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What to do If you Suspect Land
Fraud in Malaysia

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INTRODUCTION



"The land is the only thing in the world worth working for, worth fighting for, worth dying for, because it's the only thing that lasts..." **Gerald O'Hara, Gone With The Wind.**

Land is the foundation of human existence. We live on it, live from it, and for many, live for it. In Malaysia, land is not only a source of shelter and livelihood but also one of the most valuable and enduring assets a person can own.

Unfortunately, this very value makes it an attractive target for fraudsters. Using forged documents, impersonation, or fraudulent transfers, they unlawfully strip rightful owners of their property. Too often, victims only discover the fraud after the land has already been sold or transferred into the hands of unsuspecting third parties.

If you ever suspect that your land has been fraudulently dealt with, it is crucial to act quickly. The longer you wait, the harder it becomes to protect your rights especially if the land has already passed into the hands of a third party.

Before we explore the practical steps that landowners can take, it is worth revisiting a landmark case that shaped the law on land fraud in Malaysia.



LANDMARK CASE: PUSHPALEELA R SELVARAJAH & ANOR V. RAJAMANI MEYAPPA CHETTIAR & OTHER APPEALS [2019] 3 CLJ 441

Rajamani was a true landowner who had always kept her original Issue Document of Title (IDT1) safe. She never sold, never mortgaged, and never intended to part with her land. Yet, one day, she discovered the unimaginable: her land was no longer hers. On paper, it had already passed through two hands, first to the second defendant, and then again to the first defendant.

How could this have happened? The answer was simple, yet devastating: **fraud**. An imposter, bearing the same name as Rajamani, appeared before the authorities pretending to be her. With forged documents and the assistance of unsuspecting professionals, the imposter orchestrated a double transfer. The registry reflected a new reality, one where Rajamani no longer owned her land.

This set the stage for a profound legal dilemma. If a fraudulent transfer is registered, and a bona fide purchaser acquires the land, **who should the law protect? The innocent purchaser who relied on the register, or the true owner who never consented to part with her property?**



THE HIGH COURT: A HOLLOW VICTORY

At the High Court, Rajamani (the plaintiff) initially succeeded on the issue of title. The court accepted that she had never surrendered her original Issue Document of Title (IDT1), and therefore, the subsequent replacement title should not have displaced her ownership.

However, when it came to the transfers and the liability of professionals, the outcome was less favourable. The High Court held that the transfer of the land to the first defendant was valid, as the first defendant was a bona fide purchaser for valuable consideration. The court further ruled that Rajamani's private caveat had been wrongfully and unlawfully entered. Although that caveat had since lapsed, the Registrar's caveat still subsisted. The judge ordered that it be removed, since the parties' rights had already been determined. To balance the equities, the court directed that the first defendant be fairly compensated in damages under **section 329 of the National Land Code**, and prohibited Rajamani from lodging further caveats on the land.

As for professional liability, the High Court examined the role of the third and fourth defendants, solicitors who had acted for the fraudster. The judge remarked that they were potentially negligent in failing to properly investigate the true identity of their client. However, negligence by itself was insufficient. Liability in negligence requires a duty of care to exist in the first place. Relying on the Court of Appeal's decision in ***Yap Ham Seow v. Fatimawati Ismail & Ors And Another Appeal [2013] 9 CLJ 577***, the High Court held that solicitors acting for a client (even a fraudster) do not owe any duty of care to an unknown third party such as Rajamani. Without that duty, her claim in negligence against them inevitably failed.

Finally, the court addressed the seventh defendant, another solicitor. The High Court made an express finding that he had actual knowledge of the fraud committed by the second defendant, and was privy to it beyond reasonable doubt. Despite this, the claim against him was dismissed. The reason was purely technical: Rajamani had pleaded her case against him as one of conspiracy with the third and fourth defendants, and the court was not satisfied that such conspiracy or collusion existed. As a result, even though the seventh defendant was found to have participated in fraud, Rajamani's claim was dismissed on the basis of defective pleadings.

