

Malaysian Court Practice Bulletin

Issue 5 of 2009

ASCERTAINING GOVERNMENT'S VICARIOUS LIABILITY: A REVIEW OF *KERAJAAN MALAYSIA & ORS V LAY KEE TEE & ORS* [2009] 1 MLJ 1

Introduction

Order 15 of the Rules of the High Court 1980 (RHC),¹ provides inter alia, that: 'the plaintiff may sue jointly with another person; or two or more defendants may be liable jointly, severally or in the alternative; or the defendant may wish to raise a counterclaim which may involve the additional new parties; or a person who claims to have been wrongfully joined as a party may apply to court for the relief on the basis of misjoinder; or a person who is not a party, but claims that he should be, may apply to be joined'.² Therefore, where the action is by or against the Government, the Government Proceedings Act 1956³ becomes applicable. Section 18 of the Act provides: 'Subject to this Act, the written law relating to procedure shall apply to civil proceedings by or against the Government in the same way as to suits between subject and subject'. Further, Order 73 of the RHC deals with the procedure pertaining to legal action by or against the Government. Having said the above, this article will consider whether an action would lie against the Government as the principal when the servant of the Government is not made a party to the action.

Liability of Government to a third party for tortious acts of its officers or servants

Sections 5 of the Government Proceedings Act 1956 deals with the liability of the Government in tort. The above section provides: 'Subject to this Act, the Government shall be liable for any wrongful act done or any neglect or default committed by any public officer in the same

manner and to the same extent as that in which a principal, being a private person, is liable for any wrongful act done, or any neglect or default committed by his agent, and for the purposes of this section and without prejudice to the generality thereof, any public officer acting or purporting in good faith to be acting in pursuance of a duty imposed by law shall be deemed to be the agent of and to be acting under the instructions of the Government'. In other words, the Government, as the employer is liable to a third party for the tortious acts of its officers or servants in the course of employment.⁴

Under the doctrine of vicarious liability, the Government, as the employer, will be liable to a third party for the tortious acts of its employees provided that the tort occurred during the course of the employment. Vicarious liability refers to a situation 'where A is liable to C for damage or injury suffered by C due to the negligence or other tort committed by B. A need not have done anything wrongful and A further need not owe a duty of care to C. The most important condition for imposing liability on A is the nature of relationship between A and B and the tort committed by B is connected to the nature of this relationship. This relationship is usually that of master and servant or employer and employee and as between a principal and his agent'.⁵

In *John Doe v Bennett*,⁶ the Supreme Court of Canada considered the liability of a church for the sexual assault of one of its priests. In relation to the doctrine of vicarious liability, McLachlin CJ stated: 'The doctrine of vicarious liability imputes liability to the employer or principal of a tortfeasor, not on the basis of the fault of the employer or principal, but on the ground that as the person responsible for the activity or enterprise in question, the employer or principal should be held responsible for loss to third parties that result from the activity or enterprise'.

4 See *Ponnusami v Ratnam & The Government of Malaysia* [1965] 2 MLJ 268.

5 See *Norchaya Talib Law of Torts in Malaysia* (2003) p 367.

6 [2004] 1 SCR 436, SC (Can).

1 PU(A) 328/1980.

2 See *Malaysian Court Practice: High Court* p 1902.

3 Act 359.



Legal Editor
Pramahita Khindria Mohan

Editorial Operations Associate
Laylyn Auyang

Associate Director
Publishing Malaysia
Paranjit Kaur

Printed in Malaysia by
Sincere Service Centre Sdn Bhd
67-4 Utama Arah Khat
Jalan Airpong
50450 Kuala Lumpur, Malaysia

LexisNexis, a division of Reed
Elsevier (Singapore) Pte Ltd
REX (2008), is a leading provider
of legal and professional
information in Asia, with offices
in Malaysia, Singapore, Hong
Kong, India, and other regions.
The complete range of works
published by LexisNexis include
law reports, legal indexes,
major works, looseleaf services,
textbooks, electronic products
and other reference works for
Asia.

