IN THE HIGH COURT OF MALAYA AT KUALA LUMPUR
IN THE FEDERAL TERRITORY OF KUALA LUMPUR
ORIGINATING SUMMON No: WA-24NCvC-2376-06/2024

BETWEEN

1. **TAN SRI DATO' KAM WOON WAH**
   [NRIC No.: 291129-10-5173]

2. **RAUB MINING & DEVELOPMENT COMPANY S/B**
   [Company No.: 196201000202 (4708-A)]

3. **RAUB MINING OIL MILL SDN BHD**
   [Company No.: 197601000324 (26175-P)]

4. **BERJAYA REALTY SENDIRIAN BERHAD**
   [Company No.: 197301000726 (14266-A)]

5. **COASTAL REALTY SDN BHD**
   [Company No.: 197501001912 (23606-X)]

6. **GRANDFOODS SDN BHD**
   [Company No.: 1988010074628 (174825-D)]

7. **GRANNY'S KITCHEN SDN BHD**
   [Company No.: 198801007469 (174826-A)]

8. **LEAD ENTERPRISES SDN BHD**
[Company No.: 198301002857 (105236-T)]

9. **UNITED RAUB OIL PALMS SDN BHD**
[Company No.: 196601000212 (6598-V)]

10. **WAHBUNGA REALTY SDN BHD**
[Company No.: 197501001166 (22613-P)]

11. **YUM SDN BHD**
[Company No.: 1961010000021 (4076-A)] **... PLAINTIFFS**

AND

DATO' SRI ANDREW KAM TAI YEOW **... DEFENDANT**
[NRIC No.: 620202-10-6039]

JUDGMENT

[1] To determine whether a litigant is vexatious litigant is an unpleasant process, to say the least. Considerations must be made to the facts at hand that demonstrate repeated filing of suits on matter(s) already decided upon, which in turn, may conclude actions ill-favoured that they tantamount to habitual and persistent conduct. The declared vexatious litigant would thereafter not be allowed to commence any further legal suits save by leave of the court. Such an order shall be gazetted. For this

case, such application stemmed from the unfortunate protracted legal drama between father and son that had flooded our superior courts since 2017.

[2] The 1st Plaintiff, the patriarch of the Kam family, together with 10 of the companies hereinafter referred to as the Raub Mining Development Company Sdn Bhd or RMDC Group, had filed this application by way of Originating Summons (OS) to declare his estranged son the Defendant a vexatious litigant. The 2nd Plaintiff (Raub Mining & Development Company Sdn Bhd or RMDC) wholly owns the 3rd Plaintiff (Raub Oil Mill Sdn Bhd or ROM). The 4th to 11th Plaintiffs collectively own approximately 90% of the RMDC, making the 4th to 11th Plaintiffs the Corporate Shareholders of RMDC.

[3] The 1st Plaintiff is the majority shareholder of the Corporate Shareholders. The first ground relied upon by the Plaintiffs in seeking to have the Defendant declared a vexatious litigant is the Defendant's continued pursuit of a cause of action that has already been conclusively determined. Despite the Court of Appeal's ruling that the Defendant holds no beneficial or indirect interest in the shareholdings of the 2nd to 11th Plaintiffs, he has persisted in asserting this claim, most notably through the filing of Kuala Lumpur High Court Suit No. WA-22NCC-103-03/2024 (Suit 103).

[4] In addition to Suit 103, the Defendant has initiated various other proceedings, including applications for leave to commit the 1st Plaintiff and several directors of the RMDC Group of Companies for contempt, the

filing of garnishee proceedings to enforce cost orders in his favour notwithstanding his own substantial unpaid cost liabilities to the Plaintiffs, an application under the Mental Health Act 2001 (MHA) for an inquiry into the mental capacity of the 1st Plaintiff, and multiple applications to recuse judges from hearing his matters.

