

MALAYSIA
IN THE HIGH COURT IN SABAH AND SARAWAK AT SANDAKAN
APPLICATION FOR JUDICIAL REVIEW NO. S25 – 06 OF 2007

IN THE MATTER of an application by Ooman Chung @ Voo Man Chung for for Judicial Review for an Orders of Certiorari and Mandamus

AND

IN THE MATTER of Order 53 of the Rules of the High Court, 1980

AND

IN THE MATTER purported acquisition and exercise of 14.93 acres of land described under Sandakan Country Lease No. 075365356

AND

IN THE MATTER of the purported acquisition and exercise of 10.13 acres of land described under Sandakan Country Lease No. 075385661

AND

IN THE MATTER of the purported acquisition and exercise of 15.82 acres of land described under Sandakan Country Lease No. 075365347

AND

IN THE MATTER of the Declaration of Land to be Acquired dated 28.08.2006 under Section 3(2) of the Land Acquisition Ordinance (Sabah Cap 69)

AND

IN THE MATTER of the Notice of Acquisition dated 28.08.2006 under section 7 (1) of the Land Acquisition Ordinance (Sabah Cap. 69)

AND

IN THE MATTER Government of the State of
Sabah Gazette Notification Nos. 349 of 2006

AND

IN THE MATTER of Section 44 (1) of the
Specific Relief Act, 1950

AND

IN THE MATTER of Article 13 of the Federal
Constitution of Malaysia

AND

IN THE MATTER of an Order for leave to
apply for Judicial Review granted on the 29th day
of May 2009

BETWEEN

OOMAN CHUNG @ VOO MAN CHUNG
[NRIC No. 530426-12-5109]

....APPLICANT

AND

DIRECTOR OF LANDS AND SURVEYS, SABAH

....1ST RESPONDENT

GOVERNMENT OF THE STATE OF SABAH

.... 2ND RESPONDENT

AND

CIMB BANK BERHAD [COMPANY NO. 13491-P]
[formerly known as Bumiputra-Commerce Bank Berhad
the successor in title of Southern Bank Berhad (5303-W)
pursuant to Vesting Order dated 06.09.2006 and
amended pursuant to Court Order dated 21.11.2006]

INTERVENER

NOTES OF PROCEEDINGS

IN OPEN COURT

26th MARCH 2010

CORAM:

For Plaintiff: *Mr Asah Jalier (Applicant)*For Defendant: *Da Asah (Respondent)*Court's Ruling: *Interim - Da Jalier need
proof.*

1. By reason that the Applicant has established that the acquisition of Land A, Land B and Land C are not in accordance with Section 3 of the Sabah Land Acquisition Ordinance and procedural impropriety due to non-compliance with Section 7(2) (3) of the Sabah Land Acquisition Ordinance, I allow the application and order as follows:

1. an Order of Certiorari to quash:

a. the Declaration of Land to be Acquired under Section 3(2) of the Land Acquisition Ordinance dated 28.08.2006 issued by the 1st Respondent for land described under Sandakan Country Lease No. 075365356 of 14.93 acres, land described under Sandakan Country Lease No. 075385661 of 10.13 acres and land described under Sandakan Country Lease No. 075365347 of 15.82 aces , all situated in the locality of Sg. Seguntor, Sandakan, for the purpose of developing the Oil Palm Industrial Cluster;

b. the Notice of Acquisition under Section 7(1) of the Land


Acquisition Ordinance dated 28.08.2006 issued by the 1st Respondent for land described under Sandakan Country Lease No. 075365356 of 14.93 acres, land described under Sandakan Country Lease No. 075385661 of 10.13 acres and land described under Sandakan Country Lease No. 075365347 of 15.82 acres , all situated in the locality of Sg. Seguntor, Sandakan;

- c. The Government of the State of Sabah Gazette Notification No. 349 of 2006 to gazette lands described under Sandakan Country Lease No. 075365356 of 14.93 acres, land described under Sandakan Country Lease No. 075385661 of 10.13 acres and land described under Sandakan Country Lease No. 075365347 of 15.82 acres , all situated in the locality of Sg. Seguntor, Sandakan;

- ii an Order of Mandamus directed to the 1st Respondent that the 1st Respondent:-

- a. do cancel or to withdraw the latest offer by the 1st Respondent vide letter bearing reference no. L.S. 278.1.99/Jld. 8/(25)/(YA/-) dated 18.09.2007;

- b. do cancel or withdraw the 1st Respondent three (3) letters dated 12.06.2006 bearing reference nos.L.S.728.1.99/Jld.I/(63)/(YA/asb), L.S.728.1.99/Jld.I/(56)/(YA/asb) and L..S.728.1.99/Jld.I/(63)/(YA/asb).
- c. do cancel or withdraw the 1st Respondent letter dated 23.02.2007 bearing reference no. L.S.728.1.99/Jld.5/(36)/(YA/asb).
- iii. an Order of Prohibition directed to the Respondents, their servants and/or agents, prohibiting them from further proceeding with the intended plan to develop the land described under Sandakan Country Lease No. 075365356 of 14.93 acres, land described under Sandakan Country Lease No. 075385661 of 10.13 acres and land described under Sandakan Country Lease No. 075365347 of 15.82 aces , all situated in the locality of Sg. Seguntor, Sandakan into Oil Palm Industrial Cluster.
- iv. Costs be to the Applicant to be taxed unless agreed.


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(YEW JEN KIE)
Judicial Commissioner