

UNIVERSITI TEKNOLOGI MARA

**PROTECTION OF REGISTERED PROPRIETOR IN
MALAYSIA: WITH SPECIAL REFERENCE TO FRAUD AND
FORGERY CASES ON LAND TITLE REGISTRATION**

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Abstract

This research concerned on the National Land Code 1965. The rights of registered proprietor if losing their land through fraud and forgery. The land fraud statistics in Malaysia's administration system shows that legal security, at present, is not able to guarantee registered proprietor in the long run. Furthermore there are registered landowners who are not able to recover their losses due to the stripping of title done erroneously by the government. This occurs due to the Malaysia's administration system only practices two principles out of three principles in the Torrens system, which is the mirror principle and the curtain principle. This has revealed the failure of the government in guaranteeing the landowner in the form of economic security. As an overall result, it is to recommend the authority or the land administrator adopting the third principle of Torrens system which is guarantee principle.

List of Cases

Adorna Properties v Boonsom Boonyanit [2001] 1 MLJ 241.
Annamalai v Nagappa [2002] 4 MLJ 225
Assets Co Ltd v Mere Roihi [1905] AC 176
Associated Credit Corporation Sdn Bhd v Fahlum Development Sdn Bhd & Anor [1990] 2 CLJ 952
Bee v Maruthamuthu [1977] 2 MLJ 7
Creelman v Hudson Bay Insurance Co [1920] AC 194, PC
Datuk Jagindar Singh & Ors v Tara Rajaratnam [1983] 2 MLJ 127
Dr Ti Teow Seow and Ors v Pendaftar Geran-geran Tanah Negeri Selangor [1982] 1 MLJ 38
Fels v Knowles [1906] 26 NZLR 604
Gibb v Messer [1891] AC 248
Goh Hooi Yin v Lim Teong Ghee & Ors [1990] 3 MLJ 23
Haji Hussin bin Haji Matsom v Maheran binti Haji Mohamaed Tahir [1946] MLJ 116
Island & Peninsular Development Berhad & Anor v Legal Advisor, Kedah & Ors [1973] 2 MLJ 71
Frazer v Walker [1967] AC 567
Krisnadas a/l Achutan Nair & Ors v Maniyam a/l Samykano [1997] 1 MLJ 94
Mayor v Coe (1969); *Breskvar v Wall* (1971) 126 CLR 376.
Mohamad Buyong v Pemungut Hasil Tanah Gombak & Ors [1982] 2 MLJ 53
OCBC Bank (Malaysia) Berhad v Lee Lee Fah & 5 Ors [1999] 4 AMR 4476
Oh Hiam v Tham Kong [1980] 2 MLJ 159
Ong Lian v Eng Jin; Han Ngea Toon [1917] FMSLR 325.
Owe Then Kooi v Au Thiam Seng & Anor [1990] 1 MLJ 234
Patimah bte Hanis v Haji Ismail b. Tamin [1939] 2 ILR 67
Perbadanan Pembangunan Pulau Pinang v Chong Ah Yok [1993] 2 CLJ 351
PJTV Denson (M) Sdn Bhd & Ors v Roxy (Malaysia) sdn Bhd [1980] 2 MLJ 136.
Ramah v Laton [1927] 6 FMSLR 128
Registrar of Titles, Johore v Temenggong Securities Ltd [1974] 2 MLJ 45
Sali binti Haji Salleh v Achik Alias Bachik Bin Enot [1941] 1 MLJ 14
Shaik Abdul Latif & Ors v Shaik Elias Bux [1915] 1 FMSLR 204
Tan Hee Juan v The Boon Keat [1939] 1 MLJ 96