did not proceed  
with application and appeal is obvious. It is clear  
from the correspondence that the Defendant did only  
lip service.

In fact there has never been refusal of the  
application.

AB page 39: The Defendant did not say that the  
application for subdivision had been refused but  
that it was not legally possible to subdivide the  
land.

20 Writ was issued in September 1974. After that,  
letter from the Defendant's solicitors at page 51 of  
AB1 dated 2.10.1974 to the solicitors of the  
Plaintiffs. The Defendant still take the same stand.

AB1 page 59: I suggest this was not refusal of  
the application but a proposal for compromise. Even  
if it was dismissed, the subsequent decisions of the  
Federal Court renders this refusal ineffective.

AB1 page 76 shows that the Defendant withdrew  
application for subdivision.

30 There had been no refusal of application for  
subdivision, on the date of the return of earnest  
money or on the date of the issue of the Writ.

The decisions of the Federal Court did not



(continued)

change the law but merely explained the law.

Mrs Menon

Position as at the date when the parties entered into the Agreement. Negotiation for sale and purchase of the land took place as early as July 1971, vide AB1 page 3. The subdivision was the purpose of the Agreement.

AB1 page 8: reference to clause 9. Clause 9 of the draft is shown in AB2 page 9. I refer to this draft clause 9 merely to show what was meant by title "in continuation" in the Agreement. 10

AB1 page 9: This shows that neither the Plaintiffs nor the Defendant were prepared to accept nothing less than title in perpetuity.

The question before the Court is:

(a) whether the Defendant took necessary action which it should have taken under clause 2 of the Agreement with regard to application for subdivision; and 20

(b) whether the events envisaged by the parties under clause 6 occurred and the Defendant rightly refunded the deposit.

AB1 page 27: The land was sold subject to all express and implied conditions. At the time of the Agreement the petrol service station was already on the portion. No reference in the Agreement to the petrol station. It is not part of the Agreement that the parties agreed that the Defendant must use the portion for petrol station. In view of section 30

92 Defendant enjoyed indefeasible title. (continued)

Section 53(3) proviso (ii)(b) applies in this case because the petrol station was erected after the commencement of the Act. The petrol station was lawful under section 115.

Section 135(2)(a) subject to "in the absence of any direction to the contrary by the State Authority". State Authority in this case means the Sultan of Selangor.

10 Laws of the Constitution of Selangor. The contrary directive was made by the Menteri Besar, not by the Sultan himself.

AB1 page 35, paragraph 3 says that it was the policy of the Government, and a copy was extended to the Menteri Besar.

9th day of July, 1980

Mrs Menon continues her submission:

Two questions to be decided:-

- 20 (a) Whether the Defendant had performed its part of the Agreement.
- (b) Whether it was legally not possible to subdivide the land.

Date when the petrol station was built, see AB1 page 2.

The letter says that the application would be forwarded to the State Authority. Therefore the State Authority itself would be the approving authority instead of the State Commissioner.

AB1 page 35. The Approving Authority i.e.

the State Authority itself has powers to impose the three conditions stated in the letter at page 35.

Article 91 of the Federal Constitution. Paragraph (5) of Article 91 says that the State Government shall follow the policy so formulated. Paragraph (6) of the Article. Definition of State Authority in the National Land Code. Law of Constitution of Selangor 1959. Sections Iii, Iiii, Iv.

Right of appeal against decision of the State Authority is appeal to the State Authority itself to reconsider.

10

Section 418 of the National Land Code has no relevance here.

The Defendant wrote to ask for reconsideration, but finally the Pemungut reiterated what was said before, vide AB1 page 28 with carbon copy to the Menteri Besar.

Section 114 of the Evidence Act.

Barker's Law of Evidence. At page 993.

The result of condition precedent not being able to be complied with, Chitty on Contract. Pollock & Mulla on Indian Contract, page 322.

20

Even if there was right of appeal to the Federal Court, the question is whether the Defendant was obliged to appeal. Hargreaves Transport Ltd. v. Lynch (1969) 1 A.E.R. 455.

The Federal Court case. The decision there is decision of the Pemungut. That case does not change the position as at November 1973.

(continued)

Mr. George

Interpretation of Section 135(2) of the National Land Code. This is only for the purpose of directing who should be the approving authority. In practice the Executive Committee has been directed to be the approving authority.

10 My learned friend read too much into ABl page 2 to say that the petrol station had been in use. In any event I submit that this was not relevant. In the Agreement the parties ignored that aspect of the matter.

Original draft agreement. When my learned friend read it I took a feeble objection. Section 92 of Evidence Act.

20 Evidence should have been brought by the Defendant that the State Authority had been directed to consider and approve subdivision. One cannot simply speculate. The reference to the Menteri Besar was cut and one can speculate that there was change of mind not to send a copy of the letter to the Menteri Besar.

Government's policy must not be inconsistent with the law. If Government's policy is going to be inconsistent with the law, the Government must go to Parliament to change the law.

Federal Constitution Article 91, paragraph (5) refers only to mining, agriculture, forestry and the like.

30 Section 419 of National Land Code. I submit that if the State Authority has directed a particular

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No.4  
Judge's Notes  
of Proceedings  
11th July 1980

(continued)

authority to be the approving authority, the decision of the latter is still subject to appeal under section 418. In fact in this case there was no decision made and therefore there was no appeal to be brought against a decision.

Hargreaves' case: This case can be distinguished. The cited case relates to details. In that case date was set. Therefore in that case the Court went out of the general sale.

Prauer & Co. (Great Britain) Ltd. v. James Clark (Brush Materials) Ltd. (1952) A.F.P. 497. 10

By Court:

Adjourned to Friday at 3.00 p.m. for decision.

11th day of July, 1980

Parties say that application for subdivision has been withdrawn.

By Court:

I order as follows:-

1. That the Defendant do forthwith apply for and obtain subdivision of the land and complete the sale in accordance with the Sale and Purchase Agreement. 20
2. That Defendant's counterclaim be dismissed with costs.
3. That the question of damages be adjourned for hearing on a date to be fixed by S.A.P.
4. That the Defendant do pay costs of the claim to the Plaintiffs.

No. 4  
Judge's Notes  
of Proceedings  
11th July 1980

(continued)

5. That there be liberty to both parties  
to apply.

Sd. Datuk Wan Harzah

11/7/1980

No. 5  
Order of the  
High Court  
11th July 1980

IN THE HIGH COURT IN MALAYSIA AT KUALA LUMPUR

FAMILY AND PROPERTY DIVISION

CIVIL SUIT NO: 1185 OF 1974

Between

1. Lim Yee Teck
2. Lim Yee Bee and
3. Lim Yee Hoh .. Plaintiffs

And

10

Shell Malaysia Trading  
Sendirian Berhad .. Defendant

BEFORE THE HONOURABLE

JUSTICE WAN HAMZAH

IN OPEN COURT

THIS 11TH DAY OF JULY 1980

O R D E R

This action coming on for hearing on the 8th and 9th day of July 1980 in the presence of Mr V.C. George (Mr K S Narayanan with him) of Counsel for the Plaintiffs and Mrs Shanta B. Menon (Miss Ginny S.T. Lee with her) Counsel for the Defendant AND UPON READING the pleadings filed herein AND UPON HEARING Counsel as aforesaid IT IS ORDERED that this suit be adjourned to the 11th day of July 1980 for judgment and upon judgment being delivered this day IT IS HEREBY ORDERED :-

20

- 1) That the Defendant do apply for and obtain the sub-division of the land held under Grant No: 9982 for Lot No: 162 Section 63 in the Town of Kuala Lumpur, District of

30

No. 5  
Order of the  
High Court  
11th July 1980

Kuala Lumpur and complete the sale in (continued)  
accordance with the Sale and Purchase  
Agreement entered into between the Defen-  
dant and the Plaintiffs dated the 29th  
December 1972.

- 2) That the hearing on the question of damages  
if any to be adjourned to a date fixed.
- 3) That there be liberty to both parties to  
apply.
- 10 4) That the Defendant do pay the costs of the  
claim to the Plaintiffs.

AND IT IS FURTHER ORDERED that the Counter-  
claim of the Defendant be dismissed with costs.

GIVEN under my hand and Seal of the Court  
this 11th day of July 1980.

Signed *[Signature]*  
SENIOR ASSISTANT REGISTRAR  
HIGH COURT  
KUALA LUMPUR

20 This Order is taken out by M/s Ng Ek Teong &  
Partners, Solicitors for the Plaintiffs who  
address for service is 2nd floor, Bangunan  
Persatuan Hokkien Selangor, Jalan Raja Chulan,  
Kuala Lumpur.



IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR

Civil Suit No. 1185 of 1974

No. 6  
Grounds of  
Decision of Mr.  
Justice Datuk  
Wan Hamzah Bin  
Salleh  
23rd February  
1981

Between

1. Lim Yee Teck
  2. Lim Yee Bee
  3. Lim Yee Koh
- ... Plaintiffs

And

Shell Malaysia Trading Sdn Bhd ... Defendant

10

Grounds of Decision

The Defendant Company is the registered owner of land lot No. 162, Section 63, Town of Kuala Lumpur. On 29.12.1972 it executed an Agreement with the Plaintiffs to sell a portion of the land to them. At that time the remaining portion of the land was used by the Defendant Company as a petrol filling station site. Clause 2 of the Agreement provides:

The Vendor shall (if it has not already done so) make application to the appropriate authority or authorities for the subdivision of the said land so as to result in the issue of separate documents of title in continuation in respect of the said portion and in respect of the balance of the said land.

20

Clause 6 of the Agreement provides:

If for any reason subdivision is refused or for any other reason it shall not be legally possible to subdivide the said land in accordance with the terms of this Agreement

30

then the Vendor shall refund to the purchasers the earnest money referred to in Clause 1 hereof free from any interest, whereupon this Agreement shall be null and void and cease to have any further force or effect and neither party shall have any claim against the other in respect thereof.

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No.6  
Grounds of  
Decision of Mr.  
Justice Datuk  
Wan Hamzah Bin  
Salleh  
23rd February  
1981

(continued)

10 The reference in Clause 2 to "documents of title in continuation" is important. The existing title for the land is a title in perpetuity and Clause 2 requires that the titles to be issued after subdivi-

20 sion must also be titles in perpetuity. The Plaintiffs allege that the Defendant Company has refused and still refuses to apply to the appropriate authority for subdivision of the land, and therefore the Plaintiffs pray for order for specific performance of the Agreement. In its statement of Defence and Counterclaim the Defendant Company alleges that it did apply on 6.6.1972 under Section 137 of the National Land Code for subdivi-

30 sion of the land, but that the Peruncut Hasil Tanah required it to confirm that it agreed to surrender to the Government the filling station site in exchange for a 30 year lease, and when it indicated that it did not agree to this the Peruncut Hasil Tanah replied that because it did not agree its application for subdivision would not be entertained on the ground that it was contrary to the Government's policy. The Defendant Company makes a counterclaim for a declaration that in the events that have

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No.6  
Grounds of  
Decision of Mr.  
Justice Datuk  
Wan Hamzah Bin  
Salleh  
23rd February  
1981

(continued)

happened the Agreement has become null and void.  
In their Reply and Defence to Counterclaim the  
Plaintiffs plead that even if application for sub-  
division was made it was not made within the meaning  
of or pursuant to Clause 2 of the Agreement. There-  
fore the main issues in this case are:-

- (a) Whether the Defendant Company had duly  
made application for subdivision within  
the meaning of and pursuant to Clause 2  
of the Agreement. 10
- (b) If the Defendant Company had done so  
whether the application had been refused.
- (c) Whether it was legally possible to sub-  
divide the land in accordance with the  
terms of the Agreement.

There is no doubt that the Defendant Company  
did apply for the subdivision of the land vide letter  
dated 6.6.1972 at page 17 of the Agreed Bundle  
Volume 1. Borang <sup>67</sup> SA sent to the Land Office with  
that letter was an application form for subdivision 20  
prescribed under the National Land Code. It appears  
that the Defendant Company sent the application  
while the parties were in the course of negotiating  
the terms of the Agreement and before the Agreement  
was executed on 29.12.1972. There is also no doubt  
that the Defendant Company received from the  
Peringkat Hasil Tanah a letter requiring it to  
confirm whether it agreed to surrender to the Govern-  
ment the filling station site in exchange for a 30  
year lease, as alleged in the Statement of Defence. 30

This letter of the Peringkat Nasil Tanah was dated 16.10.1972 and appears at page 75 of the Agreed Bundle Volume 1. The surrender of the filling station site in exchange for a 30 year lease was a condition to be imposed if the Defendant Company wanted to have subdivision. In his letter to the Defendant Company dated 18.11.1972, the Peringkat Nasil Tanah stated that it was against the policy of the State Government to issue title in continuation in respect of filling station site. There are a number of other letters in the Agreed Bundle, issued from the Land Office which refer to the same condition. It is inferred from the Land Office letters that the condition would not be imposed if the Defendant Company would not use the site for the purpose of filling station. What the Defendant Company should have done in order to comply with Clause 2 of the Agreement was to cease using the site for the purpose of filling station and to write to the Land Office to inform of the ceasure. If the Defendant Company had decided not to use the site for the purposes of filling station the condition imposed by the Land Office would not be applicable any more and there would have been subdivision approved with titles in continuation issued. Instead of abandoning the use of the site as a filling station and proceeding with the application for subdivision, the Defendant Company withdrew the application vide its solicitors' letter dated 10.6.1976 (page 76 of Agreed Bundle Volume 1) and their

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No.6  
Grounds of  
Decision of Mr.  
Justice Datuk  
Wan Hamzah Bin  
Salleh  
23rd February  
1981

(continued)

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20

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No.6  
Grounds of  
Decision of Mr.  
Justice Datuk  
Wan Hamzah Bin  
Salleh  
23rd February  
1981

(continued)

letter dated 14.1.1979 (page 87 of Accord Bundle  
Volume 1). There is nothing in the Agreement which  
stipulates that the site should be used as a filling  
station site. Nor is the Defendant Company obliged  
under any law to use it for the purpose of filling  
station. I am therefore inclined to agree with the  
Plaintiffs that the Defendant Company had not  
complied with Clause 2 of the Agreement in that it  
had not applied for subdivision within the meaning  
and pursuant to that Clause.

There is another reason for this finding. The  
position in law is now clear that for approval of  
subdivision of land held under a title in perpetuity  
the approving authority has no power under the law  
to impose a condition that the landowner will receive  
a leasehold in respect of any of the subdivided lots:  
Pencarah Tanah Dan Galian v. Sri Lempah Enterprise  
Sdn Bhd (1) In the present case the Defendant  
Company should have pursued the matter in the Court  
by way of appeal if the approving authority refused  
its application for subdivision on the ground of  
non-compliance with the condition improperly imposed.

I therefore give judgment for the Plaintiffs  
and order as follows:

1. That the Defendant do forthwith apply  
for and obtain subdivision of the land  
and complete the sale in accordance with  
the Sale and Purchase Agreement.

---

(1) (1979) 1 MLJ 135

2. That Defendant's counterclaim be dismissed with costs.
3. That the question of damages be adjourned for hearing on a date to be fixed by S.J.P.
4. That the Defendant do pay costs of the claim to the Plaintiffs.
5. That there be liberty to both parties to apply.

IN THE HIGH COURT  
OF MALAYA AT  
KUALA LUMPUR

No.6  
Grounds of  
Decision of Mr.  
Justice Datuk  
Wan Hamzah Bin  
Salleh  
23rd February  
1981

(continued)

Sd. Datuk Wan Hamzah bin Salleh

Kuala Lumpur

(DATUK WAN HAMZAH BIN SALLEH)

23rd February, 1981

Judge,

High Court, Malaya.

Counsel: Mr George (K.S. Marayanan with him)  
of M/S Ho Ek Teong & Partners for the  
Plaintiffs.

Mrs S.P. Menon (Miss Guan Joo with her)  
of M/S Shearn, Delamore & Co. for the  
Defendant.

NOTICE OF APPEAL

No.7  
Notice of  
Appeal  
4th August 1980

IN THE FEDERAL COURT OF MALAYSIA

(APPELLATE JURISDICTION)

CIVIL APPEAL NO. 194 OF 1980

Between:-

Shell Malaysia Trading Sendirian

Berhad

... Appellant

And

1. Lim Yee Teck

10

2. Lim Yee Bee and

3. Lim Yee Hoh

... Respondents

(In the matter of Civil Suit No. 1185 of  
1974 In the High Court in Malaya at Kuala  
Lumpur

Between

1. Lim Yee Teck

2. Lim Yee Bee and

3. Lim Yee Hoh

... Plaintiffs

And

20

Shell Malaysia Trading Sendirian

Berhad

... Defendant

NOTICE OF APPEAL

TAKE NOTICE that the Appellant/Defendant  
being dissatisfied with the decision of the Honour-  
able Mr. Justice Wan Hamzah given at Kuala Lumpur  
on the 11th day of July 1980 appeals to the Federal  
Court against the whole of his decision.

Dated this 4th day of August 1980

Sgd. Shearn Delamore & co

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SOLICITORS FOR THE APPELLANT/

DEFENDANT

To:  
The Chief Registrar,  
Federal Court,  
KUALA LUMPUR

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No.7  
Notice of  
Appeal  
4th August 1980

(continued)

The Senior Assistant Registrar,  
High Court,  
Family and Property Division  
Kuala Lumpur.