In the end, Rajamani's "victory" at the High Court was hollow. While the court recognised that she had never surrendered her original title, it upheld the first defendant's indefeasible ownership and dismissed her claims against the solicitors, whether for want of a duty of care or due to technical pleading errors.



The Court of Appeal: Expanding Liability and Restoring Title



When the case reached the Court of Appeal, the judges took a very different view from the High Court. For Rajamani, this was a turning point not only was her ownership reinstated, but professional liability was also extended further than before.

First, the Court of Appeal addressed the liability of the third and fourth defendants, the solicitors who had acted for the fraudster. Unlike the High Court, the appellate judges rejected the notion that solicitors can never owe a duty of care to third parties. They held that ***Yap Ham Seow v Fatimawati Ismail*** was not authority for such a blanket proposition. Instead, they ruled that in certain circumstances, solicitors can owe a duty of care to those affected by their conduct, even if they are not clients. On the facts, the third and fourth defendants did owe Rajamani a duty of care and had clearly breached it by failing to properly verify the fraudster's identity. This marked a significant expansion of professional responsibility.

Next, the Court turned to the heart of the dispute: **the ownership of the land**. The judges made it clear that for any land transfer to be valid, it must be based on a valid document of title. Since Rajamani's original IDT1 was still valid and indefeasible, any other title issued during its subsistence was a nullity. The replacement title (IDT3) which had been used in the transfers to the second and then first defendants was void ab initio. A void title could not confer indefeasibility, even if purchased in good faith for valuable consideration. The Court stressed that indefeasibility does not arise from

registration alone if the underlying title is void from inception. Therefore, the first defendant could not shelter under **section 340(3) of the National Land Code**. The only way the first defendant could have acquired valid title was through a lawful transfer directly from Rajamani, the true registered proprietor. Since that never happened, her title remained indefeasible, untouched by the fraud.

Finally, the Court of Appeal revisited the seventh defendant's liability. The High Court had already found that he had actual knowledge of the fraud and was privy to it, but dismissed the claim against him on a technicality, because the pleadings were framed as conspiracy. The Court of Appeal disagreed with that restrictive view. It held that Rajamani's pleadings did properly cover fraud, and it affirmed the High Court's findings that the seventh defendant had indeed committed fraud. His attempt to overturn those findings in a cross-appeal was rejected, the Court holding that there was no reason to disturb the trial judge's credibility assessments.

In short, the Court of Appeal's decision truly expanded Rajamani's prospects. It restored her indefeasible title by declaring the replacement title void, and it widened professional liability by holding solicitors accountable to third parties like her. What began as a case of loss and technical defeats at the High Court turned, at this stage, into a sweeping win — both in reclaiming her land and in broadening the scope of duty of care.



THE FEDERAL COURT: RESTORING CERTAINTY

The appeals reached their final stage before the Federal Court, where **Chief Judge of Malaya Azahar Mohamed FCJ** delivered the lead judgment, joined by the panel, and **Richard Malanjum CJ (Sabah & Sarawak)** provided a concurring opinion.

Duty of Care and Solicitors' Liability

Azahar Mohamed FCJ began with the plaintiff's negligence claim against the third and fourth defendants (the solicitors acting for the fraudster). His Lordship stressed that in negligence, liability must rest first on the existence of a duty of care. Only once such a duty is established can breach and causation be considered.

For the establishment of a duty of care, the Court reaffirmed the **three-fold test** of foreseeability, proximity, and policy considerations:

1. Foreseeability – The harm to Rajamani was not reasonably foreseeable from the solicitors' perspective. They were retained by a client who presented herself as the true landowner. The solicitors had no reason to suspect fraud, nor any knowledge that Rajamani even existed.

2. Proximity – There was no legal proximity between Rajamani and the solicitors. She was not their client, and the only connection was her ownership of the land. That fact alone did not create a legal relationship giving rise to a duty of care.

3. Policy Considerations – Imposing such a duty would be unreasonable. It would require solicitors to assume their clients might be fraudsters, effectively turning them into "insurers" of land transactions. This would not only create conflicts of

interest but also raise costs across many professions — solicitors, bankers, insurers, accountants, and others.

