

UNIVERSITI TEKNOLOGI MARA

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

AG. DANAM @ AG. ADNAN BIN PG BAKAR

Faculty of Law

January 2017

Table of Content

Acknowledgement.....	1
Abstract.....	2
List of Statutes.....	3
List of Cases.....	4
CHAPTER 1	
1.0 Title.....	6
1.1 Research Background.....	6
1.2 Problem Statement.....	10
1.3 Research Question.....	10
1.4 Research Objectives.....	11
1.5 Research Methodology.....	11
1.6 Significance of Research.....	11
1.7 Scope and Limitation.....	12
CHAPTER 2 LITERATURE REVIEW	
2.0 Introduction.....	13
2.1 Literature Review.....	13
2.2 Conceptual Framework.....	14
2.3 Legal Framework.....	15
2.4 Theoretical Framework.....	16
CHAPTER 3 THE HISTORY OF MALAYSIA LAND LAW	
3.0 Introduction.....	18
3.1 Islamic Principle.....	18
3.2 Customary Land Law.....	21
3.2.1 <i>Adat Perpateh</i>	21
3.2.2 <i>Adat Temenggong</i>	23
3.3 Common Law and Equity Principles.....	24
3.4 Torrens System.....	25
3.4.1 Simplicity in Conveyancing.....	25
3.4.2 Certainty of title.....	26
3.4.3 Title by registration.....	26
3.5 Registration Process.....	31
3.6 Integrated Electronic Land Administration System (<i>e-Tanah</i>) in Malaysia.....	34
CHAPTER 4 CHALLENGED ON THE INDEFEASIBILITY OF TITLE	
4.0 Introduction.....	36
4.1 Fraud.....	36
4.2 Forgery.....	39
4.3 Void or Insufficient Instrument.....	40
4.4 Title or Interest Unlawfully Acquired Through Purported Exercise of Any Power or Authority Conferred By Law.....	41
4.5 By 'Operation of Law'.....	42

CHAPTER 5 RECOMMENDATION AND CONCLUSION

5.0	Introduction.....	44
5.1	Economic Security Requirement In The Form Of Compensation Funds.....	45
5.2	The Concept of Compensation Fund.....	46
5.3	The Assurance Fund in New South Wales.....	46
5.3.1	Bases of Claim.....	47
5.3.2	Defendant.....	48
5.4	Advantages of Economic Security in The Form of Assurance Fund.....	49
5.4.1	Enhance The Level of Guarantee Towards Security of Tenure.....	49
5.4.2	Necessity of Economic Security For Sustainable Economic Market.....	49
5.4.3	Stimulation of Foreign Investment.....	50
5.5	Conclusion.....	50

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