LexisNexis Malaysia Sdn Bhd
(formerly known as Malayan Law
Journal Sdn Bhd)
17-B, Jaya 33

3, Jalan Samudra, Seksyen 13
46100 Petaling Jaya
Selangor Darul Ehsan
Tel: 03-7682 3500
Fax: 03-7682 3500
Website: www.lexisnexis.com.my

This Procedure is a publication
of LexisNexis. Copyright in
all material published in this
newsletter is retained by
LexisNexis. No part of this
newsletter may be reproduced
or transmitted in any form or by
any means, including recording
or photocopying without the
written permission of the
copyright holder, application for
which should be addressed to
LexisNexis. Written permission
must also be obtained before
any part of this publication is
stored in a retrieval system
of any nature. The newsletter
does not accept liability for any
views, opinions, or advice given
in the newsletter. Further, the
contents of the newsletter do not
necessarily reflect the views or
opinion of the publisher and no
liability is accepted in relation
thereto.

Before the doctrine can be imputed against the Government for the act committed by its employees, certain requirements must be fulfilled, namely: (1) there must be a tortious act or wrong; (2) relationship between the person alleged to be vicariously liable and the tortfeasor must be shown; and (3) the tort was committed within the course of employment. Further, for an act to be considered within the course of employment it must either be authorised or connected with an authorised act that can be considered a mode. In *Dyer and Wife v Munday & Anor*,⁷ Lord Esher MR stated: 'The liability of a master does not rest merely on the question of authority, because the authority given is generally to do the master's business rightly; but the law says that if, in the course of carrying out his employment, the servant commits an excess beyond the scope of his authority, the master is liable'. In delivering a separate judgment, Lopes LJ, in the above case stated 'The law says that for all acts done by a servant in the conduct of his employment, and in furtherance of such employment, and for the benefit of his master, the master is liable, although the authority that he gave is exceeded'.

In the *Dyer and Wife* case, Rigby LJ explained the expression 'within the course of employment' by Willes J in *Bayley v Manchester, Sheffield, and Lincolnshire Ry Co*⁸: 'A person who puts another in his place to do a class of acts in his absence necessarily leaves him to determine, according to the circumstances that arise, when an act of that class is to be done, and trusts him for the manner in which it is done; and consequently he is held answerable for the wrong of the person so entrusted either in the manner of doing such an act, or in doing such an act under circumstances in which it ought not to have been done; provided that what was done was done, not from any caprice of the servant, but in the course of the employment'.

In *Keppel Bus Co Ltd v Sa'ad bin Ahmad*,⁹ Lord Kilbrandon held that 'the course of employment is not limited to the obligations which lie on an employee by virtue of his contract of service. It extends to acts done on the implied authority of the master.'

7 [1895] 1 QB 742, CA (Eng).

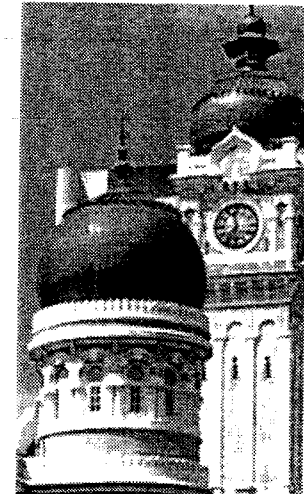
8 (1872) LR 7 CP 415 at 420.

9 [1972] 2 MLJ 121, [1972-1974] 1 SLR 23, CA (Sing).

In *Abd Malek Hussin v Borhan Hj Daud & Ors*,¹⁰ the plaintiff's claim against the defendants was for damages for the tort of false imprisonment as well as for the tort of assault. At the material time, the first defendant was a police officer with the rank of Assistant Superintendent of Police attached to the Special Branch Department, Police Headquarters in Kuala Lumpur. The second defendant was the Inspector-General of Police. While taking action against the third defendant, the Federal Government was vicariously liable in respect of the torts of the first and second defendants. It was held that the arrest and detention of the plaintiff for 57 days was unlawful and the court awarded the plaintiff a sum of RM2.5 million encompassing the unlawful detention, the physical injuries, mental anguish and humiliation suffered and further considering the behaviour of the defendants which was described as 'inhumane, cruel and despicable', among others.

