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FOR IMMEDIATE RELEASE

Another victory for the natives of Sarawak

MIRI – The Kayan community of Long Teran Kanan, Tinjar, Miri Division finally got the justice they deserve after fighting the legal battle at the High Court for more than 12 years to get recognition of their native customary rights to their native customary land.

The judgment was delivered by the Senior Assistant Registrar of the Miri High Court, Abdul Raafidin bin Majidi on behalf of Justice Datuk Abdul Aziz bin Adul Rahim at 10 am this morning to the joy of the villagers numbering about 50 people who were in court to hear the decision.

The court declared that the plaintiffs, Lah Anyie and 4 others who were representing their village of Long Teran Kanan in a class action suit, possess native customary rights (NCR) over their native customary land (NCL) area at Long Teran Kanan, Tinjar and that the Provisional Leases (PLs) of Lot 3 and Lot 8 Dulit Land District issued by the third defendant, the Sarawak Government through the Land and Survey Department to the first and second defendants, Land Custody Development Authority (LCDA) or also known as Pelita and IOI Pelita Plantation Sdn. Bhd. (formerly known as Rinwood Pelita Plantation Sdn. Bhd.) are declared null and void.

The court further declared that the plaintiffs also possess NCR outside the two PLs areas according to the plaintiffs' communal boundary and that the third defendant cannot impair and disturbed those rights or be inconsistent with the plaintiffs' rights.

The court went on to say that the two PLs issued by the third defendant to the first and second defendants were bad and in breach of the law, as the third defendant never extinguished the plaintiffs' NCR and compensated them as in accordance to Section 15 of the Sarawak Land Code.

The court also found out that the issuance of the PLs constitutes a violation of the rights of the plaintiffs guaranteed under Article 5 and Article 13 of the Federal Constitution, where Article 5 guarantees the right of the plaintiffs to live which includes deprivations of their source of livelihood and Article 13 guarantees the rights of the plaintiffs to their property.

With this decision, the court declared that the first and second defendants or its agents or servants are trespassing over the NCR land of the plaintiffs and that any damages and loss suffered by the plaintiffs be assessed by the Deputy Registrar of the High Court at a date to be fixed.

The court awarded both exemplary and aggravated damages against the defendants and cost of the action be taxed unless agreed by the parties.

Met outside the court house, Emang Jau, one of the plaintiffs in the suit, said he was very happy with the judgment. He urged the state government to not appeal the High Court decision if they are really sincere with the welfare of the people as in accordance with the 1Malaysia slogan, "Peoples First, Performance Now".

Emang Jau said, "Previous and current Ministers, elected representatives and government officers have encourage us to develop our land and not leave it idle. We have received a lot of assistance from the government when our previous longhouse was burnt twice and also from subsidies to plant rubber, cocoa and paddy. So it is unfair for the government now to accuse us of not having any rights at all."

Lah Anyie, the first plaintiff and also the headman for Long Teran Kanan said, "The government has officially appointed me as the headman for the village, as was my predecessor."

"So, why does the company and the government accusing us of being squatters when our village is officially recognise by the government as a legitimate village?", asked Lah Anyie.

"The government should help and protect the rights and interest of the poor. They should not take away our lands than give it to the rich and powerful", lamented Lah Anyie.

BRIMAS are also in view the Sarawak State Government should not appeal this decision. Even though, the government has a right to appeal, they have to take into account their priorities to the people as espoused by the 1Malaysia slogan.

The natives are poor people and the disputed areas are their only means of livelihood from where they derived their source of food and income.

The government itself have consistently encouraged the plaintiffs to settle on the land and develop it by building a school, health clinic, gravity pipe water system and providing agricultural subsidies to them. Even the local council continue to collect the annual assessment rate/fees from each household within the longhouse.

When the national oil company, Petronas wanted to build a pipeline across the plaintiffs' disputed land, the Land and Survey Department compensated the landowners affected. So why the double standards?

The Sarawak Natural Resources and Environment Board (NREB), whose members are the Chief Minister of Sarawak, Director of Forest, Director of the Land and Survey Department and the State Attorney General has approved the Environmental Impact Assessment (EIA) report/studies carried out by the second defendant over the land in Lot 3 and Lot 8 Dulit Land District whereby, the report recommended that areas already occupied and cleared by the native plaintiffs should not be disturbed by the first and second defendants.

Lah Anyie and 4 others filed the class action suit in 1997 when the villagers found out that their NCR land is being encroached upon by Rinwood Pelita Plantation Sdn. Bhd. Rinwood Pelita Plantation Sdn. Bhd. is a joint venture (JV) company between Rinwood Oil Palm Plantation Sdn. Bhd. and Pelita.

The PL of Lot 3 Dulit Land District was issued by the Land and Survey Department in 1996 to Rinwood Pelita and while the land dispute between the company and the natives were going on 1997, the Land and Survey Department issued another PL, Lot 8 Dulit Land District to Rinwood Pelita.

In 2006, IOI acquired Rinwood and the JV company was renamed IOI Pelita Plantations Sdn. Bhd.

Lah Anyie and his villagers were represented by counsel Harrison Ngau Laing while Pelita was represented by counsel David Lim, IOI Pelita was represented by KY Lin and the Sarawak State Government by the State Legal Officer, Joseph Chioh.

Press Statement released by:
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