10 The 1st Respondent/1st Plaintiff  
and/or his Solicitors,  
Messrs. Ng Ek Teong & Partners,  
2nd Floor, Bangunan Persatuan,  
Hokkien Selangor,  
Jalan Raja Chulan,  
Kuala Lumpur

20 The 2nd Respondent/2nd Plaintiff  
and/or his Solicitors,  
Messrs Ng Ek Teong & Partners,  
2nd Floor, Bangunan Persatuan,  
Hokkien Selangor,  
Jalan Raja Chulan  
Kuala Lumpur

The 3rd Respondent/3rd Plaintiff  
and/or his Solicitors  
Messrs Ng Ek Teong & Partners,  
2nd Floor, Bangunan Persatuan,



IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

Hokkien Selangor,  
Jalan Raja Chulan,  
Kuala Lumpur.

No.7  
Notice of  
Appeal  
4th August 1980

(continued)

This Notice of Appeal is filed by Messrs. Shearn  
Delamore & Co. and Drew & Napier, Solicitors for  
Defendant/Appellant whose address for service is  
No. 2 Benteng, Kuala Lumpur.

No.8

In the Federal Court of Malaysia holden at  
Kualur Lumpur (Appellate Jurisdiction)

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

MEMORANDUM OF APPEAL

CIVIL APPEAL No. 194 of 1980

No.8  
Memorandum of  
Appeal  
4th April 1981

**BETWEEN**

Shell Malaysia Trading Sendirian Berhad ... Appellant

**AND**

1. Lim Yee Teck  
2. Lim Yee Bee and  
3. Lim Yee Hoh ... Respondents

10

(In the Matter of Civil Suit No. 1183 of 1974  
In the High Court in Malaya at Kuala Lumpur)

**BETWEEN**

1. Lim Yee Teck  
2. Lim Yee Bee and  
3. Lim Yee Hoh ... Plaintiffs

**AND**

Shell Malaysia Trading Sendirian Berhad ... Defendant)

20

MEMORANDUM OF APPEAL

Shell Malaysia Trading Sendirian Berhad, the  
Appellant abovenamed appeals to the Federal Court  
against the decision of the Honourable Mr. Justice  
Datuk Wan Hamzah bin Salleh given at Kuala Lumpur  
on the 11th day of July 1980 on the following  
grounds:-

1. That the Learned Trial Judge erred in law and in  
fact in holding that the Appellant had not complied with  
Clause 2 of the Agreement dated 29th December 1972 in  
that it had not applied for subdivision within the  
meaning and pursuant to that clause and in so doing  
failed to consider:

30

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

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No.8  
Memorandum of  
Appeal  
4th April 1981

(continued)

(a) that Clause 2 of the Agreement in so many words only obliged the Appellant to make application, "if it had not already done so"

(b) that prior to the execution of the Agreement on the 29th December 1972, the Appellant had already applied by letter dated 6th June 1972 for the subdivision of the said land so as to result in the issue of separate documents of title in continuation in respect of the said portion and the balance of the said land as referred to in Clause 2

10

(c) that the Learned Trial Judge himself had so found as a fact (See Judgement 32 p<sup>3</sup> to 5 page 402 to 5)

(d) that accordingly the further finding that the Appellant had not complied with Clause 2 of the Agreement (See Judgement page 42) was not only inconsistent with the earlier finding but also with the Appellant's obligations under the Agreement

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(e) that the Appellant is a Company whose primary business consists in selling petrol and diesel through its filling stations

(f) that whilst there was "nothing in the Agreement which stipulates that the

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sits should be used as a filling station", in express words the tenor and efficacy of the Agreement and the finding of fact by the Learned Trial Judge that the site was used by the Appellant as a petrol filling station site (See Judgement page 1 C3 to 3) required this to be implied since the Agreement expressly provided for "continuation" of the user of the Appellant's land;

(g) that on the contrary there was nothing in the Agreement which imposed any specific obligation upon the Appellant to cease using the land as a filling station as a price for subdivision and accordingly it was not open to the Court to impose new obligations upon the Appellant which the Agreement did not contain;

(h) that accordingly the application made on 6th June 1972 was within the meaning of Clause 2 of the said Agreement.

2. That the Learned Trial Judge erred in law and in fact in holding that the Appellant should have ceased using its portion of the land for the purpose of filling station in order to comply with Clause 2 of the said Agreement based on the inferences made by him from the letters of the Land Office and in so doing failed to consider and appreciate:

(a) that he has found as a fact that the Appellant was using its portion of the land as a petrol filling station site prior to the said Agreement;

No.8  
Memorandum of  
Appeal  
4th April 1981

(continued)

(b) that the Appellant was therefore entitled to continue the use of the same as a petrol filling station site with a title in continuation as envisaged by the provisions of the said Agreement dated 29th December 1972.

3. The Learned Trial Judge erred in law and in fact in not holding:

(a) the letter from the Pemungut Hasil Tanah dated the 10th day of November 1973 as a refusal to the subdivision applied for by the Appellant and within the meaning of Clause 6 of the said Agreement dated 29th December 1972 which entitled the Appellant to refund the earnest moneys paid under the Agreement and treat the Agreement as terminated; 10

(b) that pursuant to such entitlement the Appellant did on the 27th day of November 1973 refund the earnest moneys and thereupon the Agreement was null and void and ceased to have any further force or effect and neither party had any claim against the other, and the Learned Trial Judge should have so held. 20

4. The Learned Trial Judge erred in law and in fact in holding that the Appellant should pursue the matter in Court by way of Appeal if the approving authority 30

has refused the application for subdivision on the grounds of non-compliance with the conditions improperly imposed and in so doing failed to consider and appreciate:

(a) that there was no duty imposed on the Appellant either by law or under the provisions of the said Agreement dated 29th December 1972 to proceed by way of an Appeal as Clause 6 clearly stated that the Appellant was entitled to terminate the Agreement "if for any reason subdivision is refused."

(b) that having stated as a fact that the position in law is only now clear that for approval of subdivision of land held under title in perpetuity the approving authority has no power under law to impose condition that the land owner will receive a leasehold in respect of any of the subdivided lot, the case cited by the Learned Trial Judge was one decided in 1978 long after the lawful termination of the Agreement by the Appellant in accordance with the provisions of the Agreement dated 29th December 1972.

(c) that if, which is not admitted, an Appeal should have been preferred by implication of the terms of the Agreement, the Appellant submits that when the Respondents as Purchasers were

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No.8  
Memorandum of  
Appeal  
4th April 1981

(continued)

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IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No.8  
Memorandum of  
Appeal  
4th April 1981

(continued)

informed that subdivision had been refused and the earnest moneys refunded the Respondents did not request the Appellant to file any appeal within the time prescribed by the National Land Code or at all, nor did they furnish any indemnity as to the Appellant's costs

(d) that it was inequitable to construe the Agreement in the manner which the Learned Trial Judge did, so as to impose onerous financial obligations upon the Appellant which the Agreement did not contain expressly or by way of implication

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(e) that once the subdivision was refused, and the earnest moneys refunded, the Agreement was irrevocably dead, and a judicial finding in another case several years later suggesting that the reasons for a refusal may have been unlawful, could not regenerate the Agreement which was already dead.

20

5. The Learned Trial Judge erred in law and in fact in:-

(a) not considering the evidence as a whole which showed that the Appellant had taken all reasonable steps in pursuance of the Application made for subdivision in compliance with the terms of the

30

Agreement dated 29th December 1972  
in view of the fact that the  
refusal for subdivision was said  
to have been made on the basis  
that it was contrary to Government  
Policy

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No. 8  
Memorandum of  
Appeal  
4th April 1981

(continued)

(b) not appreciating that the refusal  
of the Pemungut Hasil Tanah in the  
Sri Lempah case was not due to the  
application being contrary to  
Government Policy as was the basis  
of the refusal of the application  
made by the Appellant.

10

6. The Appellant contends generally that the  
decision of the Trial Judge cannot be supported  
having regard to the evidence.

Dated this 4<sup>th</sup> day of April 1981.

  
SOLICITORS FOR APPELLANT/  
DEFENDANT

20

To:-

The Registrar,  
Federal Court, Malaysia,  
Kuala Lumpur



IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No.8  
Memorandum of  
Appeal  
4th April 1981

(continued)

To:-

The abovenamed Respondents  
and/or their solicitors  
Messrs Ng Ek Teong &  
Partners,  
2nd Floor,  
Bangunan Persatuan Hokkien Selangor  
Jalan Raja Chulan  
Kuala Lumpur

This Memorandum of Appeal is filed by Messrs.  
Shearn Delamere & Co., and Drew & Napier,  
solicitors for the Defendant/Appellant whose  
address for service is No. 2 Bentang, Kuala  
Lumpur.

10

No. 9

ORDER OF THE FEDERAL COURT

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No. 9  
Order of the  
Federal Court  
24th March 1982

A IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT KUALA LUMPUR  
(APPELLATE JURISDICTION)  
FEDERAL COURT CIVIL APPEAL NO. 194 OF 1980

Between

Shell Malaysia Trading Sendirian Berhad ... Appellant

And

10 1. Lim Yee Teck  
2. Lim Yee Bee and  
3. Lim Yee Koh ... Respondents

(In the matter of Civil Suit No. 1185 of 1974  
In the High Court in Malaya at Kuala Lumpur

Between

1. Lim Yee Teck  
2. Lim Yee Bee and  
3. Lim Yee Koh ... Plaintiffs

And

20 Shell Malaysia Trading  
Sendirian Berhad ... Defendant)

CORAM LEE HUN JOE, CHIEF JUSTICE, HIGH COURT, BORNEO,

ABDUL HAMID, JUDGE, FEDERAL COURT, MALAYSIA,

E. ABDOLCADER, JUDGE, HIGH COURT, MALAYA.

IN OPEN COURT

THIS 24TH DAY OF MARCH, 1982

O R D E R

30 THIS APPEAL coming on for hearing this day in  
the presence of En. Cecil Abraham with Cik Ginny S.T. Lee  
of Counsel for the Appellant and Kacik K.S. Marayanan of  
Counsel for the Respondents AND UPON READING the Record of

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No.9  
Order of the  
Federal Court  
24th March 1982

(continued)

Appeal herein and UPON HEARING Submissions of Counsel afore-  
said IT IS ORDERED that this Appeal be and is hereby allowed  
and that the Respondents' claim be dismissed and the Appellant  
do hereby abandon their counterclaim AND IT IS FURTHER ORDERED  
that the Respondents do pay the costs of this appeal and also  
the costs of the proceedings in the Court below which costs  
is to be taxed by a proper officer of this Court AND IT IS  
LASTLY ORDERED that the sum of Ringgit Five Hundred only  
(\$500/-) deposited in Court by the Appellants as security  
for costs of this appeal be paid out to the Appellants. 10

GIVEN under my hand and the Seal of the Court  
this 24th day of March 1982.

(L.S.)

Sgd: K.S. Tan

SENIOR ASSISTANT REGISTRAR,  
FEDERAL COURT,  
MALAYSIA.

This Order is taken out by Messrs Shearn Delamora & Co., and  
Drew & Napier, Solicitors for the Appellant abovenamed whose  
address for service is at No. 2 Benteng, Kuala Lumpur.

No.10  
GROUNDS OF JUDGMENT OF  
THE FEDERAL COURT

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT KUALA LUMPUR  
(Appellate Jurisdiction)

No.10  
Grounds of  
Judgment of  
the Federal  
Court  
26th May 1982

Federal Court Civil Appeal No. 194 of 1980

Between

SHELL MALAYSIA TRADING SDN. BHD. Appellant

And

10 1. LIM YEE TECK  
2. LIM YEE BEE AND  
3. LIM YEE HOH ... Respondents

(In the matter of Civil Suit No. 1185 of 1974  
in the High Court in Malaya at Kuala Lumpur)

Between

1. LIM YEE TECK  
2. LIM YEE BEE AND  
3. LIM YEE HOH ... Plaintiffs

And

20 SHELL MALAYSIA TRADING SDN. BHD. Defendant).

Coram: Lee Hun Hoe, C.J. Borneo  
Abdul Hamid, F.J.  
E. Abdoolcader, J.

GROUNDS OF JUDGMENT OF THE COURT

30 We allowed the appeal with costs both here and  
the court below and set aside the judgment and ordered  
the refund of the deposit to the appellants. We did  
not deal with the counterclaim as it was abandoned.  
We stated that we would give our reasons later. We  
do so now.

40 The appeal is basically a question of construction  
of clauses 2 and 6 of an agreement entered into by  
the parties on 29th December, 1972. Appellants agreed  
to sell to the respondents a portion comprised of  
61,050.0 square feet of their land in Kuala Lumpur  
described as Lot No. 162, section 63 for \$167,889.98.  
Respondents paid a deposit of 10% as earnest money  
and the balance of the purchase price was to be  
paid within 30 days of the appellants' notifying the  
respondents of obtaining two separate titles in  
continuation for the land. At the time of the

execution of the agreement the appellants had already applied for the development of a petrol-filling and service station on the land as evidenced by the Development Order dated 19th February, 1971 (see page 44 of the Appeal Record) issued by the Pegawai Peranchang. Prior to the agreement the appellants had already applied for subdivision by using Form 9A under section 137 of the National Land Code (NLC) on 6th June, 1972. The intention of the appellant was to obtain a title in continuation in respect of the portion of land where they wished to construct the petrol station. 10

By a letter dated 16th October, 1973 to the appellants the Pemungat Hasil Tanah stated in paragraphs 3 and 4 as follows:-

"3. You are required to state the written agreement for the surrender of the portion of the land provided for the petrol and service station and to re-issue a lease title for 30 years. This is a policy of the Government to allocate the area for a petrol and service station. 20

4. Upon your due compliance of the conditions herein stated your application shall then be forwarded to the State Authority for their consideration."

Appellants wrote on 1st November, 1973 requesting for reconsideration so that two separate titles in continuation could be issued in respect of the two portions of the land. The Pemungat Hasil Tanah replied on 10th November, 1973 that their request for a title in continuation of the said petrol station site could not be considered as it was against the policy of the Government. By paragraph 2 he warned the appellants thus:- 30

"2. I would like to emphasize that if you were to erect, on the said land, of any business buildings, you are said to be in contravention to the conditions of the land and have committed an offence under section 127 of the National Land Code and you may be prosecuted under section 129 of the National Land Code." 40

Consequently, on 27th November, 1973 the appellants' solicitors wrote to the respondents informing them that the appellants were unable to obtain separate titles in continuation pursuant to clause 2 of the agreement unless they were willing to surrender the portion where the petrol and service station was constructed in exchange for a lease of 30 years. Since it was not legally possible to subdivide the land in accordance with clause 6 of the agreement they thereby returned the 10% earnest money. In the circumstances, they considered the agreement to become null and void. On 5th December, 1973 the respondents' solicitors replied that they disagreed with the appellants' interpretation of clauses 2 and 6 and returned the earnest money. They made clear that they would hold the appellants to the strict performance of the terms and conditions of the agreement which they considered to be subsisting and in full force and effect.

On 22nd February, 1974 the appellants tried again by requesting the Pemungat Hasil Tanah to reconsider the matter further. The result was that the authority was prepared to issue two separate titles in continuation but the appellants were to surrender the land on which the petrol and service station was to be erected in exchange for a lease of 30 years. Appellants rejected the offer. By that time the appellants had already terminated the agreement. Subsequently, the respondents filed their writ on 24th September, 1974 claiming for specific performance, damages for breach of agreement and costs.

It is convenient here to set out clauses 2 and 6 of the agreement. Clause 2 reads:-

"The Vendor shall (if it has not already done so) make application to the appropriate authority or authorities for the subdivision of the said land so as to result in the issue of separate documents of title in continuation in respect of the said portion and in respect of the balance of the said land."

(continued)

Clause 6 reads:-

"If for any reason subdivision is refused or for any other reason it shall not be legally possible to subdivide the said land in accordance with the terms of the Agreement then the Vendor shall refund to the Purchaser the earnest money referred to in clause 1 hereof free of any interest whereupon the Agreement shall be null and void and cease to have any further force or effect and neither party shall have any claim against the other in respect thereof."

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Clearly the words in brackets in clause 2 (if it has not already done so) indicate that the respondents were aware that application had been made to the appropriate authority. We see no reason for the insertion of those words unless they mean something. The learned Judge pointed out correctly the importance of the words "documents of title in continuation" in clause 2. Since the existing title is one of perpetuity the parties would expect that the titles to be issued after subdivision would be titles of perpetuity.