[5] The Plaintiffs contended that these actions, taken collectively, are vexatious in nature and constitute a misuse of the judicial process. They further submitted that the Defendant's consistent failure to satisfy costs orders made against him reinforces the conclusion that he is deploying litigation oppressively, burdening the court system and the Plaintiffs with an onslaught of unwarranted legal proceedings.

[6] In determining this application made by the Plaintiffs, this Court considered the oral arguments by the learned counsels for all parties and the written submissions filed. All the facts disclosed in the affidavits, including the cause papers and judgments by the Court were taken into account in arriving at this decision. With the application of the authorities cited, this Court is satisfied that the Plaintiffs' application ought to be allowed.

History of the legal proceedings

[7] The genesis of this long-running family dispute appears to trace back to a pivotal and highly publicised event on 7.3.20217, when the 1st Plaintiff publicly disowned and disinherited the Defendant via a national newspaper announcement. What followed was, in many respects, a decisive and confrontational response by the Defendant – an act that

marked the crossing of a proverbial Rubicon. He asserted the existence of a shareholders' agreement with the 1st Plaintiff dated 16.1.2017. The Defendant claimed that it vested him with the ownership of RMDC's shares. The Defendant took the position that this encompassed both the 1st Plaintiff's direct shareholdings in RMDC, which are 7 units of shares, and also indirect shareholdings which the 1st Plaintiff held through his majority shareholding of the Corporate Shareholders. In effect, the Defendant contended he was entitled to both the 1st Plaintiff's direct and indirect shareholdings in RMDC, and by extension, ROM. It was on this basis that the Defendant commenced the action before the Kuala Lumpur High Court vide Kuala Lumpur High Court Suit No. WA-22NCC-352-09/2017 (Suit 352).

[8] With the initiation of Suit 352, the High Court granted the Defendant an ad-interim order on 6.9.2017 that injuncted the 1st Plaintiff and the Corporate Shareholders from amongst other things, from the disposal of certain assets of RMDC and ROM prior to the disposal of Suit 352. The application included an order not to hold or convene any shareholders' meetings or implement any members' resolution passes. It was also to injunct and prohibit any removal of the Defendant's directorship in the 2nd to the 11th Plaintiffs. This was then translated into an interlocutory injunction order by the High Court on 29.3.2018.

[9] The Plaintiffs applied to strike out the Defendant's claim and have the interlocutory injunction order set aside. The Plaintiffs had also applied for the fortification of the Defendant's undertaking as to damages in the amount of RM20,000,000. The High Court dismissed the Plaintiffs'

applications, but for the latter application. The Defendant was thus ordered to pay RM500,000.00 to the Court as fortification of his undertaking of damages.

[10] All parties appealed to the Court of Appeal. Before the determination of the appeals, the Defendant had filed an application under s52 MHA for an order of inquiry against the 1st Plaintiff to determine if the latter was a mentally disordered person incapable of managing himself and his affairs vide Kuala Lumpur High Court Originating Summons No. WA-24NCvC-2619-12/2021 (MHA application). The Defendant filed the MHA application on 20.12.2021.

[11] Meanwhile, at the High Court in Suit 352, the Defendant filed 9 applications for leave to commence committal proceedings - one of which targeted only against the 1st Plaintiff, his siblings, and the directors of the Plaintiffs and those who are also on the board of some of the RMDC Group of Companies. Additionally, between June 2019 and October 2020, the Defendant had also filed 6 more applications for leave for committal proceedings against the 1st Plaintiff in 6 separate suits. All of these Defendants' applications were either dismissed or set aside by the courts.

[12] Back to the appeals that derived from the interlocutory proceedings of Suit 103: on 12.1.2022, the following are the Court of Appeal's decisions:

(i) Struck out the Defendant's claim against the Corporate Shareholders with costs;

(ii) Set aside the ad-interim order and the interim interlocutory order;

(iii) Affirmed the High Court order that dismissed the 1st Plaintiff's application to strike out the Defendant's claim. This meant the Court of Appeal had dismissed the 1st Plaintiff's appeal against the High Court order. So, the suit by the Defendant against the 1st Plaintiff was to go for full trial;

(iv) The Plaintiffs' appeal against the High Court order that ruled the quantum the Defendant was to pay as fortification as to damages was RM500,000 was struck out with no order as to costs given that he ad-interim order and the interlocutory injunction order was set aside.