On this basis, the Federal Court held that no duty of care was owed to Rajamani, and therefore her negligence claim against the third and fourth defendants could not succeed. The Court of Appeal's expansion of liability was overturned, and ***Yap Ham Seow v Fatimawati*** was reaffirmed as the correct authority.

The Question of Title

The Federal Court then turned to the **disputed ownership**. The facts showed that:

1. The fraudster applied for a replacement title under **section 299(1)(a) NLC**, claiming the original was lost. The Registrar dispensed with the original and issued a new title (IDT3) in the name of the second defendant.
2. The second defendant then sold to the first defendant. Before purchasing, the first defendant conducted land searches, which showed the second defendant as registered proprietor and the land as unencumbered.

The first defendant paid in full, and a fresh title (IDT4) was issued in its name. By virtue of **section 89 NLC**, the register was conclusive evidence of ownership. Thus, the first defendant's title was indefeasible upon registration. Even though the second defendant's title was defeasible, the Federal Court ruled that a subsequent bona fide purchaser for value without notice acquires an indefeasible title. Accordingly, the first defendant's ownership was upheld.

The Seventh Defendant's Fraud

As for the seventh defendant, the evidence revealed his deep involvement at every stage from dealing directly with the fraudster, introducing her to the other solicitors, handling the replacement title, and even facilitating both sales, including the second resale at an inflated price. With a specific plea of fraud raised against him, the Federal Court was satisfied that fraud had been proven, dismissed his appeal, and held him liable.

Malanjum CJ (Sabah & Sarawak): Concurring

In his concurring judgment, **Richard Malanjum CJ (Sabah & Sarawak)** highlighted the broader implications of the Torrens system, observing that while Rajamani, the original owner, had done nothing to jeopardise her title, the law under the system favours the bona fide purchaser who relies on the land register as conclusive evidence. His Lordship expressed concern that the **National Land Code** offers no remedy for innocent landowners deprived of property through fraud, and he urged for reform, specifically, the establishment of a statutory assurance fund, as adopted in other jurisdictions, to fairly compensate such victims.

In the end, the Federal Court restored legal certainty but at a heavy price for Rajamani. The solicitors owed her no duty of care, the first defendant's title was upheld as indefeasible, and only the fraudulent solicitor was held liable. As **Malanjum CJ** observed, the Torrens system protects the sanctity of the register but leaves innocent landowners like Rajamani with little more than damages as consolation.

WHY THIS CASE MATTERS

The Federal Court's ruling in *Pushpaleela a/p R Selvarajah & Anor v Rajamani d/o Meyappa Chettiar* and other appeals matters because it brought clarity and hard lessons to landowners, solicitors, and the legal system as a whole.

1. For solicitors and professionals:

The Court drew a firm line on the scope of duty of care. Solicitors acting for a client even a fraudster do not owe a duty of care to an unknown third-party landowner. This protects the professional-client relationship and avoids turning lawyers (and by extension, bankers, insurers, accountants, and others) into "insurers" against fraud. By reaffirming *Yap Ham Seow*, the Court closed the door on expansive liability that the Court of Appeal had opened.

2. For landowners:

The decision is sobering. Even a vigilant landowner like Rajamani, who never let go of her original title, can lose her land once it has passed into the hands of a bona fide purchaser. Under the Torrens system, the sanctity of the land register prevails, and original owners may be left with damages as their only remedy. This case is a stark reminder that landowners must stay alert in monitoring their titles and acting immediately if fraud is suspected.

3. For the legal system:

The concurring judgment of **Malanjum CJ** sounded a wake-up call. He highlighted the gap in the **National Land Code**: innocent landowners defrauded of their land have no effective statutory remedy. His call for a statutory assurance fund echoes international practice in other Torrens jurisdictions. If taken up, such reform would rebalance the system by preserving commercial certainty for purchasers while offering meaningful compensation for victims of fraud.

