

CONSTRUCTION COURT IN MALAYSIA: A LEGAL ANALYSIS

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ABSTRACT

The reasoning behind this research is to study the effectiveness and efficiency of the Malaysian Construction Court, which is a new specialist court in the Malaysian legal landscape. As the Construction Court is still in its infancy, this research is carried out in order to provide information on the Construction Court, where previously no information has been made available. Besides that, the research is also carried out in order to see if it is necessary to establish a Construction Court, and if the Construction Court has been effective. A qualitative approach is taken in doing the research. Interviews with the Construction Court judges and the General Manager of Business Division of the Construction Industrial Development Board had been conducted in order to gain relevant information. As the construction industry is increasingly developing, this research may be beneficial to those in the construction industry, and also to those with an interest in construction law. The focus of the research is on the effectiveness and efficiency of the Construction Court in order to determine whether the establishment of the Construction Court is necessary and warranted. An examination of the construction industry in Malaysia prior to the establishment of the Construction Court is made, whereby it was found that the construction industry had faced certain disadvantages which slowed its progression. The disadvantages include the lengthy time take to resolve disputes, inadequate relief, and the insufficiency of dispute resolution provided by civil courts and arbitration. This gave rise to the establishment of the Construction Court, which was the product of like-minded parties including the construction industry and the judiciary. The collaboration occurred in a bit to address the issues that are faced by the construction industry, which may affect adversely the Malaysian economy. Many cases have been filed at the Construction Court since its inception, which can be interpreted, that there is a demand for a specialist Construction Court. According to the Construction Industry Development Board, out of the 205 cases filed in the Construction Court, 124 cases were disposed by June 2014, meaning that 60.5% of cases were disposed in the period of fifteen months. Based on the number of cases disposed, it can be said that the Construction Court is effective.

TABLE OF CONTENTS

Acknowledgement	ii
Abstract	iii
Table of Contents	iv
CHAPTER 1: INTRODUCTION	
1.0 Introduction	1
1.1 Background of Research	2
1.2 Problem Statement	4
1.3 Research Questions	5
1.4 Research Objectives	5
1.5 Research Methodology	5
1.6 Scope of the Research	7
1.7 Limitation of the Research	8
1.8 Significance of the Research	8
1.9 Literature Review	10
1.10 Gantt Chart	16
CHAPTER 2: CONSTRUCTION INDUSTRY IN MALAYSIA	
2.0 Introduction	17
2.1 Malaysian Construction Industry	17
2.1.1 Problems Faced by the Construction Industry Prior 2012	21
2.1.2 Civil Court	24
2.1.3 Arbitration	26
2.3 Conclusion	29
CHAPTER 3: CONSTRUCTION COURT IN MALAYSIA	
3.0 Introduction	30
3.1 The Establishment of Construction Court in Malaysia	30
3.2 Features of the Construction Court	36
3.2.1 A Specialist Construction Court	36
3.2.2 Subject Matter Heard by Construction Court	37
3.2.3 Facilities	40
3.3 The Effectiveness of the Construction Court	41
3.4 Conclusion	46
CHAPTER 4: AN ANALYSIS ON EFFECTIVENESS OF A CONSTRUCTION COURT IN MALAYSIA	
4.0 Effectiveness of Construction Court	47
4.1 Recommendations	49
4.1.1 Expansion of Court Location	49

4.1.2 Circuit Judges	50
4.1.3 Expert Judges Added	50
4.2 Conclusion	51
Bibliography	54
Appendices	58
Appendix A: Interview with Kuala Lumpur Construction Judge	
Appendix B: Interview with Shah Alam Construction Court Judge	
Appendix C: Interview with General Manager of Bussiness Division of CIDB	
Appendix D: Exhibit 2	
Appendix E: Surat Pekeliling	
Appendix F: Articles	
Appendix G: Articles	
Appendix H: Video Script for Court Launch	
Appendix I: Courts pictures	
Appendix J: Interview Pictures	