[13] The Court of Appeal had found the Defendant did not have reasonable cause of action against the Corporate Shareholders. It was reasoned in its grounds of judgment that the Corporate Shareholders were not privy to the alleged shareholders' agreement. The Court of Appeal had found that as the shares in RMDC belonged to the Corporate Shareholders, the 1st Plaintiff did not have any right to enter into any agreement dealing with the shares owned by the Corporate Shareholders. It was reasoned that the purported trust created by the alleged shareholders' agreement was not recognised under the companies' Memorandum of Articles or the Companies Act 2016. Recognition was only to be granted to the registered shareholders.

[14] The Defendant proceeded to seek leave to appeal to the Federal Court. In the meantime, on 27.1.2022, the Defendant obtained an Erinford Injunction from the Court of Appeal pending the disposal of the matter by the Federal Court. There was no stay of proceedings, so Suit 352 began trial before the High Court on 8.6.2022. Trial of Suit 352 at the High Court was completed on 29.11.2023.

[15] As to the Defendant's MHA application, the High Court struck it out on 10.2.2023. The High Court found that the materials produced by the Defendant were speculative and unconvincing, lacking the persuasive strength required to support his application. It also acknowledged that the Defendant, having been disowned and disinherited by the 1st Plaintiff, had vested interests in all proceedings that involved the parties. Justice Hayatul Akmal's decision penned the reasons for the conclusion that the Defendant's MHA application disclosed no reasonable cause of action and was oppressive, scandalous, frivolous, and an abuse of the court process, where evidently there was no lawful basis or cogent evidence that the 1st Plaintiff was mentally disordered. The Defendant had proceeded to appeal against this decision to the Court of Appeal.

[16] 11 days later on 21.2.2023, the Federal Court dismissed the Defendant's application for leave to appeal. The decision of the Court of Appeal was not disturbed. It remained valid and bound the parties. At the High Court, Suit 352 at the High Court was still ongoing. With the Erinford Injunction granted by the Court of Appeal no longer in place, the Defendant sought, through a few applications, injunction orders from the High Court for the same effects.

[17] The only application allowed by the High Court was the injunction to restrain the 1st Plaintiff from dealings with his shares and assets within the RMDC Group of Companies. The 1st Plaintiff appealed against this injunction order. The Court of Appeal reversed this said High Court's order. The Court of Appeal held that the purpose and effect of the injunction order was akin to the earlier injunction orders, which the Court of Appeal had set aside. At paragraph 5 of the Court of Appeal's decision:

> "*In our view, there is much merit in the argument of the appellant that the effect of the interim injunction that is the subject of the instant appeal is similar to the first interim injunction that was set aside by the Court of Appeal. The interim injunction seeks to restrain the appellant from dealing with his direct and indirect shareholding in RMDC and ROM although appellant owns only 7 ordinary shares in RMDC. The claim of the respondent with regard of the indirect interest of the appellant RMDC and ROM (sic) was roundly rejected by the Court of Appeal when the first interim injunction was set aside. Therefore, the respondent has attempted to reopen an issue that was already decided by the Court of Appeal. Therefore, we see no basis for the respondent to restrain the rights of the appellant qua shareholder in the corporate defendants. We find that the High Court did not give sufficient consideration to the fact that the interim injunction in question seeks to achieve the same result as the first interim injunction that was set aside.*"