In short, this case matters because it cements the doctrine of deferred indefeasibility in Malaysia, shields professionals from overbroad liability, and exposes the urgent need for systemic reform to protect landowners from the harsh realities of land fraud.

How Fraudulent Land Transfers Take Place



Fraudsters in Malaysia often exploit gaps in documentation and registration under the **National Land Code 1965**. Their methods vary, but the end result is the same: unsuspecting landowners lose their property. Below are some of the common tactics:

1. Forgery of Transfer Instruments

1.1. Imagine a landowner who has never even thought of selling her land. One day, she discovers that her signature has been forged on Form 14A, the document used to transfer ownership. The fraudster submitted the form to the Land Office, and the property was registered under a stranger's name without her knowledge.

1.2. To make the forgery look convincing, fraudsters often back it up with fake identification cards or statutory declarations. These documents convince unsuspecting Land Officers that the transaction is legitimate until the real owner comes forward.

1.3. This is not just theory. In June 2024, Kelantan police revealed that a group of five individuals including two civil servants had orchestrated such a scheme. The syndicate forged transfer documents and attempted to cash in on land valued at over RM400,000 before being arrested.^[1]

[1] Kelantan top cop: Two civil servants among five nabbed over fraudulent land transfer. (2024, June 5). Retrieved from malaymail: <https://www.malaymail.com/news/malaysia/2024/06/05/kelantan-top-cop-two-civil-servants-among-five-nabbed-over-fraudulent-land-transfer/138277>

2. Impersonation of the Landowner

2.1. In some cases, fraudsters go a step further where they pretend to be the landowner. Equipped with counterfeit MyKads, they walk into law firms or the Land Office and introduce themselves as the rightful proprietor.

2.2. They then sign transfer forms in front of a commissioner for oaths or even unsuspecting lawyers, creating the perfect illusion of a lawful transaction. The genuine owner usually only finds out after the property has been sold to an innocent third party.

3. Fraudulent Use of Powers of Attorney

3.1. Many landowners grant Powers of Attorney ('PA') for convenience. For example, to allow a relative to manage the property while they are overseas. Unfortunately, fraudsters can misuse these powers. A PA given for limited purposes, such as managing rental, may be wrongfully used to sell the entire land without the owner's consent.

3.2. A PA granted for limited purposes such as renting out land may be wrongfully used to execute a full sale. The genuine owner only discovers the betrayal once the land has changed hands, and often only after it has reached a bona fide purchaser whose title is legally protected

4. Collusion with Insiders

4.1. Not all fraudsters act alone. In some cases, they work with insiders, whether at the Land Office, among legal professionals, or even within banks. With the "right" signatures or stamps, forged documents are pushed through the system as if everything were genuine.

4.2. Due to this inside help, fraudulent transfers are often not detected until they have been completed and registered. By then, the fraudster may have already disappeared with the sale proceeds.

4.3. Worse still, records may be deliberately altered or deleted to cover the fraud. In January 2025, authorities exposed a shocking case in Selangor: a syndicate involving

seven land office employees had facilitated the illegal transfer of 9.4 hectares of land worth RM7.1 million. By the time investigators intervened, several transactions had already been completed.^[2]

5. Double Sales or Sham Transactions

5.1. A common scheme is where the same piece of land is “sold” to multiple buyers. For instance, a fraudster may collect deposits from three different purchasers, promising each of them that they are the sole buyer. By the time the fraud is exposed, the fraudster has vanished with the money.

5.2. In more sophisticated scams, the fraudster may not even own the land in the first place. Instead, they fabricate documents to make it appear as though they are the registered owner. Unsuspecting buyers, eager for a good deal, are tricked into paying large sums for land that the seller never had any right to sell.

These fraudulent dealings often succeed because buyers or financial institutions fail to conduct thorough due diligence, or because landowners are not actively monitoring their land titles.