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With respect we do not agree with the learned Judge that the appellants had not complied with clause 2 of the agreement. As mentioned earlier the development of the petrol-filling and service station had been approved in 1971, long before the execution of the agreement. It is true that there is nothing in the agreement to say that the portion of land to be retained by the appellants should be used as a petrol service station. However, we do not think the respondents can say that at the time of the agreement they were not aware that the appellants were using the portion of the land for a petrol-filling and service station. The learned Judge thought that if the appellants elected not to use the site for a petrol station then the Land Office would approve the subdivision and issue separate titles in continuation. We should pause to ask ourselves how would respondents react if the portion to be purchased by them was going to be converted into a leasehold title. They would say it was not an implied term of the agreement that they should accept the leasehold. They would certainly contend that it

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was the expressed term of the agreement that they should be given a title in continuation. The appellants expect to obtain a title in continuation in respect of the portion of land to be retained by them. If they could not get a title in continuation they would not go through with the application. That seems to be the paramount consideration in so far as the agreement is concerned whether or not they are going to use it as a site for the petrol-filling and service station. It is with respect wrong for the learned Judge in effect to tell the appellants how to conduct their business. Only the appellants can decide whether they want to use the site for a petrol-filling and service station. The learned Judge stated that there was no doubt that the appellants had applied for the subdivision of their land. In fact, he referred to the various documents and letters relating to the applications for subdivision. It can also be argued that there was nothing in the agreement which imposed any specific obligation upon the appellants to cease using the land as a petrol-filling and service station as a price for subdivision. In other words, it was not open to the court to impose terms which the agreement did not contain. The respondents cannot say they did not know that they were dealing with a company whose primary business is selling petrol and diesel through its filling stations.

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We are dealing with a situation arising in 1973. The court has no power to make a landowner give up his or her freehold title in exchange for a 99 year lease. This was so decided in 1978 in this court in Pengarah Tanah Galian v. Sri Lempah Enterprise Sdn. Bhd.<sup>(1)</sup> After referring to the case the learned Judge stated at page 34 of the Appeal Record as follows:-

40

".....In the present case the Defendant Company should have pursued the matter in the Court by way of appeal if the approving authority refused its application for subdivision on the ground of non-compliance with the condition improperly imposed."

With respect, the learned Judge was clearly wrong as he was in effect rewriting the contract for the parties

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(1) (1979) 1 M.L.J. 135.



No.10  
Grounds of  
Judgment of  
the Federal  
Court  
26th May 1982.

(continued)

by imposing a term which could not be imported into the contract. It is unfortunate that the case of Hargraves Transport Ltd v. Lynch<sup>(2)</sup> was not dealt with.

In that case the defendant applied for outline planning permission for a piece of land to erect a transport depot thereon. Whilst the application was still pending the defendant agreed to sell the site to the plaintiffs. A deposit was paid and the balance to be paid on 1st April, 1966 subject to a condition that the plaintiffs obtain planning permission to use the site as a transport depot and to develop the property by erection of buildings. For the purpose of the agreement planning permission would be deemed not to have been received if such planning permission is subject to a condition which the plaintiffs reasonably considered unacceptable. Plaintiffs submitted detailed plans for approval. Although outline permission was granted, the local council, under local pressure, refused to approve the detailed plans. Plaintiffs rescinded the contract and claimed the return of their deposit under the agreement. Held the plaintiffs were entitled to rescind the contract and to have the return of their deposit. At page 458 Lord Denning, M.R. remarked that:-

".....Once the local planning authority refused approval of the details, the plaintiffs were entitled to call the deal off. They were not bound to appeal. The defendant may well be aggrieved by the conduct of the local council, but he can have no complaint against the plaintiffs. They did everything which could reasonably be expected of them."

Russel, L.J. expresses his view on this point very clearly at page 459:-

".....I would entirely agree that it is implicit in the contract that the plaintiffs would take all reasonable steps by way of attempting to get not only the outline planning permission but also the approval of detail under the condition on which that permission was granted and the one question is whether the plaintiff failed in that obligation in that they did not appeal to the Minister from a decision of the local planning authority refusing approval, a refusal which it would be flattering to describe as suspect. If one has a case like this where it must have

(2) (1969) 1 A.E.R. 455.

10 been known to the parties to the contract that an appeal from the local planning authority to the Minister might take for its solution six months, or nine months if there were a public inquiry, when one finds that at least the target for completion is 1st April, and the appeal, if successful at all, would be toward the end of the year at best, it seems to me that, bearing in mind the urgency of the matter to the plaintiffs which I have already mentioned, one cannot include as a reasonable step an appeal to the Minister, however sure it might appear that such an appeal would ultimately succeed.....".

IN THE FEDERAL COURT OF MALAYSIA AT KUALA LUMPUR

No.10  
Grounds of Judgment of the Federal Court  
26th May 1982

(continued)

20 We cannot close our eyes to the fact that at the signing of the agreement the appellants were already using the site as a petrol-filling and service station. Neither can the respondents do so. The respondents left the responsibility to the appellants to apply for the title in continuation. From the correspondence, it seems that the appellants had done everything which was reasonably required of them.

30 Appellants did not pursue seriously the question of frustration of contract. Their contention is that clause 2 is in the nature of a condition precedent. If the condition precedent cannot be complied with then clause 6 comes into operation. They relied on the alternative of clause 6 "or for any other reason it shall not be legally possible to subdivide the said land in accordance with the terms of this agreement." The condition precedent is that they claimed that the terms of the agreement is that there shall be two titles in continuation: one to the appellants and the other to the respondents. They are not going to go ahead with the application if it means that they must sacrifice their title for a 30 year lease. Chitty on Contract, Volume I, page 320, paragraph 693 states:-

40 "The liability of one or both of the contracting parties may become effective only if certain facts are ascertained to exist or upon the happening of some further event. In such a case the contract is said to be subject to a condition precedent. The failure of a condition precedent may have one of a number of effects. It may, in the first place, suspend the rights and obligations of both parties, as, for instance, where the parties enter into an agreement on the express

No.10  
Grounds of  
Judgment of  
the Federal  
Court  
26th May 1982

(continued)

understanding that it is not to become binding on either of them unless the condition is fulfilled. Secondly, one party may assume an immediate unilateral binding obligation, subject to a condition. From this he cannot withdraw; but no bilateral contract, binding on both parties, comes into existence until the condition is fulfilled. Thirdly, the parties may enter into an immediate binding contract, but subject to a condition, which suspends all or some of the obligations of one or both parties pending fulfilment of the condition. These conditions precedent are, however, contingent and not promissory, and neither party will be liable to the other if the condition is not fulfilled."

10

The second and third conditions are irrelevant to the present case. It is the contention of the appellants that as soon as a title in continuation could not be issued the agreement came to an end. It came to an end on 27th November, 1973. In support, the case of The New Zealand Shipping Co. Ltd. v. Societe Des Ateliers Et Chantiers De France (3) was cited.

20

Respondents stressed the point which found favour with the learned Judge that the agreement did not talk about the petrol station. Nothing was said at all in the agreement. It is not an implied term of the agreement. He contended that the court could not take such matter into consideration. The agreement did not say the appellants could use the land as a petrol-filling and service site. Parties merely agreed that each should have a title in continuation. If the petrol station was there when the agreement was signed then the respondents could not expect the appellants to sacrifice the use of the site for development of petrol-filling and service station by accepting a 30 year lease for a title in perpetuity.

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Respondents stated in respect of a registry title the State Commissioner is the approving authority. He did not dispute that the application should initially be sent to the Pemungat Hasil Tanah. See section 135(2) of the National Land Code. None of the letters came from the State Commissioner. He submitted that no decision had actually been made on subdivision. It should be pointed out that whenever the Pemungat

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(3)(1919) A.C. 1 & 9.

Hasil Tanah replied by letter a copy would go to the  
Mentri Besar thus keeping the State authority informed.

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No.10  
Grounds of  
Judgment of  
the Federal  
Court  
26th May 1982

(continued)

10 If the learned Judge accepted the contention  
of the respondents, as he seemed to have, that no  
decision was actually made on the subdivision then,  
with respect, we fail to see why the learned Judge  
should suggest that the appellants should pursue the  
matter in court by way of appeal against the approving  
authority on ground of non-compliance with the condition  
improperly imposed. This is because the respondents  
contended as no decision was made therefore there was  
no appeal to be brought against a decision. The  
refusal of the Pemungat Hasil Tanah in Sri Lempah's  
20 case <sup>(1)</sup> was not due to the application being contrary  
to policy of Government as the basis of the refusal  
of the application made by the appellants. The  
learned Judge had found as a fact that appellants  
were using their portion of land as a petrol-filling  
and service station site prior to the signing of  
the agreement. Approval was also given for development  
of the site as a petrol-filling and service station  
long before the appellants decided to sell a portion  
of the land to the respondents. Under such circumstances  
how can we honestly say that the appellants were  
not entitled to continue with the use of their portion  
as a petrol-filling and service station site and that  
the appellants therefore expect to obtain a title  
in continuation as envisaged by clause 2 of the agreement.

30 For reasons given we are of the view that the  
appellants had done all that could reasonably be  
expected of them in pursuing their application for  
subdivision. In our view the appellants had complied  
with clause 2 of the agreement. Hence, we allowed  
the appeal.

(Sgd.) Lee Han Hoe

26th May, 1982

CHIEF JUSTICE,  
BORNEO.

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

Notes

Date of Hearing: 24th March, 1982.

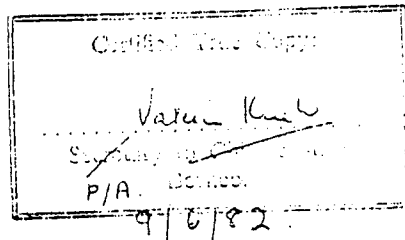
No.10  
Grounds of  
Judgment of  
the Federal  
Court  
26th May 1982

(continued)

Counsel:

Mr. C. Abraham (Miss S.T. Lee with him) for appellants.  
Solicitors: Messrs Shearn, Delamore & Co.

Mr. K.S. Narayanan for respondents.  
Solicitors: Messrs Ng Ek Teong & Partners.



No.11

ORDER GRANTING CONDITIONAL  
LEAVE TO APPEAL

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

O R D E R

No.11  
Order granting  
Conditional Leave  
to Appeal  
21st June 1982

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT KUALA LUMPUR  
(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO: 194 OF 1980

Between

Shell Malaysia Trading Sendirian Berhad ... Appellant

10

And

1. Lim Yee Teck

2. Lim Yee Bee and

3. Lim Yee Hoh

... Respondents

(In the matter of Civil Suit No:1185 of 1974  
In the High Court in Malaya at Kuala Lumpur

between:

1. Lim Yee Teck

2. Lim Yee Bee and

3. Lim Yee Hoh

... Plaintiffs

20

And

Shell Malaysia Trading Sendirian Berhad ... Defendant)

CORAM: RAJA AZLAN SHAH, CHIEF JUSTICE, HIGH COURT, MALAYA:  
WAN SULEIMAN, JUDGE, FEDERAL COURT, MALAYSIA:  
E. ABDOOLCADER, JUDGE, HIGH COURT, MALAYA.

IN OPEN COURT

THIS 21ST DAY OF JUNE, 1982

30 UPON MOTION made unto Court on the 21st day of June,  
1982 by Encik R Padmanabhan of Counsel for the Respondents  
abovenamed and in the presence of Encik V T Nathan of Counsel  
for the Appellant abovenamed AND UPON READING the Respondents

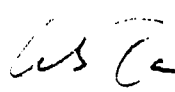
IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No.11  
Order granting  
Conditional Leave  
to Appeal  
21st June 1982

(continued)

Notice of Motion dated the 25th day of May 1982 and the Affidavit of Lim Yee Teck affirmed on the 30th day of April 1982, both filed herein AND UPON HEARING Counsel for the Respondents and Counsel for the Appellant as aforesaid, IT IS ORDERED that conditional leave be and is hereby granted to the abovesaid three (3) Respondents to appeal to His Majesty the Yang Di-Pertuan Agong against the whole of the decision of this Honourable Court given on the 24th day of March 1982 allowing the Appellant's appeal against the Order of the High Court at Kuala Lumpur dated the 11th day of July 1980 AND IT IS LASTLY ORDERED that the costs of and incidental to this application be costs in the cause. 10

GIVEN under my hand and the Seal of the Court this 21st day of June 1982.

  
.....  
SENIOR ASSISTANT REGISTRAR  
FEDERAL COURT  
MALAYSIA  
KUALA LUMPUR.

This Order is filed by M/s Ng Ek Teong & Partners of 2nd Floor, Bangunan Persatuan Hokkian Selangor, Jalan Raja Chulan, Kuala Lumpur, Solicitors for the Respondents herein. 20

No.12

ORDER GRANTING FINAL LEAVE  
TO APPEAL

IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No.12  
Order granting  
Final Leave to  
Appeal  
7th February 1983

IN THE FEDERAL COURT OF MALAYSIA HOLDEN AT KUALA LUMPUR.

(APPELLATE JURISDICTION)

FEDERAL COURT CIVIL APPEAL NO: 194 OF 1980

Between

Shell Malaysia Trading Sendirian Berhad ... Appellant

And

10 1) Lim Yee Teck  
2) Lim Yee Bee and  
3) Lim Yee Hoh ... Respondents

(In the matter of Civil Suit No: 1185  
of 1974 in the High Court in Malaya  
at Kuala Lumpur

Between

1) Lim Yee Teck  
2) Lim Yee Bee and  
3) Lim Yee Hoh ... Plaintiffs

And

20 Shell Malaysia Trading Sendirian Berhad ... Defendants)

CORAM: SALLEH ABAS, CHIEF JUSTICE, MALAYA;

ABDUL HAMID, JUDGE, FEDERAL, MALAYSIA;

GEORGE K S SEAH, JUDGE, FEDERAL COURT MALAYSIA.

IN OPEN COURT

THIS 7TH DAY OF FEBRUARY 1983

O R D E R

UPON MOTION made unto Court this day by Encik K S Narayanan  
of Counsel for the Respondents abovenamed in the presence of  
30 Encik Cecil Abraham of Counsel for the Appellant abovenamed  
AND UPON READING the Notice of Motion dated the 18th day of  
September 1982 and the Affidavit of K S Narayanan affirmed on the  
14th day of September 1982, both filed herein AND UPON HEARING



IN THE FEDERAL COURT  
OF MALAYSIA AT  
KUALA LUMPUR

No.12  
Order granting  
Final Leave to  
Appeal  
7th February 1983

(continued)

Counsel for the Respondents and Counsel for the Appellant as  
aforesaid, IT IS ORDERED that final leave be and is hereby  
granted to the abovenamed three Respondents to appeal to His  
Majesty the Yang Di-Pertuan Agong against the whole of the  
decision of this Honourable Court given on the 24th day of  
March 1982.

GIVEN under my hand and the Seal of the Court this 7th  
day of February 1983.

Sgd.: Illegible.....  
SENIOR ASSISTANT REGISTRAR  
FEDERAL COURT  
MALAYSIA.

10

This Order is filed by M/s Ng Ek Tsong & Partners, of 2nd Floor,  
Bangunan Persatuan Hokkien Selangor, Jalan Raja Chulan, Kuala  
Lumpur.

LETTER FEDERAL CAPITAL PLANNING AUTHORITY TO  
TETUAN SHELL MALAYSIA TRADING SDN.BHD.

AEL  
Letter Federal  
Capital Planning  
Authority to  
Shell Malaysia  
Trading Sdn.Bhd.  
19th February  
1971

EMERGENCY (ESSENTIAL POWERS) ORDINANCE NO.46, 1970  
PLANNING (DEVELOPMENT) RULES 1970

FORM 5

Rule 6(3)7

DEVELOPMENT ORDER

Federal Capital Planning Authority

Reference No.: (21)d/m.PKL.1651/70

(Appl: 5818 )

119 FEB 1971

10

To:  
Tetuan Shell Malaysia Trading Sdn. Bhd.,  
195 Jalan Brickfields,  
Kuala Lumpur.

TAKE NOTICE that the application for the development of  
Proposed petrol filling and service station

part of  
on Lot No. ~~162~~ 162 Section 63  
Jalan Pekeliling.

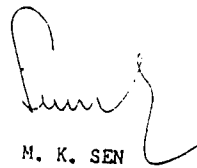
in the Municipality of Kuala Lumpur, has been granted planning  
permission subject to :

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1. Submit building plans to the Akitek Perbandaran and await their approval before any building work is commenced.
2. Submit sanitary installation plans to the Jurutera Perbandaran and await their approval before any building work is commenced.
3. Obtain satisfactory water supply.
4. Submit plans of ingress & egress and service road to Jurutera Perbandaran for approval before building plans will be approved.
5. Setback all buildings and other structures including petrol pumps 20 ft. away from the street boundary of the lot.
6. No repairs of motor vehicles will be permitted on the premises.
7. Should at any future date, another petrol filling and service station is approved on adjoining lot, the applicant shall agree to close his service road and permit the Pesuruhjaya Ibu Kota to determine the construction of a new service road to serve the new adjoining stations. The cost of construction of the new service road shall be borne in direct proportion by the applicants concerned.

30

Completed & Cnd  
on 23/2/71



M. K. SEN  
Pegawai Peranchang  
b.p.Pehak-berkuasa Peranchang Ibu Kota

s.k. Akitek Perbandaran.  
Jurutera Perbandaran:

EXHIBIT

EXHIBIT - AE2

AE2  
Translation  
of Letter  
Shearn Delamore  
to Collector of  
Land Revenue  
6th June 1972

TRANSLATION OF LETTER SHEARN DELAMORE TO  
COLLECTOR OF LAND REVENUE

TRANSLATION

S.D.(RM) 25150/1.