[18] In less than a year of the Federal Court's ruling, the Defendant filed a fresh suit against the Plaintiffs vide Suit 103 on 15.2.2024. In Suit 103,

the Defendant alleged that the Plaintiffs had conspired by unlawful means to injure his interests in the RMDC Group of Companies. The Defendant had brought back into the legal arena the Corporate Shareholders, whom the Court of Appeal held that there was no reasonable cause of action in Suit 352, and that the Defendant was a direct/indirect shareholder of RMDC Group of Companies. The Defendant pleaded that he was the beneficial owner of a controlling interest of 52% in RMDC and that there was a purported attempt to dilute the 1st Plaintiff's shareholding, which the Defendant claimed affected his beneficial and controlling interests in RMDC and ROM. The Defendant's assertion was once again premised on the alleged shareholders' agreement.

[19] For Suit 103, pursuant to the valid and binding decision of the Court of Appeal, the Plaintiffs filed applications to strike out the Defendant's suit against them. The High Court agreed with the legal position advocated by the Plaintiffs and allowed the striking out of Suit 103 on 14.10.2024. The Defendant has since lodged an appeal to the Court of Appeal against this decision.

[20] A tabulation of costs awarded to the Plaintiffs by the courts in the various proceedings showed that the sum of RM431,060.00 was still not paid by the Defendant. Yet, before the filing of Suit 103, there were a few launches of court actions initiated by the Defendant vide:

(a) Kuala Lumpur High Court Execution No WA-37G-235-09/2023 (Execution 235) – to garnish the sum of RM12,480.00 purportedly owed by RMDC and ROM;

(b) Kuala Lumpur High Court Execution No. WA-37G-236-08/2023 (Execution 236) – to garnish the sum of RM20,800.00 purportedly owed by the Plaintiffs;

(c) Kuala Lumpur High Court Execution No. WA-37G-248-10/2023 (Execution 248) – to garnish the sum of RM10,400.00 purportedly owed by the 1st Plaintiff;

(d) Kuala Lumpur high Court Execution no. WA-37G-249-10/2023 (Execution 249) – to garnish the sum of RM10,400.00 purportedly owed by RMDC, ROM, 6th to the 9th Plaintiffs.

[21] On 20.9.2023, the Defendant obtained a Garnishee Nisi Order against Public Bank Berhad and Public Islamic Bank Berhad for Execution 235 and Execution 236. The Defendant had instructed his solicitors in the issuance of the show cause letters dated 6.10.2023 to Public Bank Berhad's bank manager for the refusal to freeze RMDC's bank accounts, though the sum of RM12,400 had been earmarked according to the Garnishee Nisi Order. On 11.10.2023, the Defendant obtained the Garnishee Nisi Order for Execution 248 against OCBC Bank (Malaysia) Berhad, OCBC Al-Amin Bank Berhad, Public Bank Berhad and Public Islamic Bank Berhad, The Garnishee Nisi Order for Execution 249 was also obtained on the even date against Public Bank Berhad and Public Islamic Bank Berhad. Save for Execution 235, all the other Garnishee Nisi Orders were set aside by the courts. The Plaintiffs filed an appeal to the Judge in Chambers concerning Execution 235.

[22] In light of the above, as well as the attempts by the Defendant to freeze the entire sum of all the bank accounts belonging to the Plaintiffs, and the Defendant's failure to disclose to the courts that he owes a significantly larger sum to the Plaintiffs, another court action emerged in our courts. The Defendant had also omitted to inform the courts that the costs awarded under Execution 249 arose from an interlocutory application which were not payable until the conclusion of the main proceedings.

[23] RMDC filed an application on 11.3.2024 for leave to commence committal proceedings against the Defendant and his solicitor Ooi Xi Fang in WA-24NCvC-926-03/2024 (Committal 926). Leave was granted by this Court on 22.4.2024. On 29.10.2024, this Court dismissed the Defendant and his solicitor's application to set aside the order granting leave to commence committal proceedings against them. Costs of RM10,000 was granted to RMDC. Their oral application for a stay of proceedings pending their filing of appeal at the Court of Appeal was also dismissed. This Court proceeded to hear arguments for the committal application. Decision was reserved to 6.12.2024 which was the available date for parties. However, that date had to be vacated as it was unsuitable, and 20.1.2025 was fixed for the decision of RMDC's committal application. On 20.1.2025 this Court was informed that the Court of Appeal had granted a stay of proceedings. The hearing of the Defendant and his solicitor's appeals are scheduled to be heard by the Court of Appeal on 14.10.2025.

