

# COA sets Aug 11 to decide on Najib's appeal to disqualify Thomas' firm in RM1.9m suit

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PUTRAJAYA (July 11): The Court of Appeal (COA) has set Aug 11 to deliver its decision on Datuk Seri Najib Razak's appeal to disqualify lawyers from Tan Sri Tommy Thomas' firm from representing the former attorney general in a suit brought against him by the ex-prime minister.

Appellate court judge Datuk Hanipah

Farikullah, who led a three-member panel, said that they need more time to consider the parties' submissions and the case authorities cited.

The others on the panel were COA judges Datuk Azimah Omar and Datuk Azhahari Kamal Ramli.

Najib's appeal is with regard to the High Court decision in August last year, which dismissed his application to disqualify the appointment of two lawyers from Messrs Tommy Thomas — firm partners Alan Adrian Gomez and Mervyn Lai — to represent the former AG in the RM1.9 million suit.

Earlier on Tuesday (July 11), the panel heard submissions for close to two hours from both parties.

Najib's counsel Datuk Firoz Hussein Ahmad Jamaluddin argued that one of the main contentions in their application revolves around Rule 5 of the Legal Profession (Practice and Etiquette) Rules 1978, which states that lawyers should not accept a brief if it is difficult to maintain professional independence.

He questioned whether the lawyers from the firm could maintain professional independence, and argued that members of the same firm should not

represent partners, consultants or other lawyers in contentious matters.

"Impartiality of [lawyers] is important to protect the integrity of the justice system that we have," Firoz said.

Thomas was a founding member of the law firm, and became a consultant in September 2020, following his stint as the AG from June 2018 to February 2020.

Firoz went on to argue that Thomas, who is a consultant at the firm, had a "pecuniary" or monetary interest in the outcome of the legal proceedings, because he is liable to pay damages in the event that he loses the suit.

On this, Gomez, who represented Thomas, countered that the test should not be whether Thomas had an interest in the firm, but rather if the partners of the firm had a pecuniary interest in the outcome of the suit.

"[The question is whether] the partners have a direct pecuniary interest in the outcome of the case. [They] have no interest in the outcome of the case, and therefore that is a non-starter," he argued.

He also added that there was no conflict

of interest which prevented them from acting for Thomas, as none of the partners were involved in the 1Malaysia Development Bhd (1MDB) charges at the heart of Najib's lawsuit.

"It was purely by exercise of the then AG. The partners played no role in that, and the firm was not involved," he said.

Gomez argued that throughout the various proceedings regarding this case in the High Court, the presiding judge did not question the professionalism of the counsels.

Najib's main suit filed in October 2021 revolved around the charges brought against him in criminal cases linked to 1MDB. He claimed that the charges were part of a "long-planned, premeditated exercise" by the then Pakatan Harapan government.

The former PM was suing Thomas for misfeasance in public office, malicious process, and negligence.

However, in November last year, the High Court allowed Thomas' bid to strike out the lawsuit, without the matter going to a full trial.

Najib is appealing against this decision,

and the hearing is set for October this year.

During the proceedings on Tuesday, Najib was also represented by Daniel Annamalai, Woo J Enn and Melody Tham Cheng Yee. Meanwhile, Lai and Haikaldin Mahyidin also appeared for Thomas.

Najib was present during the proceedings on Tuesday, along with his wife Datin Seri Rosmah Mansor and son Datuk Mohd Nazifuddin.

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Edited By Surin Murugiah