

# Land titles remain with LCDA but natives to receive compensation

The Star, 14/10/2017, Pg. 20



## Comforting words:

Lawyer See Chee How (right) explaining the decision to Tuai Rumah Nyutan Jami (left) and other landowners outside the courthouse.

By SHARON LING

sharonling@thestar.com.my

**KUCHING:** A group of native landowners from Kampung Lebor in Serian division were disappointed that the Federal Court ruled against them in a long-running land dispute case with the Land Custody and Development Authority (LCDA) and two plantation companies.

A five-member panel led by Chief Justice Md Raus Sharif ruled that while Tuai Rumah Nyutan Jami and two other landowners had proven their native customary rights (NCR) over the disputed land, it did not override the indefeasibility of the provisional leases and land titles which had already been issued to LCDA and the two companies.

The apex court also ruled that in cases where the land was alienated without extinguishing the NCR, the landowners were entitled to compensation under the State Land Code.

"It is our judgment that Section 132 of the Sarawak Land Code pertaining to indefeasibility of title remains applicable even if it could be shown that NCR had been created in the manner prescribed in the Code.

"A claim for NCR does not defeat the indefeasibility of title of land," the judges said in a unanimous ruling which was delivered by Federal Court deputy registrar Edwin Paramjothy Michael Muniandy here yesterday.

They allowed the appeals by

TH Pelita Sadong Sdn Bhd, TH Pelita Gedong Sdn Bhd, RHB Islamic Bank Bhd, LCDA and the state government against a High Court decision in 2013, which was subsequently upheld by the Court of Appeal in 2014, in favour of the native landowners.

The High Court had ruled that the landowners had NCR over some parts of three parcels of land for which provisional leases had been issued to LCDA and the companies.

It also granted a declaration that the issuance of the titles was wrongful and void, and ordered the defendants to rectify the provisional leases by excluding the plaintiffs' NCR land.

Nyutan, Gangak Guma and Langa Kama filed the High Court case in 1998 on behalf of themselves and 183 other villagers of Kampung Lebor.

Yesterday, the Federal Court panel set aside the High Court order to rectify the title and ordered the state government and Kota Samarahan Land and Survey superintendent to pay compensation to the plaintiffs, with the amount to be decided by an inquiry.

Met outside the courthouse later, a tearful Nyutan said he was unhappy with the decision.

"We don't want to get compensation. We want to have our land back.

"This land was inherited from our ancestors and now we have lost it," he said, adding that the villagers hoped for a better solution to land disputes.