[24] Meanwhile the Plaintiffs filed this suit on 28.6.2024 for a court declaration that the Defendant is a vexatious litigant. The Defendant had

attempted to convert this OS into a writ action [Enclosure 23 in this suit]. Arguments were to be heard on 12.2.2025 but the Defendant sought leave to file additional affidavit to include Justice Dato' Mohd Radzi Harun's decision in Suit 352. This Court granted the Defendant to do so and fixed 4.3.2025 to hear arguments for Enclosure 23. This Court dismissed Enclosure 23 with costs of RM5,000 awarded to RMDC. Directions for the submissions of this OS were given. Arguments were then heard on 15.4.2025.

[25] The Plaintiffs have implored this Court to take into account the Defendant's conduct. Highlighted were the contents of the Defendant's affidavit dated 23.2.2023 in Suit 352 to support his second application for an injunction after the first injunction was set aside by the Court of Appeal. The Defendant had given an undertaking as to damages. When the High Court had granted the Defendant's application on 24.5.2023 subject to the condition that he paid into court RM500,000 as fortification of damages within 14 days, he had failed to do so. At the hearing of arguments, submitted for the Defendant was an indication that he was financially strapped which was at the opposite of his averment of his undertaking as to damages for his injunction application.

[26] A day before affirming that said affidavit, on 22.2.2023, the Defendant had attempted to withdraw the fortification sum of RM500,000 previously paid into the court to fortify the first injunction order. The Defendant's position was that he was entitled to the refund because the first injunction order was set aside by the Court of Appeal. The Plaintiffs had to object to put on record that the sum was to account for the Plaintiffs'

losses caused by the first injunction order which was set aside by the Court of Appeal. The Defendant had retracted his said withdrawal application.

[27] The Plaintiffs had also pointed out that the Defendant had made similar averment to support his application for injunction order in Suit 103. The Defendant's application was not allowed. Suit 103 has been struck out. The High Court found that Suit 103 filed by the Defendant against the Plaintiffs was frivolous and vexatious, and an abuse of the court process.

[28] Another set of facts before this Court was also the contention by the Plaintiffs that the Defendant was a serial recuser of the judges. He had attempted to recuse Justice Hayatul Akmal in High Court Civil Suit No WA-22NCvC-822-12/2021 (Suit 822). At the Court of Appeal, there were attempts to recuse the following judges from hearing the appeals:

(1) Justice Dato Lim Chong Fong;
(2) Justice Datuk Ravintharan Paramuguru;
(3) Justice Datuk Nantha Balan ES Moorthy;
(4) Justice Datuk Hajjah Azizah Nawawi;
(5) Justice Dato Che Mohd Ruzima Ghazali;
(6) Justice Datuk Vazeer Alam;
(7) Justice Dato Lee Swee Seng;
(8) Justice Dato Gunalan Muniandy;
(9) Justice Datuk Wong Kian Kheong.

[29] There were also some recusal applications the Defendant made at the Federal Court to ensure the following judges did not hear his matters:

(1) Justice Dato Has Zanah Mehat;

(2) Justice Tan Sri Datuk Nallini Pathmanathan.

[30] The long-drawn Suit 352 saw its conclusion at the High Court on 10.2.2025 when Justice Dato Mohd Radzi Harun ruled that the shareholders' agreement is valid and enforceable to a certain extent, which he had duly pronounced. It does not include indirect shareholding of the 1st Plaintiff in RMDC and ROM through the Corporate Shareholders. The manner of litigation evident in that the Defendant had still vehemently carved out time, costs on the part of the parties, and the judiciary to hear his repeated, reiterative stance on matters already decided by the courts.