More recently, the Federal Government together with the Director-General of Rela and the Federal Territories Islamic Religious Department (Jawi) was ordered to pay Maslinda Ishak, a former guest relations officer, sum of RM100,000 because they were found vicariously liable for the act of a Rela member, Mohamad Tahir Osman, who took a picture of her relieving herself in a lorry. In the above case, a raid was conducted on 21 March 2003 at 11.30 pm, at the Kelab De Vegas, Jalan Imbi. In the said raid, Maslinda and several colleagues were arrested by Jawi enforcement officers and the Rela members. After the arrest, they were led into a lorry. At 12.50 am, when the vehicle was in Cheras, Maslinda had requested to go to the toilet but her request was denied. Instead, she was told to relieve herself inside the lorry. She did as directed and was shielded by a scarf held by her friends. It was then Mohamad Tahir pushed her friends away and took photographs of her with his camera. The said incident had injured her emotionally. The High Court found Mohamad Tahir liable for his conduct in taking the pictures, an invasion into privacy, and ordered him to pay Maslinda the above sum. The learned judge, Datuk Tengku Maimun Tuan Mat held that what Mohamad Tahir did was outside the scope of his duty and he did it purely on his own accord. In other words, Mohamad Tahir was on a frolic of his own that he was solely responsible, and the respondents could not be associated with his actions. The Court of Appeal held that the respondents, the Director-General of Rela, the Federal Territories Islamic Religious Department

10 [2008] 1 MLJ 368, [2008] 1 CLJ 264.



ARTICLE

and the Government of Malaysia were jointly and severally liable to pay the said damages because the act of Mohamad Tahir was done within the course of employment.¹¹

Vicarious liability of Government: Identity and liability of the officer must be ascertained and established

Having said the above and as noted earlier, the focus of this article is whether an action would lie against the Government as the principal when the servant of the Government was not made a party to the action. In relation to the above, section 6(1) of the Government Proceedings Act 1956 provides: 'No proceedings shall lie against the Government by virtue of section 5 in respect of any act, neglect or default of any public officer, unless proceedings for damages in respect of such act, neglect or default would have lain against such officer personally'. Further, section 6(4) provides: 'No proceedings shall lie against the Government by virtue of section 5 in respect of any act, neglect or default of any public officer, unless that officer was at the material time employed by the Government and paid in respect of his duties as an officer of the Government wholly out of the revenues of the Government, or any fund certified by the appropriate financial officer for the purposes of this subsection or was at the material time holding an office in respect of which the appropriate financial officer certifies that the holder thereof would normally be so paid'. Thus from the above, before the Government can be made liable in tort for the wrong committed by its employee, the identity of the officer must be ascertained and the liability of the officer must be established.

In *Haji Abdul Rahman v Government of Malaysia & Anor*,¹² the plaintiff sued the Government of Malaysia and the Public Works Department of Kelantan for damages arising from a traffic accident. It was alleged that the deceased, who was riding a motor-cycle at night, had crashed into a steam roller belonging to Government which was left unlighted and parked on the road. Among the issues considered by the court was whether an action would lie against the Government as principal when the servant of the Government was not made a defendant to the action. It was contended on behalf of the defendant that pursuant to section 6(1) and (4) of

the Government Proceedings Ordinance 1956,¹³ 'no proceedings could lie against the Government in tort unless it is established by reason of neglect or default on the part of a specified public officer in the course of his employment or acting in the scope of the authority of the officer, his principle, that is the Government, was also vicariously liable.'

Relying on the above provision, the court upheld the above contention and accordingly dismissed the suit with costs.

