

A STUDY ON SELECTED CASES IN MALAYSIAN
CONSTRUCTION CONTRACT

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Abstract

Nowadays, the Malaysian Construction industry is expanding more rapidly, in line with the dynamic growth of the nation's economy. Construction is a complex field - involving big money - in which dissatisfaction and disputes, in particular, most that use the standard form of contract (PAM and/or PWD).

Therefore, it is the purpose of this thesis to find out the causes and classify the types of disputes, in particular, those that use the standard form of contract (PAM and/or PWD).

The study can be a good reference point or as a precedent for other dispute that could surface in the future.

The thesis began by testing the following four hypotheses:

1. Most of the disputes are caused by dissatisfaction regarding the quality of works and the quality of materials used in government contracted construction works, implying the breach of contract by contractors.
2. Most of the disputes are related to progress payments.
3. Most of the disputes happen in government contracted construction works or projects.
4. Most of the disputes cases are in construction works which do not use the PAM and/or PWD standard form of contract.

The finding of this thesis, however, reveals that:

1. There is no disputed case involving breach of contract that arised from dissatisfaction over the quality of materials and job done.
2. More than half of the disputed cases are related to progress payments, (either because of the delay or the withholding of progress payments).
3. There are very few disrupted cases use the standard form of contracts.
4. Not even half of the disputed cases use the standard form of contracts.

The conclusion on the dispute cases can be classified under the following facts:

1. Delay or failure in made of progress payment.
2. Cases reffered to and solved by the arbitrator.
3. Variation
4. Determination by employer
5. Nominated sub-contractor
6. Delay in the delivering of site to the contractor
7. Determination of contractor's employment.