[2] Syndicate behind RM7mil land fraud busted. (2025, January 11). Retrieved from The Star: <https://www.thestar.com.my/news/nation/2025/01/11/syndicate-behind-rm7mil-land-fraud-busted>

STEPS THAT CAN BE TAKEN



If you find yourself in such a situation, it is crucial to act quickly. Prompt action can help protect your rights and prevent further fraudulent dealings. Below are the key steps recommended to safeguard your land:

1. Lodge a Police Report Immediately.

The first and most urgent step is to file a police report:

The first and most urgent step is to file a police report. By doing so, you officially record the fraudulent dealing as a crime. This allows the authorities to investigate under the **Penal Code** for offences such as forgery, cheating, or criminal breach of trust. Sections like **section 463 (forgery), section 420 (cheating), or section 406** (criminal breach of trust) often come into play. The report also serves as proof that you acted promptly. Courts often look at how quickly an owner responded to suspected fraud.

Note: It is important to attach any suspicious documents (letters, transfer forms, notices of dealings) to the police report.

2. Enter a Private Caveat at the Land Office

The next step is to lodge a private caveat under **Section 322 of the National Land Code 1965** using **Form 19B**. A caveat acts as a “lock” on your land title, preventing further dealings such as transfers or charges until it is removed. Form 19B is the form to apply for entry of a private caveat^[3]. It prevents further dealings with the land, such as transfers or charges, until the caveat is removed^[4].

[3] PTGWP. (n.d.). Form 19B National Land Code 1965. Retrieved from ptgwp: <https://www.ptgwp.gov.my/portal/documents/20182/44908/19B+National+Land+Code.pdf/a142665b-949e-4954-8dfa-9f5f974df63e>

[4] malaysianbar. (n.d.). Caveats. Retrieved from malaysianbar: https://www.malaysianbar.org.my/cms/upload_files/document/Caveats-18.pdf

While landowners can lodge a caveat themselves, most engage a solicitor to ensure it is properly drafted and fully effective. Keep in mind that a caveat is temporary usually lasting six months unless extended by a court but it buys valuable time to take legal action

Warning: A caveat lasts for a limited time (usually 6 months unless extended by court order). It is not a permanent solution but buys you time to take legal action[5].

3. Notify the Land Office / Registrar of Titles

In addition to a caveat, formally notifying the relevant Land Office is crucial. While the Registrar cannot reverse fraudulent transfers without a court order, early notification can freeze suspicious dealings and prevent further unauthorized transactions.

Regularly checking your land's status at the Land Office helps reduce the risk of your property being transferred again to an innocent third party while investigations are ongoing.

Note: By notifying the Land Office early, you reduce the risk of your land being transferred again to an innocent purchaser while investigations are ongoing.

4. Consult a Lawyer Specialising in Land Fraud

Land fraud cases are legally complex and time-sensitive. Prompt legal advice can make a significant difference.

If your land has already been transferred to a bona fide purchaser, recovery may be difficult due to the doctrine of indefeasibility of title under **Section 340 of the National Land Code 1965**. However, a lawyer can advise on remedies such as:

4.1. Rectification of the land register to restore your name as the owner.

4.2. Injunctions to stop further dealings.

4.3. Damages or declaratory relief against the fraudster and, in some cases, third parties.

At the same time, your lawyer can coordinate with the authorities on the criminal aspect of the case, ensuring both civil and criminal avenues are pursued in tandem.

[5] Yi, C. Y. (2022, July 22). The Edge Malaysia. Retrieved from Know Your Stuff: The importance of private caveats: <https://theedgemalaysia.com/article/know-your-stuff-importance-private-caveats>



CONCLUSION

Land fraud is a serious threat to property owners in Malaysia. Fraudsters exploit weaknesses in legal processes, and once land has passed into the hands of a bona fide purchaser, recovery becomes extremely difficult.

If you suspect your land has been fraudulently transferred, act without delay: file a police report, lodge a caveat, notify the Land Office, and consult a lawyer. Acting fast can make the difference between protecting your rights and losing your property altogether.

The views expressed herein are those of the author and do not necessarily reflect the views of the firm. Should you have any legal queries, corporate or otherwise, please feel free to reach out to the firm for further assistance.



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