However, in *Lai Seng & Co v Government of Malaysia & Ors*,¹⁴ a different approach was adopted. In the above case, the defendants applied to set aside the proceedings for non-compliance with the provision of the Government Proceedings Ordinance 1956, in that the servants of the first defendant have not been sufficiently identified. In the said case, the plaintiff had encountered difficulties when the customs detained goods belonging to the plaintiff in their custody for payment of the excess duty. The defendants to this proceeding were the Government of Malaysia, the Comptroller-General of Customs and Excise and the Assistant-Comptroller of Customs and Excise, Penang and Butterworth. The defendants contended that there had been non-compliance of section 6(1) and (4) of the Government Proceedings Ordinance 1956 in that the identity of the officer who had applied or decided to apply taxing code in place of the one chosen by the plaintiff was not ascertained nor was the liability of the officer established.

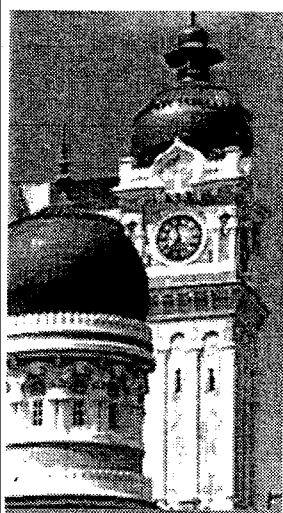
Chang Min Tat J however, disagreed with the above objection. His Lordship stated: 'Section 5 renders the Government liable for tort by any public officer. Section 6(1) limits the action to those torts which "would have lain against such officer personally," while section 6(4) defines such public officer as someone employed at the material time by the Government and paid out of Government revenues or appropriate funds. With every respect, it does not seem that on a proper reading, these sections can be construed as laying down any strict rule of practice in proceedings against the Government, failure to observe which would incapacitate the action. It is correct, I concede, that in an action for tort, the proper defendant is the wrong-doer but the person who is liable for the acts of the wrong-doer

¹¹ See 'Ex-GRO gets RM100,000 for Rela Man's frolic' New Straits Times, 25 August 2009, p 5.

¹² [1966] 2 MLJ 174.

¹³ Now known as the Government Proceedings Act 1956.

¹⁴ [1973] 2 MLJ 36.



ARTICLE

or to whom the liability for the injury has passed is also a proper defendant, and for myself, I would adopt the attitude of Viscount Simon: "the Courts before whom such a case as this comes have to decide it as between the parties before them" in *Adams v Naylor* [1946] AC 543 at 550 which is a case for damages for negligence but which must now be read subject to the qualification that since then the Crown Proceedings Act 1947 has come into force. Section 18 of our Government Proceedings Ordinance 1956 provides: "Subject to the provisions of this Ordinance the provisions of the written law relating to procedure shall apply to civil proceedings by and against the Government in the same way as to suits between subject and subject" and must by itself and apart from other provisions, introduce the Rules of the Supreme Court. Of these rules, rule 11 of Order 16 provides that "no cause or matter shall be defeated by reason of the misjoinder or nonjoinder of parties and the Court may in every cause or matter deal with the matter in controversy so far as regards the rights and interests of the party actually before it ...". For these reasons, I do not, with respect, agree with the objection. From a pragmatic point of view, it does not appear to matter at all, either at law or as a matter of evidence who was the particular officer in the Department of Customs and Excise who applied the taxing code now objected to by the plaintiff. There can be no doubt, I suppose, that if required to, Government will supply the name of the officer concerned but the point is whether the Government is embarrassed or prejudiced. Clearly it was not. It delivered a defence without difficulty and before making the present application. If the action against the Government is maintainable in the form in which it is framed, clearly the only issue is the taxing code applicable to the particular goods in question, whether it was the code opted by the plaintiff or the code applied by the Government. On this issue, the identity of the particular public officer can have very little significance'.

