

STAY OF PROCEEDINGS IN MALAYSIA

- LIS ALIBI PENDENS

BY : NORFINI BT. SAAD

SCHOOL OF ADMINISTRATION

AND LAW

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PREFACE

A stay of proceedings has always been a controversial issue in the field of law. The courts having the inherent jurisdiction to grant a stay of action, sometimes, find it difficult in applying the accepted principles. Conflicting consideration between the plaintiffs and defendants makes it even more so.

It is therefore the aim of this Project Paper to discuss cases involving the stay of proceedings, specially those concerning *lis alibi pendens*. Through out the years numerous cases had developed involving application by litigants for the stay of proceedings. We then began to realise that in the 19th. century, the well known test was the vexatious and oppressive test. However as the law began to expand the Courts started to take a different approach. The *forum natural* and *forum conveniens* tests were introduced. The courts then were not hesitant to depart from the old test. However various conflicting grounds made it quite difficult for the Court to find out which test is the most appropriate.

In Malaysia, though not many similar cases were heard, however the rules and principles governing the stay of proceedings are of great importance. On this point so far, Malaysian Law was followed the English principles. Thus, it is also

ABSTRACT

This paper shall discuss the following :-

1) CHAPTER ONE

I. The historical background and concept of lis alibis pendens and forum selection clause.

II. The development of the law and stay of action since 1978.

2) CHAPTER TWO

The three tests used by the courts of law ie., the vexatious and oppressive test, the forum natural test and the forum conveniens test.

3) CHAPTER THREE

The position in Malaysia.

4) CHAPTER FOUR

The recent development in the light of LORRAIN OSMAN V. BBMB

5) CHAPTER FIVE

Conclusion - Views and comments.

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