6th June, 1972.

Collector of Land Revenue,  
Land Office,  
Kuala Lumpur.

Sir,

10

Lot 162 Sec.63 Jalan Pekeliling  
Kuala Lumpur

We enclose herewith Form 9A, which has been signed by our client, Shell Malaysia Trading Sdn. Bhd. and 4 copies of the site plan and "Postal Order" No: D. 598734 for \$20/- being the prescribed payment.

Yours faithfully,

Enclos:

C.C.  
Shell Malaysia Trading Sdn. Bhd.,  
16th Floor, UMBC Bldg.,  
Jalan Suleiman,  
Kuala Lumpur.

20

Mr. Yeoh Ho Huat,  
54A. (1st Floor) Jalan St Bintang,  
Kuala Lumpur.

Translation agreed to between Solicitors for the parties.

.....  
M/s Shearn Delamore & Co  
Solicitors for the  
Appellant.

.....  
M/s Ng & Teong & Partners  
Solicitors for the Respondent

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TRANSLATION OF LETTER FROM COLLECTOR OF LAND  
REVENUE TO SHELL

AE3  
Translation of  
Letter from  
Collector of Land  
Revenue to Shell  
5th December 1972

TRANSLATION

Bil(6)dml.PHTKL.6/2251/72

Land Office

Kuala Lumpur

5th December 1972

Messrs Shell Malaysia Sdn Bhd

16th floor UMBC Building

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Jalan Suleiman

Kuala Lumpur

Application for sub-division of land  
lot 162, Section 63, Township of Kuala  
Lumpur

With reference to your application abovementioned,  
we enclose herewith a copy of the site plan no. 116/72  
for your due approval and execution. Please return same  
for our further action.

Sgd.

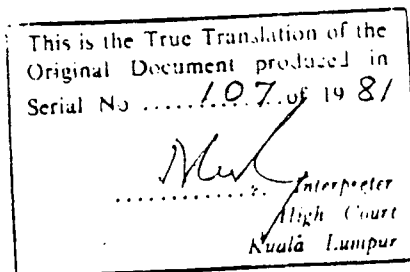
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(Suleimar. Khan)

f. Collector of Land Revenue

Kuala Lumpur

jmn/vs



EXHIBIT

EXHIBIT - AE4

AE4  
Translation of  
letter from Shell  
to Collector of  
Land Revenue  
11th December 1972

TRANSLATION OF LETTER FROM SHELL TO  
COLLECTOR OF LAND REVENUE

TRANSLATION

Your ref: Bil(6)dml.PHTKL.

SHELL MALAYSIA TRADING

6/2251/72 dd 5.12.72

SDN BERHAD

Our ref: R.lp.3/YLF

KUALA LUMPUR

11th December 1972

Collector of Land Revenue

Land Office

10

KUALA LUMPUR

Dear Sir,

Application for subdivision of land

Lot 162 Section 63 Town of Kuala Lumpur

As requested, we return you herewith R.S. Plan  
No. 116/72 dated 15.11.72 in respect of our proposed  
sub-division of the above property duly endorsed by  
us for your further attention.

Yours faithfully,

20

For: SHELL MALAYSIA TRADING

SDN BERHAD

Kuala Lumpur Sales Office

Sgd. L F Yang

Encl

c.c. Mr Yeoh Ho Huat

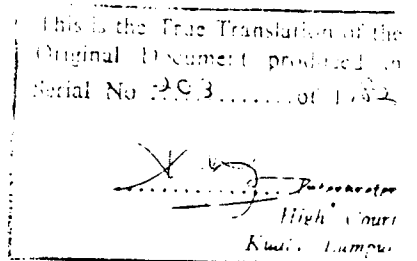
54A (1st floor)

Jalan Bukit Bintang

Kuala Lumpur - Please note the attached copy

of R.S. Plan No. 116/72

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AGREEMENT BETWEEN THE RESPONDENT AND THE  
APPELLANTSAE5  
Agreement  
between the  
Respondent and  
the Appellants

AN AGREEMENT made this 29<sup>th</sup> day of December 1972  
Between SHELL MALAYSIA TRADING SENDIRIAN BERHAD a Company  
incorporated in Malaysia with its registered office at Bangunan Shell,  
No.2 Jalan Suleiman, Kuala Lumpur (hereinafter referred to as "the  
Vendor") of the one part and LIM YEE TECK, LIM YEE BEE and LIM  
YEE HOH all of c/o Yee Seng Rubber Company Sdn. Bhd., 4½ mile  
Klang Road, Kuala Lumpur (hereinafter referred to as "the Purchasers")  
of the other part.

WHEREAS the Vendor is registered as the proprietor of the land  
held under Grant for Land No. 9982 for Lot No.162 Section 63 in the Town  
of Kuala Lumpur in the District of Kuala Lumpur (hereinafter referred  
to as "the said land").

AND WHEREAS the Vendor has agreed to sell and the Purchasers  
have agreed to purchase free from all encumbrances but subject to all  
conditions of title whether express or implied affecting the same and  
with vacant possession that portion of the said land shown hatched in  
blue on the plan annexed hereto and marked "A" comprising in area  
61,050.9 square feet more or less (hereinafter referred to as "the said  
portion") at the purchase price of Dollars One hundred and sixty seven  
thousand eight hundred and eighty nine and cents ninety-eight (\$167,889-98)  
upon and subject to the terms and conditions hereinafter contained.

NOW THIS AGREEMENT WITNESSETH as follows:-

1. In consideration of the sum of Dollars Sixteen thousand seven  
hundred and eighty-nine (\$16,789/-) now paid by the Purchasers to the  
Vendor by way of earnest money (the receipt whereof the Vendor hereby  
acknowledges) the Vendor will sell and the Purchasers will purchase the  
said portion free from all encumbrances but subject to all conditions  
of title whether express or implied affecting the same and with vacant  
possession at the purchase price of Dollars One hundred and sixty-seven  
thousand eight hundred and eighty-nine and cents ninety-eight (\$167,889-98)  
upon the terms and conditions hereinafter contained.
2. The Vendor shall (if it has not already done so) make application  
to the appropriate authority or authorities for the subdivision of the said  
land so as to result in the issue of separate documents of title in  
continuation in respect of the said portion and in respect of the balance  
of the said land.

EXHIBIT

AE5  
Agreement  
between the  
Respondent and  
the Appellants  
(continued)

3. The purchase shall be completed within thirty (30) days of the Vendor notifying the Purchasers that a separate document of title to the said portion shall have been obtained and on completion the Purchasers shall pay to the Vendor's solicitors Messrs. Shearn Delamore & Co. and Drew & Napier, No.2 Benteng, Kuala Lumpur to be disposed of by them in the manner hereinafter provided the sum of Dollars One hundred and fifty-one thousand one hundred and cents ninety-eight only (\$151,100-98) being the balance of the said purchase price (the earnest money referred to in Clause 1 hereof being then treated as being in part payment of the said purchase price) and thereupon the Purchasers shall be entitled to enter into vacant possession of the said portion and the Vendor shall hand to the Purchasers a valid and registrable Memorandum of Transfer of the said portion in favour of the Purchasers in the undivided shares specified in the Schedule hereto together with the document of title thereto and all such documents as may be necessary for the purposes of registering the said Transfer.

10

4. The Purchasers hereby undertake and agree that they will use their utmost diligent in securing registration of the said Transfer as soon as possible and will advise the Vendor immediately registration of the same is effected and thereupon the said solicitors shall release the sum of Dollars One hundred and fifty-one thousand one hundred and cents ninety-eight (\$151,100-98) being the balance of the purchase price referred to in Clause 3 hereto to the Vendor.

20

5. Time wherever mentioned in this Agreement shall be deemed to be of the essence of the contract.

6. If for any reason subdivision is refused or for any other reason it shall not be legal possible to subdivide the said land in accordance with the terms of this Agreement then the Vendor shall refund to the Purchasers the earnest money referred to in Clause 1 hereof free of any interest whereupon this Agreement shall be null and void and cease to have any further force or effect and neither party shall have any claim against the other in respect thereof.

30

7. The said purchase price is based on the assumption that the area of the said portion is 61,050.9 square feet but if upon subdivision the area of the said portion is found to be more or less than 61,050.9 square feet the purchase price shall be re-calculated at the rate of

(continued)

2-75 per square foot and the difference shall be paid or allowed as the case may be at the time of completion.

8. If the Purchasers shall fail to complete the purchase in pursuance of this Agreement the earnest money referred to in Clause 1 hereto shall be forfeited to the Vendor absolutely and thereupon this Agreement shall be null and void and cease to have any force or effect and neither party shall have any claim against the other in respect thereof.

10 9. All quit rents rates taxes assessments and other outgoings (if any) payable in respect of the said portion shall be apportioned between the parties hereto as at the date of completion and any sum due hereunder by one party to the other shall be paid or allowed at the time of completion.

10. Each party shall bear its own respective legal costs of and incidental to the preparation execution and completion of this Agreement and the Transfer referred to in Clause 3 hereof but the Purchasers shall bear all stamp duty and registration fees levied on this Agreement and the said Transfer. The costs of and incidental to the said subdivision and the issue of a separate document of title to the said portion shall be borne by the Vendor.

20 11. This Agreement shall be binding upon the respective heirs executors administrators successors in title and assigns of the parties hereto.

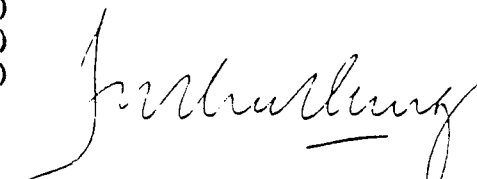
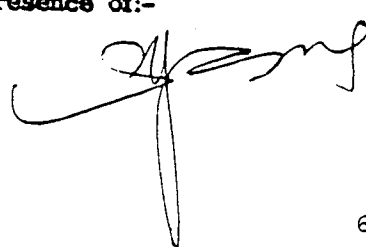
THE SCHEDULE ABOVE REFERRED TO

- Lim Yee Hoh - an undivided one half share
- Lim Yee Teck - an undivided one quarter share
- Lim Yee Bee - an undivided one quarter share

IN WITNESS WHEREOF the parties hereto have hereunto set their hands the day and year first above written.

SIGNED by FU CHEE CHENG )  
)  
for and on behalf of SHELL )  
MALAYSIA TRADING )  
SENDIRIAN BERHAD in the )  
presence of:- )

for SHELL MALAYSIA TRADING SDN. BHD.,  
KUALA LUMPUR SALES OFFICE,  
195, JALAN BRICKFIELDS,  
KUALA LUMPUR.



30



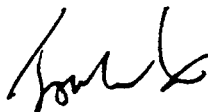
EXHIBIT

AE5  
Agreement  
between the  
Respondent and  
the Appellants

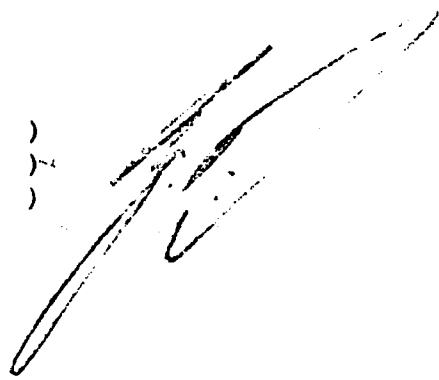
(continued)

SIGNED by the said LIM YEE

TECK in the presence of:-



J. KHEE-SIN LAI  
ADVOCATE & SOLICITOR  
KUALA LUMPUR.



SIGNED by the said LIM YEE

BEE in the presence of:-



J. KHEE-SIN LAI  
ADVOCATE & SOLICITOR  
KUALA LUMPUR.

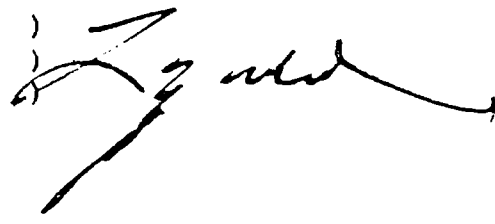


SIGNED by the said LIM YEE

HOH in the presence of:-



J. KHEE-SIN LAI  
ADVOCATE & SOLICITOR  
KUALA LUMPUR.





AE6  
Translation  
of letter from  
Collector of  
Land Revenue  
to Shell  
20th January  
1973

TRANSLATION OF LETTER FROM COLLECTOR OF  
LAND REVENUE TO SHELL

TRANSLATION

Bol. (8) dlm. PHTKL. 6/2251/72

LAND OFFICE

KUALA LUMPUR

20th January 1973

Messrs Shell Malaysia Trading

Sendirian Berhad

16th floor UMBC Building

Jalan Sulaiman

Kuala Lumpur

10

Application for sub-division of Lot 162

Section 63 Township of Kuala Lumpur

With respect to your above application, you are  
requested to apply under Section 124 of the National  
Land Code for the change of conditions of the said land.  
The necessary registration fee is \$10/-.

Sgd.

(Sulaiman Khan)

f. Collector of Land Revenue

Kuala Lumpur

20

jmn/vs

<p>This is the True Translation of the Original Document produced in Serial No ....108...of 19 8/</p> <p><i>M. A. J.</i> .....<i>A.</i> Interpreter High Court Kuala Lumpur</p>
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TRANSLATION OF LETTER FROM COLLECTOR OF  
LAND REVENUE TO SHELL

---

AE7  
Translation of  
Letter from Collector  
of Land Revenue to Shell  
16th October 1973

TRANSLATION

(10) dlm.PHT, KL.6/2251/72

DISTRICT/LAND OFFICE

KUALA LUMPUR

16th October, 1973

Messrs Shell Malaysia Ltd  
16th Floor, U M B C Building  
10 Jalan Sulaiman  
Kuala Lumpur

Dear Sirs,

re Application for sub-division of land lot 162  
Section 63 Town of Kuala Lumpur

I have the honour to refer to your abovesaid application and wish to inform you that you are required to make an application under Section 124 of the National Land Code for the change of land-use from "residential" to "business". The said application is to be made in writing. You have already settled the registration fee of \$10/-.

2. According to our records, quit rent for the year 1973 totalling \$1,786/- (quit rent for 1973 is \$1,701/- and the penalty for late payment is \$85/-) which is accordingly to the rates stipulated for residential purposes has yet to be settled. Could you please settle the same and forward a photocopy of the receipt thereof to us for our further action.

3. You are required to state the written agreement for the surrender of the portion of the land provided for the petrol and service station and to re-issue a lease title for 30 years. This is a policy of the Government to allocate the area for a petrol and service station.

4. Upon your due compliance of the conditions herein

EXHIBIT

AE7  
Translation  
of letter from  
Collector of  
Land Revenue to  
Shell  
16th October  
1973

stated your application shall then be forwarded to the  
state authority for their consideration. Your file  
P.lp3/Ob.HH refers.

Yours faithfully,

Sgd:

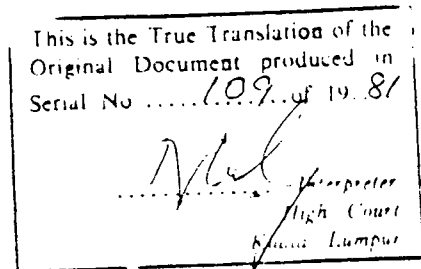
(Sulaiman Khan)

f.Colledcotr of Land Revenue  
Kuala Lumpur

c.c.

Y.A.B. Dato' Menteri Besar  
Selangor  
Kuala Lumpur.

sk/fr



TRANSLATION OF LETTER FROM SHELL TO COLLECTOR  
OF LAND REVENUE

AE8  
Translation of letter  
from Shell to Collector  
of Land Revenue  
1st November 1973

TRANSLATION

Your ref: (10)dlm.PHT.KL 6/ SHELL MALAYSIA TRADING  
2251/72 dd 16.10.73 SDN BERHAD  
Our ref: R.lp.3/YLF KUALA LUMPUR  
1st November 1973

Collector of Land Revenue  
District/Land Office  
KUALA LUMPUR

10

Dear Sir,

Application for subdivision of land  
Lot 162 Section 63 Town of Kuala Lumpur

We thank you for your letter of the 16th October with regard to our application for sub-division of Lot 162, Section 63, Town of Kuala Lumpur. We confirm that the Quit Rent for 1973 in respect of this lot has been paid and as requested, enclose a photostat copy of the relevant receipt No. Y 484782 dated 24th January 1973.

20

We note that we are requested to agree to surrender the portion earmarked for the petrol station and accept a 30-year lease thereof before our application for sub-division can be considered by the State Authority. We write to enquire whether you would be prepared to reconsider this requirement so that a title in continuity could be issued in respect of both portions of Lot 162 on the completion of sub-division.

We should be grateful if you could let us have an early reply to this letter.