However, in *Sagong Tasi & Ors v Kerajaan Negeri Selangor & Ors*,¹⁵ the court preferred the decision in *Haji Abdul Rahman*. In *Sagong Tasi*, the plaintiffs in a representative capacity, sued the defendants against eviction from the land situated at Kampong Bukit Tampoi, Dengkil, Selangor. The said land was acquired for the purpose of the construction of a portion of the highway to the Kuala Lumpur International Airport. The said land was classified as an 'aboriginal area' or 'an aboriginal inhabited place' under the Aboriginal

Peoples Act 1954.¹⁶ The first defendant who was the Selangor State Government's acquiring authority, acquired the land through the Sepang District Office, while the second defendant from the United Engineers (M) Bhd, was the contractor engaged to construct the highway. The third defendant from Lembaga Lebuhraya Malaysia was the authority to supervise and execute the design construction and maintenance of the highway and lastly, the fourth defendant from the Federal Government, was the decision-maker to undertake the construction of the highway. In relation to the action against the first and fourth defendants, it was held that they were not liable for trespass as well as for the unlawful eviction by reason of the provisions under section 6(4) of the Government Proceedings Act 1956. This is because the identity of the relevant officer had not been ascertained and the liability of the officer had not been established. However, the second and third defendants were held liable to pay damages to the plaintiffs for trespass.

Further, in *Steven Phoa Cheng v Highland Properties Sdn Bhd*,¹⁷ the approach as propounded in *Haji Abdul Rahman* was followed. James Foong J stated: 'When there is a necessity to first decide whether a particular officer or officers, as the case may be, is negligent or has committed a tortious wrong, before the Government can be held liable, then it is absolutely necessary and essential to identify and name the particular officer or officers whom the plaintiff alleged committed the negligence or tortious wrong. If he is not liable then the Government is also exempted from liability. This is the concept of vicarious liability under the common law. In this situation we have even statutory provisions to affirm this approach where they continuously assert and declare the need to determine fault of the particular officer before the Government can be held liable. This clearly implies a need to identify and distinguish the officer or officers concerned before the plaintiff can proceed with attributing liability to the Government. In this situation at hand, only the drainage and irrigation department was named in respect of matters related to drainage. This is a department operated by officers. Who then was the officer or officers who committed the act or omission? Without him being specified and singled out how could liability against him be ascertained. Without the determination of his liability how could the tenth defendant be found liable. Similarly in respect of other acts or omissions involving the surrendered lands no individuals was specified or mentioned, not even

¹⁵ [2002] 2 MLJ 591, [2002] 2 CLJ 543.

¹⁶ Act 134.

¹⁷ [2000] 4 MLJ 200, [2000] 4 CLJ 508.

the particular department of State's machinery. Such defects, in my opinion are too serious and fundamental for such proceedings against the Government to succeed; it must fail for non-compliance of the legislative provisions laid down for such action against a State Government'.

Kerajaan Malaysia & Ors v Lay Kee Tee & Ors: A Review

More recently, the decision of the Federal Court in *Kerajaan Malaysia & Ors v Lay Kee Tee & Ors*,¹⁸ followed the approach in *Haji Abdul Rahman*. In the above case, the appellants who was the Government of Malaysia and the State Governments of Negeri Sembilan, Perak and Selangor, appealed to the Federal Court against the decision of the Court of Appeal which allowed the respondents' appeal against the decision of the High Court. In this case, the 184 respondents herein, who were alleged to have suffered from the Japanese Encephalitis (JE)/Nipah virus were either dependants of persons who died from JE/Nipah virus or owners of pig farms affected by the JE/Nipah virus. Alarmed by the virus, the affected respondents had requested the appellants to cull the pigs to contain its spreading. The respondents' complaint was that the Federal Government and the respective State Governments did not act fast enough to control the spread of the virus. It was further alleged that the Federal Government and the respective State Governments had allowed or permitted the situation to worsen to such an extent that led to the respondents suffering injury. In this case, there were eight causes of actions in tort or based on tort against the Federal Government and the respective State Governments. The respondents' causes of actions were, inter alia, for negligence, breach of fiduciary duties, breach of statutory duties, negligent misstatement, fraud, unlawful deprivation of fundamental rights, misfeasance of public officer and trespass to land, building and goods. The senior assistant registrar had struck out the respondents' action pursuant to O 18 r 19(1)(a), (b), (c) and (d) of the RHC and the said decision was subsequently affirmed by the High Court.

