

Grace Lim Kah Gaik v Skp Associate Sdn Bhd [2012] MLJU 1203

Malayan Law Journal Unreported

HIGH COURT (KUALA LUMPUR)
DATO' HUE SIEW KHENG J
GUAMAN CIVIL NO S-22-906-2008
21 June 2012

*Dato **David Gurupatham** (**David Gurupatham** And Koay) for the plaintiff
How Chee Hong (Steven & Norhani bt Nordin with him) (Kumar Jaspal Quah & Aishah) for the defendant*

Dato' Hue Siew Kheng J

DECISION (Enclosures 29 & 36)

[1]Enclosure 29 is the defendant's application for extension of time to set aside the judgment dated 25.3.2010 and for the said judgment to be set aside. This was filed on 23.12.2011.

[2]Enclosure 36 is the defendant's application to strike out the order dated 25.3.2010. This was filed on 19.4.2012.

[3]Having read the submissions of the parties before the Court of Appeal and in the absence of any ground of judgment from the Court of Appeal, I am not persuaded that *res judicata* or *issue estoppel* lie as the merits of the case do not appear to have been decided upon.

[4]As I have already expressed my doubts as to the validity of the order and judgment obtained, since a sum of RM 2 million was summarily awarded, without assessment, as general damages and also taking into consideration the established principles of law with regard to the award of general damages, I am of the view that the judgment and order obtained is irregular and should be set aside.

[5]The defendant has explained the delay in exhibit SUP-3 in Enclosure 99. Taken on its own, I would not ordinarily find it exonerates the delay but in view of my finding that this judgment / order is irregular, I am allowing Enclosure 29 and Enclosure 36. Cost of both applications to be borne by defendant-applicant.