30

Yours faithfully,

For SHELL MALAYSIA TRADING SDN  
BHD Kuala Lumpur Sales Office  
Sgd. L F Yang

EXHIBIT

AE8  
Translation of  
letter from Shell to  
Collector of Land  
Revenue  
1st November 1973

(continued)

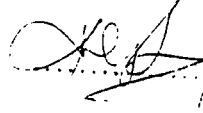
Encl.

c.c. Y A B Datuk Menteri Besar

Selangor

KUALA LUMPUR

c.c. MKRN

This is the True Translation of  
Original Document produced by  
Serial No... 204... of 62  
  
Interpreter  
High Court  
Kuala Lumpur

TRANSLATION OF LETTER FROM COLLECTOR  
OF LAND REVENUE TO SHELL

AE9  
Translation of letter  
from Collector of Land  
Revenue to Shell  
10th November 1973

TRANSLATION

dlm.PHT.KL6/2251/72

DISTRICT/LAND OFFICE

KUALA LUMPUR

10th November 1973

Messrs. Shell Malaysia Ltd

16th floor UMBC Building

10 Jalan Sulaiman

Kuala Lumpur

Dear Sirs,

Application for sub-division of land lot

162 Section 62 Town of Kuala Lumpur

I have the honour to refer to your letter R.l.p.  
3/YLF dated 1.11.73 with respect to the above matter and  
regret to inform you that your request for a title-in-  
continuation of the said petrol station site could not  
be considered as it is against the policy of the Govern-  
ment.

2. I would like to emphasize that if you were to  
erect, on the said land, of any business buildings, you  
are said to be in contravention to the conditions of  
the land and have committed an offence under section 127  
of the National Land Code and you may be prosecuted under  
section 129 of the National Land Code.

3. Could you please take the necessary actions to  
paragraphs 1, 2 and 3 of our previous letter No(10)dlm.  
PHT.KL.6/2251/72 dated 16.10.1973.

30

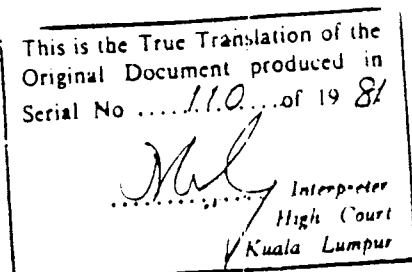
Yours faithfully,

Sgd.

(Sulaiman Khan)

f. Collector of Land Revenue

Kuala Lumpur



c.c. Y A B Dato Mentri Besar



EXHIBIT

E10  
Letter from Shearn  
Delamore to the  
Appellants  
27th November 1973

EXHIBIT - AE10

LETTER FROM SHEARN DELAMORE TO THE  
APPELLANTS

SD. 25160/1 (M)

27th November, 1973.

M/s. Lim Yee Teck, Lim Yee Hoh  
and Lim Yee Hee,  
c/o Yee Seng Rubber Co. Sdn. Bhd.,  
4½ Mile, Jalan Kelang,  
Kuala Lumpur.

10

Tuan-Tuan,

Subdivision of Lot 162  
-----

We act for Shell Malaysia Trading Sdn. Bhd.,  
and refer to the Agreement of Sale dated the 29th  
December, 1972 made between yourselves and our clients.

Our clients have been informed by the  
Pemungut Hasil Tanah, Kuala Lumpur, that their appli-  
cation for subdivision in pursuance of Clause 2 of the  
said Agreement will only be considered if "inter alia"  
our clients agree in writing to surrender that portion 20  
on which the petrol station is constructed and accept  
a lease of the same for a period of 30 years.

You will appreciate that Clause 2 of the  
said Agreement calls for subdivision of the land so as to  
result in the issue of separate titles "in continuation"  
in respect of the said portion and in respect of the  
balance of the said land (i.e. the petrol station site).

Clause 6 provides that if it shall not be  
legally possible to subdivide the land in accordance  
with the terms of the said Agreement (i.e. Clause 2) our 30  
clients are to refund the earnest money paid by yourselves  
under Clause 1 and upon such refund the said Agreement  
will become null and void.

2/....

EXHIBIT

AE10

Letter from Shearn  
Delamore to the  
Appellants  
27th November 1973

(continued)

27.11.1973.

....

Accordingly, as it has become legally impossible to subdivide the land in accordance with the agreement we are on the instructions of our clients enclosing herewith our cheque for \$16,789/- being the refund of the earnest money paid by yourselves.

Kindly acknowledge receipt.

Yang benar,

Encl.  
K.

s.k. Shell Malaysia Trading Sdn. Bhd.,  
Bangunan Shell,  
2 Jalan Sulaiman,  
Kuala Lumpur.

Your ref: RES/KL/YLF

EXHIBIT.

AE11

Letter Allen & Gledhill  
to Shearn Delamore  
5th December 1973

EXHIBIT. -- AE11

LETTER ALLEN & GLEDHILL TO SHEARN  
DELAMORE

R. C. HOFFMAN M.A. (OXON)  
HENRY B. H. CHEAM  
JOSEPH H. S. LAI  
MISS THOO-CHOW THYE  
CHIN YEW MENG  
Atistak:-  
AT KUALA LUMPUR:-  
H'NG HUP JING  
MISS LEE JIK CHIAN  
ROGER K.H. TAN LL.B. (LONDON)  
AT PENANG:-  
T. R. HEWORTH  
MISS M. G. P. TAN  
K. KUMARAENDRAN  
AT JOHORE BAHRU:-  
WONG KIM FAT LL.B. (S'PORE)  
S. BALARAJAH

**ALLEN & GLEDHILL**  
Advocates & Solicitors  
Notary Public and Commissioner for Oaths  
Peguambela & Peguambara  
Pengkaj Awam dan Penuruhaya Sampah  
BANGUNAN U.M.B.C.,  
(24TH FLOOR)  
JALAN SULAIMAN,  
PETI SURAT 2027,  
KUALA LUMPUR. 01-33

TEL: 290333/4/5/6  
KAWAT: "ALLENGLD"  
KUALA LUMPUR.  
ASSOCIATED WITH  
ALLEN & GLEDHILL  
SINGAPORE.

YOUR REF: SD. 25160/- (M)

OUR REF: KSL/by/1436/71

5th December 1973

M/s Shearn Delamore & Co.,  
Advocates and Solicitors,  
2 Benteng,  
Kuala Lumpur. BY HAND

Dear Sirs,

Subdivision of Lot 162

We act for M/s Lim Yee Teck, Lim Yee Bee and Lim Yee Hoh and refer to your letter of 27th November 1973 addressed to our clients on which we have instructions to reply thereto.

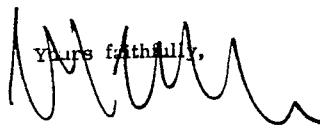
10

2. Our clients do not agree with your interpretation of clauses 2 and 6 of the Agreement dated 29th December 1972 and contend that your clients are not entitled to invoke clause 6 of the said agreement under the circumstances and for the reasons that you have set out in your letter under reference. As such our clients do not accept your clients' purported exercise of the said clause 6 and further do not accept the refund of the earnest money of M\$16,789/-. Accordingly we are instructed to return herewith your cheque for the said sum of M\$16,789/- (Chartered Bank cheque No. 226732 dated 27th November 1973).

3. Our clients will hold your clients to the strict performance of the terms and conditions of the said agreement which our clients contend is subsisting and in full force and effect.

20

Yours faithfully,



C. C.  
M/s Lim Yee Teck,  
Lim Yee Bee and  
Lim Yee Hoh,  
c/o P.O. Box 399,  
Kuala Lumpur.

KSL/by/1436/71  
SD. 25160/1 (M)

17hb. Disember, 1973.

Messrs. Allen & Gledhill,  
Bangunan U.M.B.C.,  
Jalan Suleiman,  
Kuala Lumpur.

10

Tuan-Tuan,

Subdivision of Lot 162  
-----

We acknowledge receipt of your letter of  
the 5th December, 1973 returning our cheque for \$16,789/.

The interpretation of Clauses 2 and 6 of  
the Agreement dated the 29th December, 1972 as set out in  
our letter of the 27th November, 1973 stands as far as  
our clients are concerned.

20

We shall retain the sum of \$16,789/- with  
us in our clients' account and we confirm that this sum is  
ready for payment to your clients at any time on being  
notified by them as we see no purpose in forwarding the  
cheque to you once again and your clients returning the  
same to us.

Yang benar,

K.

s.k. Shell Malaysia Trading Sdn. Bhd.,  
Bangunan Shell,  
2 Jalan Suleiman,  
Kuala Lumpur.

30

Your letter of 11th December, 1973 refers.  
(Ref: RES/KL/YLF)

EXHIBIT

AE13  
Translation of  
letter Collector  
of Land Revenue  
to Shell  
22nd February 1974

EXHIBIT - AE13

TRANSLATION OF LETTER COLLECTOR OF LAND  
REVENUE TO SHELL

TRANSLATION

dIm.PHTKL.6/2251/72

District/Land Office  
Kuala Lumpur

22nd February 1974

For Presentation

Messrs Shell Malaysia Ltd  
16th Floor UMBC Building  
Jalan Sulaiman  
Kuala Lumpur

10

Dear Sirs,

Application for sub-division of Lot 162  
Section 63 Kuala Lumpur

Reference our letter, Bil.(10) dIm. PHTKL.6/  
2251/72 dated 16.10.73, please take the necessary actions  
as stated in paragraphs 1, 2 and 3 of the letter.

2. We would like to advise that in accordance with  
the regulations currently in force, the land in question 20  
will be sub-divided into two and consequently two titles  
in continuation will be issued. Thereafter, the land on  
which the petrol pump is to be erected should be  
surrendered to the Government and a 30-year leasehold  
title will be issued. This is in accordance with Govern-  
ment policy on the issuance of title for petrol pumps sites.

3. This office has been made to understand that a  
petrol kiosk has already been erected on the piece of  
land in question - in contravention of the Land Code.  
Action will be taken against you if we do not receive 30  
any reply from you within two weeks of your receiving  
this letter.

EXHIBIT

AE13  
Translation of  
letter Collector of  
Land Revenue to Shell  
22nd February 1974

(continued)

Yours faithfully

Sgd.

(Sulaiman Khan)

f. Collector of Land Revenue

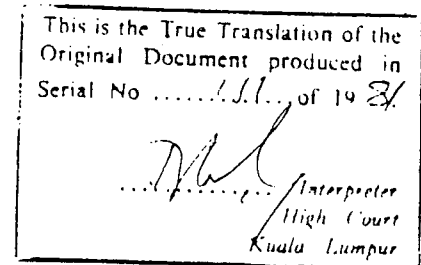
Kuala Lumpur

c.c. Mr Lim Yee Hoe

c/o Yee Seng Rubber Co Sdn Bhd

4½ miles Jalan Klang

Kuala Lumpur



EXHIBIT

AE14

EXHIBIT - AE14

Letter  
Allen &  
Gledhill  
to Shearn  
Delamore

LETTER ALLEN & GLEDHILL to SHEARN DELAMORE

28th  
February  
1974

HING MUN  
MISS LEE SH. CHIAN  
ROGER K.M. L.L.B. (LONDON)  
TEE KENG HOON LL. B. (S'PORE)  
AT PENANG.  
T. R. HEPWORTH  
K. KUMARAENDRAN  
AT JOHORE BAHRU.  
WONG KIM FATT LL. B. (S'PORE)  
S. BALARAJAN

YOUR REF: SD(25160/1(M))  
OUR REF: KSL/by/1436/71

28th February 1974

M/s Shearn Delamore & Co.,  
Advocates and Solicitors,  
2 Benteng,  
Kuala Lumpur.

BY HAND

Dear Sirs,

Subdivision of Lot 162

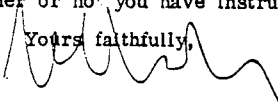
We refer to the above matter.

2. Our clients have received a carbon copy of the letter dated 22nd February 1974 from the Pemungut Hasil Tanah (bil(13) dlm. PHTKL. 6/2251/72) addressed to your clients which letter your clients have no doubt referred to you. 10

3. We are instructed by our clients to reiterate the contents of our letter to you of 5th December 1973 and to request your clients forthwith to proceed with the subdivision of the property. If we do not receive a reply from you within five (5) days from the date hereof that your clients are proceeding with the subdivision we have instructions to commence legal proceeding against your clients forthwith for specific performance of the agreement dated 29th December 1972 and such other relief as our clients may deem fit. 20

4. Our clients also reserve the right to claim damages from your clients and to take such other action and to seek all other remedies that they may think fit against your clients in the event of the Pemungut Hasil Tanah or such other competent authority or authorities taking any forfeiture proceedings or any other action against the property resulting from your clients' failure to proceed with and complete the subdivision.

5. In the event of our clients commencing legal proceedings against your clients we would be obliged to know whether or not you have instructions to accept service. 30

Yours faithfully,  


c.c.

M/s Lim Yee Teck, Lim Yee Bee & Lim Yee Hoh,  
c/o P.O. Box 399, Kuala Lumpur.

TRANSLATION OF LETTER FROM SHELL TO THE  
COLLECTOR OF LAND REVENUE

AE15  
Translation of  
letter from Shell  
to the Collector  
of Land Revenue  
11th March 1974

TRANSLATION

Your ref: (13)d/m.PHT/KL 6/2251/ SHELL MALAYSIA SDN BHD  
72 dd. 22.2.74 KUALA LUMPUR  
Our ref: R.p.3/YLF 11th March 1974

Collector of Land Revenue  
District/Land Office  
Kuala Lumpur

10

Dear Sir,

Application for subdivision of lot  
162 Section 63 Kuala Lumpur

We thank you for your letter of the 22nd ultimo  
and we understand that if we proceed with the subdivi-  
sion of this lot we would be required to surrender our  
sub-divided lot to Government in exchange for a thirty  
year lease and that we would not be permitted to retain  
the sub-divided title under a title in perpetuity in  
continuation of the existing Grant. As we are not  
prepared to surrender the subdivided title we hope if  
you could ascertain that our application for subdivision  
is not entertained.

20

We are somewhat disturbed with the suggestion in  
your letter under reply that we are in breach of the  
National Land Code and your earlier reference to an  
infringement of an express condition of title in your  
letter of 10th November, 1973. To the best of our know-  
ledge and belief there are no express conditions of title  
affecting this land, and the implied conditions affecting  
the same are those set out in Section 110 of the Act,  
namely, those implied by S.53(3) which must be read subject

30



EXHIBIT

AE15

Translation  
of letter from  
Shell to the  
Collector of  
Land Revenue  
11th March 1974

to the proviso thereto and those implied by S. 114.

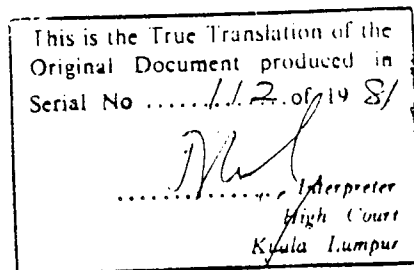
(continued) We should be much obliged therefore if you could  
let us know in what manner we are in breach of the  
National Land Code so that we may take steps to rectify  
the matter immediately.

Yours faithfully,

for SHELL MALAYSIA TRADING SDN BHD

K L Sales Office

Sgd. Illegible



TRANSLATION OF LETTER FROM THE COLLECTOR  
OF LAND REVENUE TO SHELL

Translation of letter  
from the Collector of  
Land Revenue to Shell  
20th April 1974

TRANSLATION

d/m.PHT.KL.6/2251/72

DISTRICT/LAND OFFICE

KUALA LUMPUR

20th April 1974

Messrs Shell Malaysia Ltd

16th floor UMBC Building

10 Jalan Sulaiman

Kuala Lumpur

Dear Sirs,

Application for sub-division of Lot  
162 Section 63 Town of Kuala Lumpur

I have the honour to refer to your letter R.l.p.  
3/YLF dated 11.3.74 with respect to the above matter and  
to thank you for the views which you have submitted  
therein.

20 However, I would appreciate if you could kindly  
go through the following sections carefully to grasp a  
better understanding and perspective of the same i.e.  
sections 53, 54, 55, 56, 110, 115, 116, 117, Clause 5 of  
the Third Schedule and also the 13th Schedule of the  
National Land Code.

I hope you are now convinced after perusing the  
abovementioned sections that the other regulations imposed  
thereon are according to the policy of the State Govern-  
ment of Selangor.

30 I am sure the clarification requested by you  
regarding paragraph 3 in your letter is self-explanatory.  
As you may know, the quit rent payable is based on quit  
rent for residential purposes but you have utilised the  
land for commercial purposes.

EXHIBIT

AE16

Translation of  
letter from  
the Collector  
of Land Revenue  
to Shell  
20th April 1974

For your information future actions in respect of the  
above matter will be taken over by the Federal Territory  
Land Office.  
Thank you.

(continued)

Yours faithfully,

Sgd.

(Sulaiman Khan)

f. Collector of Land Revenue  
Kuala Lumpur

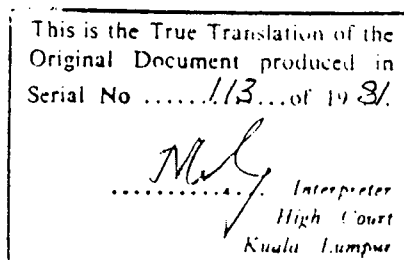


EXHIBIT - AE17

EXHIBIT

TRANSLATION OF LETTER FROM THE DIRECTOR OF  
THE FEDERAL TERRITORY LAND OFFICE TO SHELL

AE17  
Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to Shell  
21st August 1974

TRANSLATION

Bil. (6) dlm. PTG/WP.