Azmel Maamor J, who delivered the judgment of the court stated: 'Sebelum seseorang pegawai kerajaan itu bertanggung untuk sebarang kesalahan tort atau ketinggalan yang dilakukan, isu liabiliti pegawai berkenaan perlu diputuskan melalui perbicaraan di Mahkamah Terbuka. Jika, pegawai kerajaan terbabit didapati bertanggung, maka majikan mereka iaitu pihak Kerajaan yang merupakan principal mereka akan

bertanggung secara vikarius. Jika pegawai kerajaan yang berkenaan tidak dinamakan sebagai defendan bagaimana mereka boleh membela diri untuk menafikan tuduhan-tuduhan yang dilemparkan kepada mereka. Amatlah tidak adil dan tidak juga munasabah untuk memutuskan seseorang pegawai kerajaan itu bertanggung tanpa memberi mereka peluang untuk membela tuduhan yang dibawa terhadap mereka. Untuk tujuan itu, pada penghakiman saya, pegawai kerajaan terbabit perlu dinamakan sebagai suatu pihak supaya liability mereka dapat ditentukan dan jika mereka bertanggung maka majikan mereka bertanggung secara vikarius. Keperluan ini jelas dikehendaki mengikut s 6(1) Akta 359 yang diperturunkan diatas'.

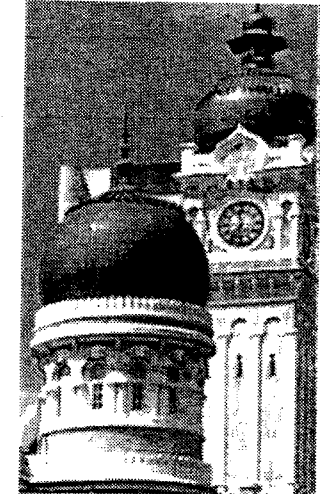
However, on appeal the Court of Appeal did not find favour with the above decision and allowed the appeal. It was held, inter alia, that the appellants could be named and sued directly as primary tortfeasors. The tortfeasors who were the relevant officers of the appellants need not be cited and sued as defendants under sections 4, 5 and 6 of the Government Proceedings Act 1956. It was further stated that the High Court's decision in *Haji Abdul Rahman v Government of Malaysia & Anor* was wrongly decided and should no longer be followed. Instead, the court had preferred the decision of *Chang Min Tat J in Lai Seng & Co v Government of Malaysia & Ors*.¹⁹

The appellants were granted leave to appeal to the Federal Court against the decision of the Court of Appeal. The Federal Court had granted leave to appeal on the questions of, inter alia: (1) whether sections 4, 5 and 6 of the Government Proceedings Act 1956 require the public officers or employees of the appellants, who are the alleged tortfeasors concerned must be named and be sued in a claim; 2) whether by virtue of sections 4, 5 and 6 of the Government Proceedings Act 1956, the appellants being Governments, can personally commit torts, to wit: negligence; breach of fiduciary duties; breach of statutory duties; negligent misstatement; fraud; breach of constitutional rights; misfeasance of public office and trespass to land and property; and (3) whether the appellants can be named and be sued directly and as primary tortfeasors by virtue of sections 4, 5 and 6 of the Government Proceedings Act 1956? The Federal Court answered question (1) in the positive while questions (2) and (3) were in the negative.

It was stated that before the Government can be made liable vicariously as the employer, in any claim in tort against the Government,

18 [2009] 1 MLJ 1, FC.