[31] One that cannot escape this Court's eyes is the fact that even in this OS, the Defendant had tried to convert it to a writ action. His purpose was to cross-examine his siblings who had affirmed the affidavits in support of the OS. The basis cited was that they had no personal knowledge of some of the proceedings referred to for this Court's consideration. That application was dismissed on 4.3.2025 and costs of RM5,000 were ordered to be paid to the Plaintiffs forthwith. The Defendant filed an appeal to the Court of Appeal against this Court's decision. Thus, on 8.4.2025, this Court issued its grounds of judgment for the said dismissal.

[32] This Court heard the Defendant's explanation that Suit 103 was brought about by the contention that the Plaintiffs had diluted the

shareholding in RMDC whilst Suit 352 was ongoing. The Defendant claimed that the Plaintiffs did not come with clean hands and were not entitled to seek equity, as there were also numerous suits they had filed against the Defendant. The Defendant vehemently denied that each set of facts on their own was sufficient to equate the Defendant as a vexatious litigant.

Assessment by this Court

[33] All submissions by the parties have been considered. The Defendant did not disagree with the account of all the legal suits. The Defendant acknowledged the case laws that decided on the determination of a vexatious litigant. He took the position that this OS was based on the filing of Suit 103 and contended that the central issue of "entire interest" and "indirect shareholding" had yet to be decided in Suit 352 when Suit 103 was filed. The Defendant submitted that Justice Wan Muhammad Amin Wan Yahya was under the misapprehension that the said issues were decided by the Court of Appeal when he struck out Suit 103. The Defendant submitted that because Suit 352 was only decided on 10.2.2025, when Suit 103 was filed, the arguments on "entire interest" and "indirect shareholding" were being ventilated. The Defendant further maintained that the Court of Appeal had not ruled or made any finding on those two issues. The Defendant submitted that in any event, the Court of Appeal's ruling to set aside the interlocutory injunction could not be deemed as final.

[34] For this OS for the application, together with the submissions, the legal actions by the Defendant, and when he had initiated them, were also

taken into account to determine whether to declare him a vexatious litigant. There were several key issues to consider whether the Defendant has "habitually and persistently and without reasonable cause instituted vexatious legal proceedings" as required under Paragraph 17 of the Schedule to the Courts of Judicature Act 1964 (CJA) that included:

(a) whether the number of proceedings instituted by Andrew is sufficient to establish "habitual and persistent" vexatious litigation, considering both the quantity and character of the proceedings;

(b) whether Andrew's overall conduct of litigation demonstrates vexatious behaviour.

[35] The threshold for declaring a party a vexatious litigant is high. Courts will act with caution, as such orders restrict access to justice. However, Malaysian courts have acknowledged that where litigation is repetitive, oppressive, and serves no legitimate legal purpose, the Court is duty-bound to intervene. The test, as adopted in ***Attorney General v Barker*** [2000] 1 FLR 759, is whether the litigant has habitually and persistently instituted vexatious proceedings without reasonable grounds, such that an order is necessary to prevent further abuse. The Court of Appeal's decision in ***Sim Kooi Soon v Malaysia Airlines Systems (No 2)*** [2011] 4 MLJ 728 is instructive. The ratio decidendi in ***Lai Swee Lin Linda v AG*** [2016] SGCA 54 is also persuasive.

[36] In the present case, the Defendant's conduct satisfies that test. The hallmark indicators of vexatious litigation identified in ***Barker*** and adopted in local jurisprudence are all present. The Defendant has shown a habitual

pattern of instituting proceedings that re-litigate issues already conclusively determined, see ***Ching Suet Yeen v Mageswaran a/l Rajangom & Ors*** [2025] MLJU 435. In particular, despite the ruling of the Court of Appeal and the refusal of leave by the Federal Court, he has persisted in asserting his alleged indirect shareholding in RMDC and ROM, thus contravening the principle of *res judicata*.