LAND OFFICE FEDERAL

6/649/74

TERRITORY

OFF JALAN PEKELILING

KUALA LUMPUR

10

21st August, 1974

Messrs Shell Malaysia Ltd

16th floor UMBC Building

Jalan Sulaiman

KUALA LUMPUR

Dear Sirs,

Application under Section 137 of the  
National Land Code for Lot 162 Section  
63 Township of Kuala Lumpur

20

I wish to refer to the above matter and would  
like to request you to forward an application under  
Section 124 of the National Land Code for the imposition  
of new express conditions from 'residential' to  
'commercial'. The prescribed registration fee is \$10/-.

Thank you.

Yours faithfully,

Sgd.

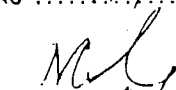
(ABDUL MALEK BIN AHMAD)

f. Director

Lands & Mines, Federal

Territory, Kuala Lumpur

30

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Original Document produced in  
Serial No ..... 114 ..... of 19. 8/  
  
..... Interpreter  
High Court  
Kuala Lumpur

RA/Ja

EXHIBIT

EXHIBIT - AE18

AE18  
Letter Shearn  
Delamore to  
Ng & Ng  
2nd October 1974

LETTER SHEARN DELAMORE TO NG & NG

---

SD(RN)25160/1

2nd October 1974

Messrs. Ng & Ng,  
11th Floor, Yee Seng Building,  
15 Jalan Raja Chulan,  
Kuala Lumpur.

Dear Sirs,

Subdivision of Lot 162 Jalan Pekeliling 10

... As you are now acting for the Plaintiffs in this  
matter, we enclose herewith our cheque for \$16,789 being  
the refund of the earnest money pursuant to Clause 6 of the  
sale agreement. Our cheque for this amount was forwarded  
to your clients on the 27th day of November 1973 but was  
returned to us by their former solicitors, Messrs. Allen  
& Gledhill on the 5th December 1973. Our letter to your  
clients dated the 27th November 1973 and to Messrs. Allen  
and Gledhill dated the 17th December 1973 are, we think,  
... self-explanatory and copies thereof are enclosed for your 20  
reference.

Yours faithfully,

tlc.

LETTER NG & NG TO SHEARN DELAMORE

AE19  
Letter Ng & Ng  
to Shearn  
Delamore  
3rd October 1974

**NG & NG**

吳 律 律 樓

ADVOCATES & SOLICITORS  
PEGUAM BELA DAN PEGUAM CARA

吉隆坡威律樓大廈十二樓

Bangunan Yee Seng,  
11th Floor, Jalan Raja Chulan, (Jalan Weld),  
Kuala Lumpur 02-05.

Ng Wing Fatt-Barrister-at-Law 吳永發律師  
S. J. Khoo (Mdm.)-Barrister-at-Law 邱素人律師

電話 } 22177 & 22140  
Tel }

ASSISTANTS:

Edmund S. H. Loo-Barrister-at-Law 勞兆雄律師

Bil. Tuan SD(RN)25160/1

TARIKH 3rd OCTOBER 1974

Bil. Kami LYH/020/6/EL

M/s. SHEARN, DELAMORE & CO.,  
Advocates & Solicitors,  
2, Benteng,  
KUALA LUMPUR.

Shell Malaysia Trading Sdn Bhd

Dear Sirs :

RE: Subdivision of Lot 162,  
Jalan Pekeliling.

10

We refer to your letter dated 2nd OCTOBER 1974.

We have been instructed to return your cheque  
for \$16,789/- (CHARTERED BANK cheque No. 311709 dated 2nd  
OCTOBER 1974) which is enclosed herewith.

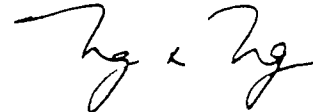
\*\*\*\*

Kindly note that your said cheque is not accepted  
as our clients do not accept your clients' purported  
exercise of Clause 6 of the Sale Agreement.

Enclosed :-

Yours faithfully,

c.c.



20

M/s. LIM YEE HOH,  
LIM YEE TECK &  
LIM YEE BEE.

We acknowledge receipt of  
the abovementioned cheque:-

ML :

.....

AE20  
Application by  
Shell to the  
Collector of  
Land Revenue  
3rd October 1974

APPLICATION BY SHELL TO THE  
COLLECTOR OF LAND REVENUE

FIRST SCHEDULE

FORM 31

SECTION 124

APPLICATION FOR ALTERATION OF CATEGORY, VARIATION  
OF CONDITIONS AND RESTRICTIONS IN INTEREST

To the Collector of Land Revenue, Federal Territory.

1. We Shell Malaysia Trading Sendirian Berhad a company  
incorporated in Malaysia with its registered office at Bangunan  
Shell No.2, Jalan Suleiman, Kuala Lumpur  
proprietor of land bearing the following particulars of title:-

10

- a. Type of title: Grant
- b. Town: Kuala Lumpur
- c. Title No. 9982
- d. Lot No. 162

hereby apply for -

The amendment of restriction in interest to be as follows:  
That the land be subject to the payment of rent at the  
rates prescribed by the National Land Code (Revision of  
Rent) Direction 1969 (S.L.P.U. 60/69) for "Commercial Lots"


20

2. We hereby request that the State Authority permit the consent  
of the Caveators Lim Yee Teoh, Lim Yee Bee, Lim Yee Hoh  
c/o Yee Seng Rubber Company Sdn. Bhd. of Batu 4 1/2, Jalan  
Klang, Kuala Lumpur persons having a registered interest be  
dispensed with.

3. As required by Item 49 of Schedule  
the Rules, we now submit the prescribed fee of \$10.

Dated this 3rd day of October 1974.

For Shell Malaysia Trading Sdn. Bhd.  
KUALA LUMPUR.

  
.....  
Signature of Proprietor

✓ 30

AE20  
Application by  
Shell to the  
Collector of  
Land Revenue  
3rd October 1974

For Official Use Only

(continued)

1. Application approved by State Authority vide .....
2. The new category imposed is .....
3. The new express conditions is as follows:-  
.....
4. The new restriction in interest is as follows:-  
.....
5. The additional premium of ..... at the rate of .....  
is paid on .....
6. The new Rent is .....
7. Decision endorsed on register document of title on .....
8. Permanent Rent Roll is revised on .....

10

.....  
Collector for Federal Territory



EXHIBIT

TRANSLATION OF LETTER FROM SHELL TO THE  
DIRECTOR OF THE FEDERAL TERRITORY LAND OFFICE

AE21

TRANSLATION

Translation of  
letter from  
Shell to the  
Director of the  
Federal Territory  
Land Office  
7th October 1974

Bil.5 dlm. PTG/MP.6/  
649/74- 21.8.74  
RES/KL/CKK

7th. October, 1974

The Director,  
Federal Territory of Land & Mining,  
Federal Territory Land Department,  
Off Jalan Pekeliling,  
Kuala Lumpur.

10

Dear Sir,

Application under Section 137 of the  
National Land Code for Lot 162,  
Section 63, Township of Kuala Lumpur.

We thank you for your letter reference Bil.(5) dlm.PTG/  
MP.6/649/74 dated 21st, August, 1974 and as requested, we enclose our application  
(Form 31) pertaining to the above-mentioned property, duly completed, for  
your kind approval. Our cheque for \$10/- being the necessary fee is also  
enclosed.

20

Yours faithfully,


For. SHELL MALAYSIA TRADING PRIVATE LIMITED

Sgd.?  
.....

Enclosure:

c.c. MKRE/KL- A signed copy of Form 31 is enclosed for your records.

" KFT/1

This is the True Translation of the  
Original Document produced in  
Serial No....213.....of 1974  
  
  
.....Interpreter  
High Court  
Kuala Lumpur

ORDER OF THE HIGH COURT IN MALAYA AT  
KUALA LUMPUR IN ORIGINATING MOTION  
NO. 41 OF 1975

AE22  
Order of the High  
Court in Malaya  
at Kuala Lumpur in  
Originating Motion  
No.41 of 1975  
2nd June 1975

IN THE HIGH COURT IN MALAYA AT KUALA LUMPUR  
ORIGINATING MOTION NO.41 OF 1975

In the matter of Private Caveat  
Presentation No.2073/73 Vol.-caveat  
2 Folio 13A in respect of an  
undivided 72/100 share of the land  
held under Grant for Land No.9962  
Lot 162 in the Mukim and District  
of Kuala Lumpur registered with  
Pendaftar Geran-Geran Tanah,  
Negeri Selangor.

And

In the matter of Section 326 (2) of  
the National Land Code 1965

Between

- 1. Lim Yee Teck
- 2. Lim Yee Hoh
- 3. Lim Yee Bee

.... Applicants

And

Shell Malaysia Trading  
Sendirian Berhad

.... Respondent

BEFORE THE HONOURABLE MR.JUSTICE

MUHD AZMI

IN OPEN COURT

THIS 2ND DAY OF JUNE 1975

O R D E R

UPON HEARING Mr.Edmund S.H.Loo of Counsel for the  
Applicants abovenamed and Dato Wong Seng Chow of Counsel for the  
Respondent abovenamed and UPON READING the Originating dated the 21st  
day of May 1975 and the joint affidavit of Lim Yee Teck, Lim Yee Hoh  
and Lim Yee Bee jointly affirmed on 21st day of May 1975 both filed  
herein IT IS ORDERED that the Caveat Presentation No.2073/73 Vol. Caveat 2,  
Folio 13A in respect of an undivided 72/100 share of the land held under  
Grant for Land No.9962 Lot 162 in the Mukim and District of Kuala Lumpur  
lodged by the Applicants abovenamed and registered with Pendaftar Geran-  
Geran Tanah, Negeri Selangor be and is hereby extended for such a period  
until the disposal of Kuala Lumpur High Court Civil Suit No.1185 of 1974  
and IT IS LAETLY ORDERED that the costs of and occasioned by this  
Application be costs in the cause.

Given under my hand and the seal of the Court this 2nd day of  
June 1975.



*Sgd./ Abdul Hamid bin Hj. Mohd*

Senior Assistant Registrar,  
High Court, Kuala Lumpur.

EXHIBIT

AE23

TRANSLATION OF LETTER FROM THE DIRECTOR  
OF THE FEDERAL TERRITORY LAND OFFICE TO  
SHELL

Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to  
Shell  
12th November 1975

TRANSLATION

Our ref: (13)d1m.PTG/WP.  
6/649/74

LAND OFFICE  
FEDERAL TERRITORY  
OFF JALAN PEKELILING  
KUALA LUMPUR 02-17  
12th November 1975 10

FOR PRESENTATION

Messrs Shell Malaysia Trading Sdn Bhd  
Bangunan Shell  
2 Jalan Sulaiman  
Kuala Lumpur

Dear Sir,

Application for:

- (i) Change of category of land in accordance with Section 124(1)(c) of the National Land Code on Grant 9982 Lot 162 Section 63 of the township of Kuala Lumpur and the imposition of new expressed conditions under Section 124(1)(c) of the National Land Code so that the land may be used for the purpose of a service and petrol station and residential premises
- (ii) To sub-divide the said lot pursuant to Section 137 of the National Land Code

I am directed to advise that the Land Working Committee of The Federal Territory has considered your application and the Committee agrees not to approve your application as submitted. On the other hand the Committee agrees to approve the Title Surrender of the Grant Title No. 9982 Lot 162 Section 63 of the City of Kuala Lumpur when a formal application is submitted.

(continued)

Thereafter the Committee will approve the granting of a Title to you which can be developed for the purpose of Petrol Station/Service Station including for Dwelling purposes according to the plans indicated in the above Plan R/S Ref. 116/72 in accordance with the terms and conditions as hereunder:-

I. Document of title : Registered document of  
Title

Duration of Lease : Lease for 99 years

10 Additional Premium : \$3.75 cents per sq ft

Annual Tax : i) For Pump and Service Station  
site - 12 cents per sq ft

ii) For housing site - 2 cents  
per sq ft

Survey charges and

other misc. charges : According to the fixed  
rates

Nature of land utilisation : Building.

Stipulated Conditions

20 (a) For Service and Pump Stations site

(i) This land must only be utilised for a  
petrol and service station site.

(ii) Development regarding this land must  
be in accordance with the Development  
Order issued by the Datuk Bandar  
(Lord Mayor)

(b) For Housing Site

(i) This site must only be used for the  
purpose of building a house

30 (ii) Development on this land must conform  
to the Development Order as listed by

EXHIBIT

AE23

Translation of Letter  
from the Director of  
the Federal Territory  
Land Office to Shell  
12th November 1975

the Datuk Bandar

(continued)

2. Payments required to be settled are as follows:-  
Additional Premium - \$318,941.00
3. If it is agreed, kindly settle the above amount within six (6) months as from the date hereof. We enclose herewith 3 copies of Form 12A for surrender of the said land. Kindly complete the form and return it together with the Document of Title No. 9982 Kuala Lumpur City to enable steps to be taken to surrender the said land. You are also requested to complete land applica- 10  
tion forms (Schedule I) to reissue the document of title.

Yours faithfully,

Sgd.

(ABDUL ZAMAT BIN SABRI)

f. Director.

Lands & Mines

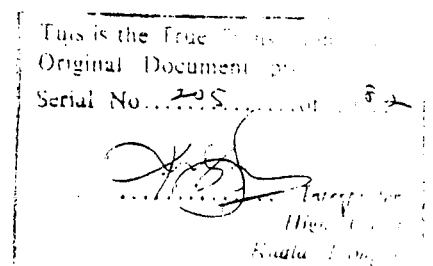
Federal Territory

Kuala Lumpur

c.c, Mr Lim Yee Hoh & associates  
c/o Yee Seng Rubber Building  
Court Hill  
Kuala Lumpur

20

J/lpk



TRANSLATION OF LETTER FROM SHEARN  
DELAMORE TO THE DIRECTOR OF THE  
FEDERAL TERRITORY LAND OFFICE

EXHIBIT

AE24  
Translation  
of letter from  
Shearn Delamore  
to the Director  
of the Federal  
Territory Land  
Office  
17th January 1976

TRANSLATION

SHEARN DELAMORE & CO  
2 Benteng  
Kuala Lumpur

Your ref: (13)dlm.PTG/WP.6/649/74

10 Our ref: SD(M) 25160/1 (ceck)

17th January 1976

Director of Land & Mine  
Federal Territory  
Land Office Federal Territory  
Off Jalan Pekeliling  
KUALA LUMPUR

Dear Sir,

Application for:

(i) Change of category of land in accordance  
with Section 124(1)(c) of the National Land  
Code on Grant 9982 Lot 162 Section 63 of  
the township of Kuala Lumpur and the  
imposition of new expressed conditions  
under Section 123(1)(c) of the National  
Land Code so that the land may be used for  
the purpose of a service and petrol station  
and residential premises.

(ii) To sub-divide the said lot pursuant to  
Section 137 of the National Land Code

We act for Shell Malaysia Trading Sdn. Bhd. and have the  
honour to refer to your letter dated 12.11.1975 to our  
clients with respect of the above matter.

EXHIBIT

AE24  
Translation  
of Letter  
from Shearn  
Delamore to  
the Director  
of the Federal  
Territory  
Land Office  
17th January  
1976

We would be grateful if you could kindly arrange for a meeting on an appropriate date and time so that we may call at your office to obtain some clarifications on the said matter

Yours faithfully,

(continued)

c.c. Client

M/s Shell Malaysia Trading Sdn Bhd  
Shell House  
2 Jalan Sulaiman  
Kuala Lumpur

10

Interview (Yang/Menon) refers.

This is the True Translation of the  
Original Document produced in  
Serial No .....115... of 19.8/

*M.S.*  
...../ Interpreter  
High Court  
Kuala Lumpur

TRANSLATION OF LETTER FROM  
SHEARN DELAMORE TO THE  
DIRECTOR OF THE FEDERAL  
TERRITORY LAND OFFICE

AE25  
Translation of Letter  
from Shearn Delamore  
to the Director of the  
Federal Territory  
Land Office  
16th February 1976

TRANSLATION

Your ref: (13)d1m.PTG/WP.

SHEARN DELAMORE & CO

6/2251/74

KUALA LUMPUR

Our ref: SD(M) 25160/1 (ceck)

16th February 1976

10

A R REGISTERED

Director of Lands & Mines  
Federal Territory  
Land Office Federal Territory  
Off Jalan Pekeliling  
KUALA LUMPUR

Dear Sir,

Application for:

(i) Change of category of land in accordance  
with Section 124(1)(c) of the National  
Land Code on Grant 9982 Lot 162 Section  
63 of the township of Kuala Lumpur and  
the imposition of new expressed conditions  
under Section 124(1)(c) of the National  
Land Code so that the land may be used for  
purpose of a service and petrol station  
and residential premises

20

(ii) To sub-divide the said lot pursuant to  
Section 137 of the National Land Code

30

We act for Shell Malaysia Trading Sdn Bhd and  
have the honour to refer to your letter dated 12th  
November 1975 addressed to our clients in connection  
with the above matter.