19 Supra n 14.



ARTICLE



ARTICLE

the public officer who was responsible for the alleged tortious act must be made a party and his liability must be established. It was further stated that, it would be insufficient to merely identify the public officer without joining the officer as a party because liability by evidence must be established. Further, it was only upon a successful claim against the officer that a claim be laid against the Government. In this case, the court held that since the public officers who were responsible for the alleged wrongdoing were not joined as defendants, therefore it was not possible in law to maintain the action against the Federal Government and the respective State Governments as primary tortfeasors. It was further stated that neither the Federal Government nor the respective State Governments were capable of committing all the eight pleaded causes of actions.

In delivering the judgment of the court,²⁰ Nik Hashim FCJ stated: '[It] must be pointed out that the cases of *Haji Abdul Rahman* and *Lai Seng & Co*, are easily distinguishable. In *Lai Seng & Co* the case was indeed properly brought against the Government because the claim arose out of the revenue laws. Section 4 of Government Proceedings Act 1956 clearly allows such claim to be directly brought against the Government. However, in *Haji Abdul Rahman*, the action was one based in tort to which sections 4 and 5 of Government Proceedings Act 1956 apply. See *Steven Phoa Cheng Loon & Ors v Highland Properties Sdn Bhd & Ors* [2000] 4 MLJ 200 where the same issue was successfully raised and not disturbed by the appellate courts. Thus, I entirely agree with the views expressed by Abdul Aziz J (later FJ) in *Haji Abdul Rahman*. Contrary to the finding of the Court of Appeal, *Haji Abdul Rahman* was correctly decided and should be upheld. Therefore, on the proper construction of ss 5 and 6 of the Government Proceedings Act 1956, in any claim in tort against the Government, the officer of the Government who was responsible for the alleged tortious act must be made a party and his liability be established before the Government can be made liable vicariously as principal. It would be insufficient to merely identify the officer without joining the officer as a party because liability by evidence needs to be established. It is only upon a successful claim against the officer personally can a claim be laid against the Government. In the present case, all the eight causes of actions are actions in tort or

tort-based premised on the act or omission of an individual. None of the Governments sued is capable of committing the wrong pleaded. Since the Governments' liability in tort can only be vicarious by virtue of sections 5 and 6 of the Government Proceedings Act 1956, and as the officers who were responsible for the alleged wrongdoing were not joined as defendants to the action, it is therefore not possible in law to maintain a successful claim in tort against the Governments as primary tortfeasors. That being so, the appellants' application to strike out the respondents' actions is meritorious. However, that is not the end of the matter. The Court of Appeal applied O 15 r 6(1) of the RHC not to defeat the respondents' action for the misjoinder or nonjoinder of parties as applied in *Lai Seng & Co*. In this respect, I agree with the appellants that this is not just a case of joining wrong parties but bringing an action against the wrong parties. The four appellants are the sole parties here and if the action is dismissed against them there are no other parties against whom the case can proceed'.

Conclusion

The Government as the principal, shall be liable for any wrongful act done or any neglect or default committed by any public officer in the same manner and to the same extent in which a principal being a private person is liable for any wrongful act done, or any neglect or default committed by his agent. In this regard, the Government as the employer is liable to a third party for the tortious acts of its officers or servants committed within the course of employment. However, pursuant to sections 5 and 6 of the Government Proceedings Act 1956, before the Government can be made vicariously liable for any claim in tort, the officer of the Government who was responsible for the alleged tortious act must be made a party and his liability must be established. The above mentioned principle was recently reiterated by the Federal Court in the case of *Lay Kee Tee*.

Ashgar Ali Ali Mohamed

Ahmad Ibrahim Kulliyah of Laws (AIKOL)
International Islamic University Malaysia (IIUM)

LLB (Hons), MCL (IIUM), LLM (Hons) (NZ)
PhD (Business Law)

Advocate and Solicitor (Non-Practising)

ashgar@iiu.edu.my

²⁰ The Federal Court was composed of Nik Hashim FCJ; Arifin Zakaria CJ and Zulkefli Makinudin FCJ.