[37] This is demonstrated most clearly in the filing of a fresh action – Suit 103, where the Defendant repeats the same contentions of beneficial and indirect ownership of the Plaintiffs against all the Plaintiffs even though the Court of Appeal had settled the matter concerning the Plaintiffs save for the 1st Plaintiff.

[38] In respect of Justice Dato Mohd Radzi Harun's remark at paragraph 8 of his broad grounds in Suit 352 — that the 16.1.2017 shareholders' agreement between the 1st Plaintiff and the Defendant had never been decided by any court — the Defendant argued that Suit 103 cannot be classified as vexatious, as it merely sought to ventilate outstanding legal issues. This Court respectfully disagrees with that proposition.

[39] First, it is not the subject matter of the shareholders' agreement alone that renders Suit 103 vexatious. It is the fact that the Defendant filed Suit 103 against the very same Corporate Shareholders whom the Court of Appeal had already struck out as parties in Suit 352. The Court of Appeal had conclusively held that there was no cause of action against the Corporate Shareholders because they were not privy to the 16.1.2017 shareholders' agreement and that the Defendant had no enforceable

rights over the shares held by those companies. That decision by the Court of Appeal remains binding and undisturbed.

[40] Suit 103, however, was again brought against all the Plaintiffs, including the Corporate Shareholders, and was grounded on the same discredited notion that the Defendant held a beneficial or controlling interest in RMDC and ROM. The Defendant obdurately reasserted a position already rejected, and thereby sought to relitigate matters that had been finally adjudicated.

[41] Thus, even if the interpretation or enforceability of certain provisions in the shareholders' agreement dated 16.1.2017 had not yet been fully determined as at the time Suit 103 was filed, the repetition of claims against parties who had already been judicially absolved from liability amounts to vexatious conduct. The Defendant's persistence in pursuing Suit 103, particularly against parties against whom he had no viable claim, is a paradigmatic example of habitual and oppressive litigation. His actions demonstrate not a bona fide pursuit of residual legal issues, but a continued disregard for binding rulings of the superior courts.

[42] Further, when the Erinford Injunction obtained in the earlier appeals in connection with Suit 352 lapsed following the Federal Court's refusal to grant leave, the Defendant filed for fresh injunctive reliefs before the High Court, once again premised on the same discredited legal basis. These steps are a direct affront to the principle of finality in litigation and constitute a misuse of judicial resources.

[43] Moreover, his conduct demonstrated an intent not to seek legitimate redress, but to exert pressure on the Plaintiffs through serial filings, including 7 applications for leave to commence committal proceedings against the 1st Plaintiff in 7 separate proceedings, multiple garnishee proceedings involving nominal sums that had the effect to disrupt business operations, and meritless applications for judicial recusals. The Defendant's attempt to mislead court officers to withdraw RM500,000 from the court further illustrated his lack of bona fides.

[44] Taken cumulatively, these acts are not isolated lapses in judgment but form a sustained campaign of litigation which is both excessive and lacking in reasonable cause. His actions have imposed real costs and prejudice upon the Plaintiffs, disrupted the administration of justice, and abused the court's process. In many of the courts' written decisions, the Defendant's actions were found to be frivolous, vexatious and abuse of the court process. In such circumstances, the threshold for a declaration of vexatious litigation is clearly crossed. The factual and legal matrix has been conclusively decided. Yet the Defendant remains undeterred. The persistence of his actions, taken together with the financial and procedural misconduct, demonstrated a clear and present abuse of the judicial process, see ***American Express (M) Sdn Bhd v Matthias Chang Wen Chieh*** [2012] 7 MLJ 498.

[45] Additionally, this Court also took into account the unique context of this litigation. The Defendant has been and still is litigating against his own father, though estranged, and related companies in which he has no

legally recognised stake. This suggests that the continuation of litigation is not driven by a bona fide claim, but rather personal grievance. The emotional complexity that underscores each and every suit in the courts cannot be denied, but cannot justify the misuse of the courts.