We shall be greatly obliged if you would give  
us a suitable time to call at your offices to clarify



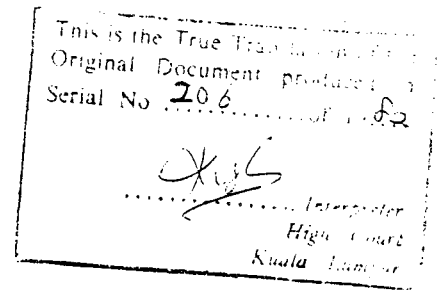
EXHIBIT

AE25

Translation of Letter a few points regarding the case.  
from Shearn Delamore  
to the Director of the  
Federal Territory  
Land Office  
16th February 1976

Yours faithfully,

(continued)



TRANSLATION OF LETTER FROM THE DIRECTOR  
OF THE FEDERAL TERRITORY LAND OFFICE  
TO SHEARN DELAMORE

AE26  
Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to  
Shearn Delamore  
21st February 1976

TRANSLATION

Our ref: (16)d1m.PTG/WP

6/649/74

LAND OFFICE FEDERAL  
TERRITORY  
OFF JALAN PEKELILING  
KUALA LUMPUR  
21st February 1976

10

Messrs Shearn Delamore & Co  
Advocates & Solicitors  
P O Box 138  
Kuala Lumpur

Dear Sirs,

Application for:

(i) Change of category of land in accordance  
with Section 124(1)(c) of the National  
Land Code on Grant 9982 Lot 162 Section  
63 of the township of Kuala Lumpur and  
the imposition of new expressed conditions  
under Section 124(1)(c) of the National  
Land Code so that the land may be used for  
the purpose of a service and petrol station  
and residential premises.

20

(ii) To sub-divide the said lot pursuant to  
Section 137 of the National Land Code

With reference to your letter SD(M) 25160/1(ceck)  
dated 17.1.76 with respect to the above matter, you are  
invited to call at this department on 26th February 1976  
(Thursday) at 10.00 a.m. to meet me.

30


Thank you.

Yours faithfully,

Sgd.

(Abdul Samat b Sabri)

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Original Document produced in  
Serial No .....116...of 19 8/

  
Interpreter  
High Court  
Kuala Lumpur

EXHIBIT

AE26

Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to  
Shearn Delamore  
21st February 1976

(continued)

f. Director

Lands & Mines

Federal Territory

Kuala Lumpur

TRANSLATION OF LETTER FROM THE DIRECTOR  
OF THE FEDERAL TERRITORY LAND OFFICE  
TO SHEARN DELAMORE

AE27  
Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to  
Shearn Delamore  
6th March 1976

TRANSLATION

Our ref: (10)dlm.PTG/WP	LAND OFFICE FEDERAL
6/649/74	TERRITORY
Your ref: SD(M) 25160/1	OFF JALAN PEKELILING
(ceck)	KUALA LUMPUR

10

6th March 1976

Messrs Shearn Delamore & Co  
Advocates & Solicitors  
P O Box 138  
KUALA LUMPUR

Dear Sirs,

Application for:

20

(i) Change of category of land in accordance  
with Section 124(1)(c) of the National Land  
Code on Grant 9982 Lot 162 Section 63 of  
the township of Kuala Lumpur and the  
imposition of new expressed conditions  
under Section 123(1)(c) of the National  
Land Code so that the land may be used for  
the purpose of a service and petrol station  
and residential premises.

(ii) To sub-divide the said lot pursuant to  
Section 137 of the National Land Code

30

Further to my letter No(16) in the same series  
dated 21.2.76 pertaining to the above matter, you are  
requested to call at my office on 10.3.76 (Wednesday)  
at 10.00 a.m.

Your attendance is much appreciated.

EXHIBIT

AE27  
Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to  
Shearn Delamore  
6th March 1976

(continued)

Yours faithfully,

Sgd.

(Abdul Samat bin Sabri)

f. Director

Lands & Mines, Federal

Territory, Kuala Lumpur

This is the True Translation of the  
Original Document produced in  
Serial No .....11.7..of 19 8/

*M.S.*  
..... Interpreter  
High Court  
Kuala Lumpur

TRANSLATION OF LETTER FROM THE DIRECTOR OF  
THE FEDERAL TERRITORY LAND OFFICE TO SHELL

AE28  
Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to Shell  
30th March 1976

TRANSLATION

Our ref: (19)d1m.PTG/WP.                   LAND OFFICE  
6/2251/74                                   FEDERAL TERRITORY  
  OFF JALAN PEKELILING  
  KUALA LUMPUR 02-17  
  30th March, 1976

10

REMINDER

Messrs Shell Malaysia Trading Sdn Bhd  
Shell Building  
2 Jalan Sulaiman  
Kuala Lumpur

Dear Sir,

Application for:

20

- (i) Change of category of land in accordance with Section 124(1)(c) of the National Land Code on Grant 9982 Lot 162 Section 63 of the township of Kuala Lumpur and the imposition of new expressed conditions under Section 124(1)(c) of the National Land Code so that the land may be used for the purpose of a service and petrol station and residential premises

- (ii) To sub-divide the said lot pursuant to Section 137 of the National Land Code

30

Reference to this Department's letter No.(13) in the same series dated 12th November 1975 regarding the above, if it is acceptable to you, kindly forward an additional premium of \$314,941.00 as soon as possible.

You are also advised to complete Form No. 12A and return it to this Department together with the

EXHIBIT

AE28

Translation  
of letter  
from the  
Director of  
the Federal  
Territory Land  
Office to  
Shell  
30th March 1976  
(continued)

document of Title Grant No. 9982 Kuala Lumpur City  
so that action could be taken to surrender the above  
land. You are also requested to complete the land  
application forms (Schedule 1) for the release of the  
land title.

Yours faithfully,

Sgd.

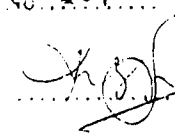
(Abdul Samat bin Sabri)

f. Director

Lands & Mines

Federal Territory

Kuala Lumpur

This is the True Translation of the  
Original Document produced at  
Serial No. 207... of 182  
  
1126/1001  
Kuala Lumpur

TRANSLATION OF LETTER SHEARN DELAMORE  
TO THE DIRECTOR OF THE FEDERAL TERRITORY  
LAND OFFICE

AE29  
Translation of  
letter Shearn  
Delamore to the  
Director of the  
Federal Territory  
Land Office  
10th June 1976

TRANSLATION

SHEARN DELAMORE &amp; CO

2 Benteng

Kuala Lumpur

Your ref: (19)dlm.PTG/WP.6/649/74

10 Our ref: SD (MENR) 25160/1 (ceck)

10th June 1976

Director

Land &amp; Mines, Federal Territory

Land Office Federal Territory

Off Jalan Pekeliling

KUALA LUMPUR

Attn: Encik Abd Samat Sabri

Dear Sir,

Application for:

(i) Change of category of land in accordance  
with Section 124(1)(c) of the National Land  
Code on Grant 9982 Lot 162 Section 63 of  
the township of Kuala Lumpur and the  
imposition of new expressed conditions  
under Section 123(1)(c) of the National  
Land Code so that the land may be used for  
the purpose of a service and petrol station  
and residential premises.

(ii) To sub-divide the said lot pursuant to  
Section 137 of the National Land Code

We act for Shell Malaysia Trading Sdn. Bhd. who  
have forwarded to us a copy of your letter dated 30.3.1976  
with instructions to reply thereof.

In this respect, we would also like to refer to



EXHIBIT

AE29  
Translation of  
letter Shearn  
Delamore to the  
Director of the  
Federal Territory  
Land Office  
10th June 1976

(continued)

the conversation between our Mrs Menon and you at your office on 12.3.1976 and as clarified by Mrs Menon, our clients would not like to continue with the sub-division based on the conditions mentioned by you in your said letter dated 12.11.75.

We have our clients' instructions to withdraw the application for sub-division and would be grateful if you could kindly return the said documents to us.

We would be obliged if you could kindly consider our application under Section 124 (Form 31) for the cancellation of the restriction in interest of the quit rent according to fixed rates for commercial purposes.

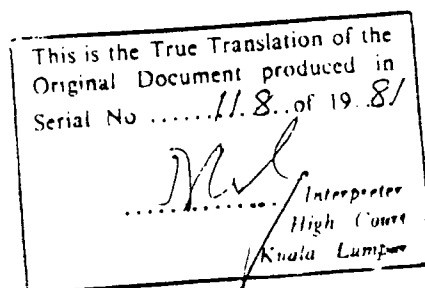
10

Yours faithfully,

c.c. Clients

Shell Malaysia Trading Sendirian Bhd  
Bangunan Shell,  
2 Jalan Sulaiman  
Kuala Lumpur

Your letter of 31st May 1976 refers.



TRANSLATION OF LETTER FROM THE DIRECTOR  
OF THE FEDERAL TERRITORY LAND OFFICE TO  
SHEARN DELAMORE

AE30  
Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to  
Shearn Delamore  
23rd June 1976

TRANSLATION

Our ref: (21)dlm.PTG/WP.  
6/649

LAND OFFICE FEDERAL  
TERRITORY  
OFF JALAN PEKELILING

23rd June 1976

10 Messrs Shearn Delamore & Co  
Advocates & Solicitors  
P O Box 138  
KUALA LUMPUR

Dear Sirs,

Application for:

- (i) Change of category of land in accordance  
with Section 124(1)(c) of the National Land  
Code on Grant 9982 Lot 162 Section 63 of  
the township of Kuala Lumpur and the  
20 imposition of new expressed conditions  
under Section 123(1)(c) of the National  
Land Code so that the land may be used for  
the purpose of a service and petrol station  
and residential premises.
- (ii) To sub-divide the said lot pursuant to  
Section 137 of the National Land Code

We refer to your letter SD (M/NR) 25160/1 (ceck)  
dated 10.6.1976 with respect to the above matter and have  
the honour to inform you that this Department is still  
30 considering the amendment of the Additional Premium fee which  
was levied for the sum of \$318,914.00 as stated in our letter  
of approval No. 13 in the same series dated 12.11.75  
which is as follows:

EXHIBIT

AE30

Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to  
Shearn Delamore  
23rd June 1976

(continued)

- (i) Additional premium for the petrolstation site ... \$ 90,000/-
- (ii) Additional premium for the remaining of the land for a housing site ... Exempted

2. You are reminded that the decision given by the Land Executive Committee, Federal Territory as mentioned above is pursuant to Section 124(5) of the National Land Code. Please confirm in writing immediately as to your agreement on the abovesaid amendments so that further actions may be taken at the earliest.

10

Yours faithfully,

Sgd.

(Abdul Samat bin Sabri)

f. Director,

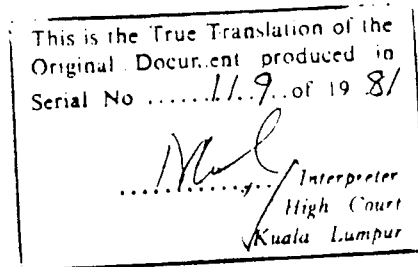
Land & Mines, Federal  
Territory, Kuala Lumpur

c.c.

M/s. Shell Malaysia Trading Sdn. Bhd.

P O Box 1027

Kuala Lumpur



TRANSLATION OF LETTER FROM THE DIRECTOR  
OF THE FEDERAL TERRITORY LAND OFFICE  
TO SHEARN DELAMORE

AE31  
Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to  
Shearn Delamore  
22nd September  
1976

TRANSLATION

Our ref: (24)dIm.PTG/WP.  
6/649/74

LAND OFFICE FEDERAL  
TERRITORY  
OFF JALAN PEKELILING  
KUALA LUMPUR

10

22nd September 1976

Messrs Shearn Delamore & Co  
Advocates & Solicitors  
P O Box 138  
KUALA LUMPUR

Dear Sirs,

Application for:

20

- (i) Change of category of land in accordance with Section 124(1)(c) of the National Land Code on Grant 9982 Lot 162 Section 63 of the township of Kuala Lumpur and the imposition of new expressed conditions under Section 124(1)(c) of the National Land Code so that the land may be used for the purpose of a service and petrol station and residential premises.
- (ii) To sub-divide the said lot pursuant to Section 137 of the National Land Code

30

We refer to your letter SD(M) 25160/1 (ceck) dated 22nd July, 1976 with regard to the above matter. Please be informed that the additional premium for the sum of \$90,000/- was levied in accordance to the assessment of the land i.e. \$3.75 per sq ft for the area of the petrol station comprising of 24,000 sq ft (\$3.75 per sq ft x 24,000 sq ft).

EXHIBIT

AE31  
Translation  
of letter  
from the  
Director of  
the Federal  
Territory Land  
Office to  
Shearn Delamore  
22nd September  
1976

(continued)

2. Kindly settle the Additional Premium at your  
earliest convenience.

Thank you.

Yours faithfully,

Sgd.

(Abdul Samat bin Sabri)

f. Director

Lands & Mines, Federal

Territory, Kuala Lumpur

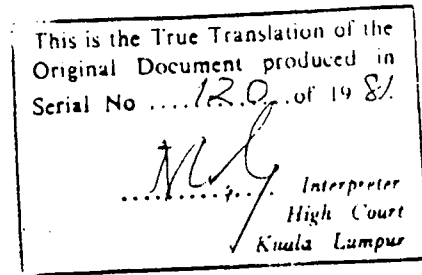


EXHIBIT - AE32

LETTER FROM SHEARN DELAMORE  
TO THE DIRECTOR OF THE  
FEDERAL TERRITORY LAND OFFICE

EXHIBIT

AE32  
Letter from  
Shearn Delamore  
to the Director  
of the Federal  
Territory Land  
Office  
26th November 1976

(24) dlm. PTG/WP.6/649/74  
SD. (M) 25160/1 (cek)

26th November, 1976.

Pengarah Tanah dan Galian  
Jabatan Tanah Wilayah Persekutuan  
Off Jalan Pekeliling  
KUALA LUMPUR 02-17

10

Tuan,

Permohonan untuk:-

(1) Menukar kategori tanah mengikut Seksyen 124(1)(c)  
Kanun Tanah Negara yang terdapat keatas Geran  
9982 Lot 162 Seksyen 63, Bandar Kuala Lumpur  
dan mengenakan syarat nyata yang baru dibawah  
Seksyen 124(1)(c) Kanun Tanah Negara supaya  
tanah ini boleh digunakan untuk sebuah pam minyak  
dan setesyen perkhidmatan dan rumah kediaman;

20

(ii) Memecah sempadan tanah lot ini mengikut Seksyen  
137 Kanun Tanah Negara  
-----

We have the honour to refer to your letter of 22nd September,  
1976 and shall be obliged if you would let us have details of how the  
portion on which our clients' existing service station has been valued  
although you said that the additional premium is calculated at \$3.75  
per square foot.

Yang benar,

✓

EXHIBIT

AE33

TRANSLATION OF LETTER FROM THE DIRECTOR OF  
THE FEDERAL TERRITORY LAND OFFICE TO SHEARN  
DELAMORE

Translation  
of Letter  
from the  
Director of  
the Federal  
Territory Land  
Office to  
Shearn Delamore  
11th May 1977

TRANSLATION

Our ref: (32)d/m.PTG/WP.  
6/649/74

LAND OFFICE FEDERAL  
TERRITORY  
OFF JALAN PEKELILING  
KUALA LUMPUR

REGISTERED

11th May 1977

10

Messrs Shell Malaysia Trading Sdn Bhd

Shell Building

2 Jalan Sulaiman

KUALA LUMPUR

through

Messrs Shearn Delamore & Co

P O Box 138

KUALA LUMPUR

Dear Sirs,

Application for:

20

- (i) Change of category of land in accordance with Section 124(1)(c) of the National Land Code on Grant 9982 Lot 162 Section 63 of the township of Kuala Lumpur and the imposition of new expressed conditions under Section 124(1)(c) of the National Land Code so that the land may be used for the purpose of a service and petrol station and residential premises.

- (ii) To sub-divide the said lot pursuant to Section 137 of the National Land Code

30

I am instructed to refer to your letter No. SD (M/NR) 25160/1 (ceck) dated 10.6.1976 and to inform you that the Federal Territory Land Executive Committee has considered your application and has agreed that the





EXHIBIT

AE34  
Letter from  
Shearn Delamore  
to Director of  
the Federal  
Territory Land  
Office  
11th July 1977

EXHIBIT - AE34

LETTER FROM SHEARN DELAMORE TO DIRECTOR  
OF THE FEDERAL TERRITORY LAND OFFICE

(32) dlm. PTG/WP. 6/649/74  
SD (M) 25100/1 (cek)

11th July, 1977

Pengarah Tanah dan Galian  
Jabatan Tanah Wilayah Persekutuan  
Off Jalan Pekeliling  
KUALA LUMPUR

10

Tuan,

Permohonan-permohonan untuk:-

- (i) Menukar kategori tanah mengikut Seksyen 124(1)(c) Kanun Tanah Negara yang terdapat keatas Geran 9982 Lot 162 Seksyen 63, Bandar Kuala Lumpur dan mengenakan syarat nyata yang baru dibawah Seksyen 124(1)(c) Kanun Tanah Negara supaya tanah ini boleh digunakan untuk sebuah pam minyak dan stesyen perkhidmatan dan rumah kediaman; dan
- (ii) Memcah sempadan tanah lot ini mengikut Seksyen 137 Kanun Tanah Negara

20

We have the honour to refer to your letter of 11th May, 1977 and shall be obliged if you would let us know the basis upon which the additional premium of \$3.75 cents per square foot is fixed. We require this information for consideration by our clients before any further steps is taken by our clients in this regard.