[46] For completeness, this Court has also considered the legal authorities cited by the Defendant in his written submissions and during arguments. While the Defendant sought to argue that he was merely exercising his right to access the courts to pursue claims he believes to be valid, such a submission cannot be accepted when the same core issues have been conclusively adjudicated, and his litigation continues unabated. The Defendant has not pointed to any legal precedent that allows a party to relitigate matters already finally disposed of by the superior courts, particularly under the guise of newly framed suits that raise substantially the same factual and legal contentions.

Conclusion

[47] The records demonstrated that the Defendant's unyielding legal position on indirect shareholding has spawned numerous collateral proceedings, not just Suit 103 but interlocutory applications for injunctive relief, appeals, and garnishee actions, all resting on the same foundation already discredited by the appellate courts. The volume and nature of these proceedings—filed despite clear rulings on the lack of standing and legal merit—confirm that the Defendant is using the court system to perpetuate a personal crusade, rather than to resolve any genuine legal uncertainty. While the Defendant sought to argue that he was and still is merely exercising his right to access the courts to pursue claims he

believed(s) to be valid, such a submission cannot be accepted when the same core issues have been conclusively adjudicated and his litigation continues unabated. The Defendant had not pointed to any legal precedent that allows a party to relitigate matters already finally disposed of by the superior courts, particularly under the guise of newly framed suits that raise substantially the same factual and legal contentions.

[48] Furthermore, none of the cases relied on by the Defendant diminished the applicability of the test laid down in ***Barker***, nor do they provide any authority supporting the proposition that repetitive suits, contempt actions, or collateral garnishee proceedings can be justified once the underlying rights have been extinguished. In the absence of any compelling justification or legitimate legal distinction from the matters already determined by the Court of Appeal and Federal Court, this Court finds the Defendant's reliance on those authorities to be misplaced and unpersuasive.

[49] In view of the above, this Court finds the Defendant's conduct to be manifestly vexatious. This Court is vested with the inherent power to prevent abuse of its process, a jurisdiction grounded in the need to uphold the integrity of the justice system and to safeguard it from repeated, meritless, and oppressive litigation. The authorities make clear that while access to the courts is fundamental, it is not unqualified. When litigation is pursued not for legitimate redress but as a means to harass, revisit settled matters, or weaponise court processes, the line is crossed.

[50] The present case exemplifies that danger. The Defendant's conduct—marked by the persistent pursuit of claims already decided, and the proliferation of collateral proceedings—has significantly burdened the Plaintiffs and the judicial process. It is precisely to forestall such misuse that the law on vexatious litigants exists. While the Federal Constitution guarantees liberty and equality under Articles 5 and 8 respectively, these rights are to be exercised in accordance with the law. The Constitution does not confer an unlimited right of access to justice; rather, such access must be tempered by legal boundaries and respect for final judicial determinations. Courts are empowered to act when access to justice is transformed into a tool for harassment and oppression.

[51] This Court therefore allows the Plaintiffs' application and make the following orders:

(a) That the Defendant, Dato Sri Andrew Kam Tai Yeow, be declared a vexatious litigant;

(b) That the Defendant be prohibited from instituting any new legal proceedings in any Court in Malaysia against the Plaintiffs or any of them without first obtaining leave of a Judge of the High Court;

(c) This Order be published in the Gazette;

(d) Costs of this application in the sum of RM 20,000 are awarded to the Plaintiffs.

DATED 6 MAY 2025

ROZ MAWAR ROZAIN
JUDGE
HIGH COURT OF MALAYA
KUALA LUMPUR

For the Plaintiffs:	*Michael Chow and Neoh Kai Sheng* *T/n Michael Chow*
For the Defendant:	*Mark Ho and Venkat Ram Dasarathara (PDK)* *T/n Chellam Wong*