..2/-

EXHIBIT

AE34  
Letter from  
Shearn Delamore  
to Director of  
the Federal  
Territory Land  
Office  
11th July 1977

(continued)

Pengarah Tanah dan Galian

11.7.77

---

Kindly also let us know whether the titles that will be issued  
will be titles in perpetuity.

Yang benar,

c.c. clients

Shell Malaysia Trading Sdn Bhd  
Bangunan Shell  
2 Jalan Sulaiman  
Kuala Lumpur

Attention: Mr Yang Li Fu

Your ref: RES/KL/YLF

Discussions (Yang/Menon) refers.

EXHIBIT

EXHIBIT - AE35

AE35  
Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to  
Shearn Delamore  
20th July 1977

TRANSLATION OF LETTER FROM THE DIRECTOR  
OF THE FEDERAL TERRITORY LAND OFFICE TO  
SHEARN DELAMORE

TRANSLATION:

Our ref: (34)d1m.PTG/WP  
6/649/72

LAND OFFICE FEDERAL  
TERRITORY  
OFF JALAN PEKELILING

20th July 1977

Messrs. Shearn Delamore & Co  
Advocates & Solicitors  
P O Box 138  
KUALA LUMPUR

10

Dear Sirs,

Application for:

- (i) Change of category of land in accordance with Section 124(1)(c) of the National Land Code on Grant 9982 Lot 162 Section 63 of the township of Kuala Lumpur and the imposition of new expressed conditions under Section 123(1)(c) of the National Land Code so that the land may be used for the purpose of a service and petrol station and residential premises.
- (ii) To sub-divide the said lot pursuant to Section 137 of the National Land Code

20

I am instructed to refer to your letter No. SD(M) 25160/1 (ceck) dated 11.7.1977 and to inform you that the Additional Premium levied on the Petrol and Service Station at the rate of \$3.75 per sq ft is final and conclusive. The period of ownership of the said land is 99 years.

30

2. Kindly request the proprietor of the land to settle the additional premium as soon as possible as the date of settlement of payment has expired on 11.6.1977.

Yours faithfully,

Sgd.

(Abdul Samat bin Sabri)

f. Director

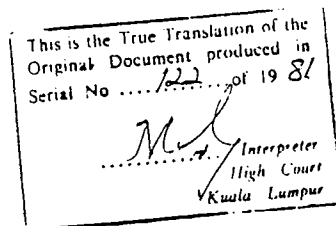
Lands & Mines, Federal  
Territory, Kuala Lumpur

EXHIBIT

AE35  
Translation of  
letter from the  
Director of the  
Federal Territory  
Land Office to  
Shearn Delamore  
20th July 1977

(continued)

J/ns



EXHIBIT

AE36

Translation of  
Letter from the  
Director of  
Federal Territory  
Land Office to  
Shearn Delamore  
28th November  
1977

EXHIBIT - AE36

TRANSLATION OF LETTER FROM THE DIRECTOR OF  
THE FEDERAL TERRITORY LAND OFFICE TO SHEARN  
DELAMORE

TRANSLATION

Federal Territory Land Office,  
Off Jalan Pekeliling,  
Kuala Lumpur.

28th November, 1977.

Director's Telephone

Telephone : 631044/632017  
Extension 6

Our Letter No: (35) in PTG/WP.6/649/74  
Your Letter No: SD (M) 25160/1 (ceck)

Please mention letter number of this  
department when replying.

M/s Shearn Delamore & Co.,  
Advocates & Solicitors,  
P.O. Box 138,  
Kuala Lumpur 01-02.

Sir,

Application for :-

- (i) Conversion of category of land pursuant to Section 124(1)(c) of the National Land Code which is found on Grant No: 9982 Lot 162 Section 63, Town of Kuala Lumpur and to impose new express conditions under Section 124(1)(c) of the National Land Code so that land may be used for petrol pump and service station and dwelling house;
- and
- (ii) Sub-division of land in the lot pursuant to Section 137 of the National Land Code.

-----  
Further to my Letter No: (34) in the same series dated 20th July, 1977 regarding the abovementioned matters, you are hereby informed that an additional premium in the sum of \$3.75 per sq ft has been imposed on the Petrol Pump and Service Station Site pursuant to the provisions of rule 13(d) of the Federal Territory Land Rules 1975.

Thank you.

By order,  
Signed illegible  
(Abdul Samat bin Sabri),  
on behalf of  
Director of Lands & Mines,  
Federal Territory,  
Kuala Lumpur.

Translation agreed to between Solicitors for the parties.

.....  
M/s Shearn Delamore & Co  
Solicitors for the  
Appellant.

.....  
M/s Ng Ek Teong & Partners  
Solicitors for the Respondent

EXHIBIT - AE37

TRANSLATION OF LETTER FROM SHEARN DELAMORE  
TO THE DIRECTOR OF THE FEDERAL TERRITORY  
LAND OFFICE

EXHIBIT

AE37

Translation of Letter  
from Shearn Delamore  
to the Director of the  
Federal Territory Land  
Office  
14th January 1978

14th January, 1978.

Director  
Roads & Bridges, Federal Territory  
Federal Territory Land Office  
111 Jalan Sepuluh  
Kuala Lumpur.

ir,

Applications for :-

- (i) Conversion of category of land pursuant to Section 124(1)(c) of the National Land Code which is found on Grant No: -9982 Lot 162 Section 63 Town of Kuala Lumpur and to impose new express conditions in Section 124(1)(c) of the National Land Code so that land may be used for petrol pump and service station and dwelling house;
- and
- (ii) Sub-division of land in the lot pursuant to Section 137 of the National Land Code.

We refer to the abovementioned matters. In connection with this, our clients have instructed us to withdraw the application for sub-division of the land which has been made.

Yours faithfully,

c.c. Clients

Back

Shell Malaysia Trading Sdn Bhd  
P O Box 1027  
Kuala Lumpur (Your ref: EUS/RL/YLF)

Attn: Mr Yang Li Fu

Translation of letter to between Solicitors for the parties.

.....  
/s/ Shearn Delamore & Co  
Solicitors for the  
Clients.

.....  
/s/ Ng Ek Tong & Partners  
Solicitors for the Respondent

EXHIBIT

EXHIBIT - AE38

AE38  
Translation of  
Notice to remedy  
Breach of  
Condition  
14th January 1978

TRANSLATION OF NOTICE TO REMEDY BREACH  
OF CONDITION

TRANSLATION

M/s Shearn Delamore & Co.  
2 Benteng, K L.

No: (36) in PTG/WP.6/649/74

(M.L.C. 13A)

National Land Code

10

FORM 7 A

(Section 128)

NOTICE TO REMEDY A BREACH OF CONDITION

To M/s Shell Malaysia Trading Sdn. Bhd.,  
of Shell Building, No: 2, Jalan Suleiman, Kuala Lumpur.  
proprietor of the land scheduled below.

Whereas I the undersigned am satisfied that a breach of the  
condition scheduled below has arisen, in that -

you did not change the condition of land use from  
Residential to Commercial in respect of a Petrol  
Pump and Service Station.

20

Now therefore, in exercise of the powers conferred by  
Section 128 of the National Land Code I hereby require you  
within a period of three (3) months from the date of this notice  
to take the following action to remedy this breach -

by making a payment for additional premium in the sum of  
\$90,000/- as stated in the letter of this department  
No: (32) in PTG/WP.6/649/74 dated 11th May 1977.

Dated 14th January, 1978.

Collector: Signed illegible  
on behalf of Collector of  
Land Revenue,  
District Federal Territory.

30

SCHEDULE OF LAND AND OF CONDITION

\*Town/Village/Mukim: Kuala Lumpur No: \*Lot/PT 162 Sect. 63

Description and No: of Title Grant 9982 Area: 1a. 3r. 32.4p.

Condition breached: using residential land for commercial pur-  
poses (Petrol Pump and Service Station).

~~\*Delete as appropriate.~~

(This form is translated by the Attorney General, Malaysia pur-  
suant to Legal Notification No: 12 for the year 1964 - A.G. 3309  
S.F. 1; P.T.M. 5/65 (4).)

40

Translation agreed to between Solicitors for the parties.

.....  
M/s Shearn Delamore & Co  
Solicitors for the  
Appellant.

.....  
M/s Shearn Delamore & Partners  
Solicitors for the Respondent

TRANSLATION OF LETTER FROM SHEARN DELAMORE  
TO THE DIRECTOR OF THE FEDERAL TERRITORY  
LAND OFFICE

AE39  
Translation  
of letter  
from Shearn  
Delamore to  
the Director  
of the Federal  
Territory Land  
Office  
6th March 1978

TRANSLATION

Your ref: (36) dlm.PTG/WP

SHEARN DELAMORE & CO

6/649/74

KUALA LUMPUR

Our ref: SD(M) 25160/1

6th March 1978

A R REGISTERED

10

Collector of Land Revenue  
Federal Territory  
Jalan Pekeliling  
KUALA LUMPUR

Dear Sir,

Re: Notice to remedy a breach  
of Condition

We represent Shell Malaysia Sdn Bhd and we refer  
to your notice to remedy a breach of condition (Form 7A)  
dated 14th January 1978 which was served on our clients.  
We do not understand as to why this notice has been  
served on our clients and we urge you to rescind the  
said notice based on the following grounds.

20

1. The reason given by you to our clients is "not  
to change the condition of the use of the land from  
'residential' to 'commercial' of a Service and Petrol  
Station" and this was further clarified as "to use the  
residential land for commercial (Petrol and Service  
Station)". We would like to bring to your attention  
that this reason could not be used towards our clients  
land. You will appreciate that the express conditions  
were not endorsed in our clients' document of title and  
as such, our clients' document of title shall be subject  
to S.53(3) which bind our clients' land to an implied  
condition that it shall be used neither for agricultural

30



EXHIBIT

AE39

Translation of  
letter from  
Shearn Delamore  
to the Director  
of the Federal  
Territory Land  
Office  
6th March 1978

(continued)

nor for industrial purposes. Hence, it is clear from this section that our clients are only discouraged to make use of the said land for agricultural or industrial purposes. We could not understand as to why the carrying out of the trading of a petrol station is said to be using the land for the purpose of agricultural or industrial purposes. In respect of our clients' land, there is no category of land-use which has been imposed on the same pursuant to Section 54 of the National Land Code. However, if there is a category on the land-use of our clients (which is denied), the said category is "building" as has been defined by S.53(3). If that is the situation our clients action is placed under S.116 (4)(b) or S.116(4)(c). As such, we believe that our clients have not breached any conditions of use of land.

10

2. We also do not understand as to why our clients are require to pay an additional premium of \$90,000/- as this is not conferred by S.127 of the National Land Code. As far as we can understand, S.127 of the National Land Code is the remedy required under the same but does not include the payment of money.

20

3. Accordingly, we have the honour to urge you to rescind Form 7A and in the event of your failing so to do, we would have no other choice but to appeal to the State authority or apply to Court for the cancellation of your Form 7A.

We look forward to hearing from you within a week from the date hereof.

Thank you.

Yours faithfully,

30

This is the True Translation of the  
Original Document produced in  
Serial No .....123..... of 19.8/

11.

*M. S. J.*  
Interpreter

120.

NOTICE TO REMEDY BREACH OF CONDITION

AE40  
Notice to Remedy  
Breach of Condition  
1st April 1978

Bil. (40) dlm. PTG/WP.6/649/74

TRANSLATION

M/s Shearn Delamore & Co  
2 Benteng, K.L.

National Land Code

Form 7 A

(Section 128)

10 NOTICE TO REMEDY A BREACH OF CONDITION

To M/s Shell Malaysia Trading Sdn. Bhd., of Shell Building,  
No. 2 Jalan Suleiman, Kuala Lumpur proprietor of the land  
scheduled below.

Whereas I the undersigned am satisfied that a  
breach of the condition scheduled below has arisen in that-  
the land held under Lot 162 Section 63, Township  
of Kuala Lumpur which was to be used for  
residential purposes, has been used for  
commercial purposes i.e. a Petrol and Service  
Station.

20 Now therefore in exercise of the powers conferred  
by Section 128 of the National Land Code I hereby require  
you within a period of 3 months from the date of this  
notice to take the following action to remedy this breach-

To comply with the decision of the Land  
Exeutive Committee Federal Territory vide its  
letter under ref Bil. (32) dlm. PTG/WP.6/649/74  
dated 11/5/77 upon your application dated 31/10/74  
under S. 124 of the National Land Code.

30 Dated this 1st day of April , 1978.

Collector.....  
Pemungut Hasil Tanah  
District Wilayah Persekutuan.....

SCHEDULE OF LAND AND OF CONDITION

\*Town/Village/Mukim Kuala Lumpur \*Lot/L.O. No 162 Seksyen 63

Description and No. of Title Grant 9982 Area 1E. 3R. 32. 4P.

Condition Breached: The land held under Lot 162 Section 63 in  
the Town of Kuala Lumpur which was to be  
used for residential purposes has been  
used for commercial purposes i.e. a Petrol  
& Service Station. This Notice replaces  
Notice No. Bil. (36) dlm. PTG/WP.6/649/74  
dated 14/1/1978.

40  
.....  
M/s Shearn Delamore

.....  
M/s. Ng Ek Teong & Partners

AE41  
Translation of  
Letter from Shearn  
Delamore to the  
Collector of Land  
Revenue  
20th April 1978

TRANSLATION OF LETTER FROM SHEARN  
DELAMORE TO THE COLLECTOR OF LAND  
REVENUE

TRANSLATION

Your ref: Bil(40)dlm.PTG/WP  
6/649/74

SHEARN DELAMORE & CO  
KUALA LUMPUR

Our ref: SD(M) 25160/1

20th April 1978

Collector of Land Revenue

10

Federal Territory

Jalan Pekeliling

A R REGISTERED

KUALA LUMPUR

Dear Sir,

Notice to remedy a breach of  
Condition

We act for Shell Malaysia Trading Sdn Bhd and refer to  
your Corm 7A dated the 1st day of April, 1978 served on  
our clients.

Firstly, we presume that this Form 7A is in sub- 20  
stitution of your earlier Notice Bil. (36) dlm. PTG/WP.  
6/649/74 dated the 14th day of January, 1978. We  
further presume that this new Notice (Form 7A) has been  
issued in consequence of our letter to you dated 6th  
March, 1978 requesting you to rescind the earlier Form  
7A for the reasons therein stated.

With respect, we are still unable to understand  
how your new Notice can in any way rectify the old Notice  
that is, Form 7A dated 14th January, 1978 or how your  
new Notice itself can in any way be regarded as correct 30  
and proper in law.

We would reiterate the points put forward to you  
in our letter of 6th March, 1978 and say that the same  
arguments as set forth in that letter apply mutadis  
mutandis to your present Form 7A. In addition, we  
would add that the remedy which you require our clients

AE41

Translation of Letter  
from Shearn Delamore  
to the Collector of  
Land Revenue  
20th April 1978  
(continued)

10 to take appears to be without foundation in that as  
you will recall the letter of the Director of Lands  
and Mines Federal Territory Kuala Lumpur dated the  
11th day of May, 1977 which conveyed the decision of  
the Jawatankuasa Kerja Tanah Wilayah Persekutuan merely  
stated in the last paragraph thereof that if our clients  
were agreeable to the suggestions of the Jawatankuasa  
Kerja Tanah Wilayah Persekutuan then our clients need  
only pay the \$90,000 premium. It should be quite clear  
to you from our subsequent correspondence with you that  
our clients were not and are not agreeable to pay the  
additional \$90,000 premium and therefore we are of the  
view that the remedy which you require our clients to  
comply with in your present new Form 7A is wholly  
unjustified.

We therefore require you to rescind the new Form  
7A within two (2) weeks as from the date hereof failing  
which we shall consider taking such appropriate action  
as we deem fit.

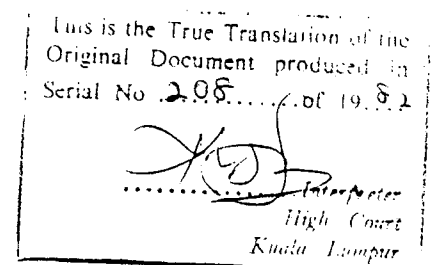
20 We would also respectfully draw your attention  
to the provisions of Section 53(4) of the National Land  
Code,

Yours faithfully,

c.c. Shell Malaysia Trading Sdn Bhd

P O Box 1027

Kuala Lumpur (Your ref: RES/KL/YLF)



No.48 of 1984

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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O N A P P E A L

FROM THE FEDERAL COURT OF MALAYSIA

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B E T W E E N :

1. LIM YEE TECK
2. LIM YEE BEE
3. LIM YEE HOH

Appellants  
(Plaintiffs)

- and -

SHELL MALAYSIA TRADING  
SENDIRIAN BERHAD

Respondent  
(Defendant)

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RECORD OF PROCEEDINGS

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KINGSFORD DORMAN  
14 Old Square,  
Lincoln's Inn,  
London, WC2A 3UB

Solicitors for the  
Appellants

STEPHENSON HARDWOOD  
Saddlers' Hall,  
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Respondent