

**DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR**  
**(BAHAGIAN SIVIL)**  
**GUAMAN NO. 23NCVC-76-10/2015**

Antara

1. Datuk May Phng @ Cho Mai Sum

(No. K/P : 471015-10-5448)

[Mendakwa sebagai Pengerusi, Ahli Jawatankuasa dan wakil Persatuan Penganut Buddha Rumah Kechara Malaysia (Kechara House) ("**Kechara House**"), sebuah Pertubuhan yang didaftarkan di bawah Akta Pertubuhan 1966 dan dalam kapasiti perwakilan mewakili Kechara House dan/atau semua ahli-ahli Kechara House]

2. Kechara Media & Publications Sdn Bhd

(No. Syarikat : 537446-D)

3. Phng Li Kim

(No. K/P : 710511-10-5792)

...Plaintif-Plaintif

Dan

Tan Pei Pei

(No. K/P : 651124-02-5912)

...Defendan

## GROUNDS OF JUDGMENT

### **Introduction**

1. When I was assigned to continue this part heard case of Y.A Datuk Norbee binti Arifin, it was at the stage of hearing for assessment of general damages arising from a defamation suit brought by the Plaintiffs against the Defendant. The record shows that during the first day of the trial on 6.4.2017 before the learned judge, the Defendant had admitted and conceded to her liability in respect of the Plaintiffs' claim for defamation. Judgment was obtained against the Defendant in respect of the Plaintiffs' claim (see: The Judgment dated 6.4.2017 at Enclosure 76.
2. At the outset, the Court was informed that quantum of general damages was not agreed by the parties and the Defendant had also denied her liability to pay for any aggravated and/or exemplary damages claimed by the Plaintiffs.
3. The Plaintiffs contended that the subject matter of the trial herein is confined to the quantum of general damages to be awarded to the Plaintiffs (as recorded in paragraph 3 of the Judgment dated 6.4.2017) and the Defendant's liability to pay for aggravated and exemplary damages to the Plaintiffs and its quantum.
4. However, perusal of the said judgment at enclosure 76, there are only four (4) Orders made in the judgment as follows-

**“ .... ON THE DEFENDANT' S ADMISSION, IT IS HEREBY ADJUDGED THAT-**

- (1) an injunction to prohibit the Defendant from making any defamatory remarks and/or communicating to any party about the contents of e-mail dated 17.5.2014 written by the Defendant in any manner;

- (2) the Defendant to disclose number of persons and their identification or any other party that she had communicated or copied the e-mail dated 17.5.2014 to other than the names she had forwarded to the Plaintiffs by way of Affidavit within 8 days from the date of the judgment;
  - (3) General damages for defamation to be assessed and paid by the Defendant to the Plaintiffs respectively; and
  - (4) Defendant to pay the amount of general damages at the interest of 5% per annum from 17.5.2014 until date of full payment.
5. There was nothing stated in the Judgment that aggravated and exemplary damages as claimed by the Plaintiffs under prayers 25 (v) and (vi) of the Statement of Claim as part of the judgment.
  6. Therefore, liability to pay for aggravated and exemplary damages to the Plaintiff and its quantum at the interest of 5% per annum until date of full payment does not arise.
  7. The Court was also informed that the Defendant's Counterclaim was struck out on 18.3.2016.
  8. Therefore, the subject matter of the trial herein is confined to solely on the quantum of general damages to be assessed and awarded to the Plaintiff (as recorded in paragraph 3 of the Judgment dated 6.4.2017).

### **The Trial**

9. The documents before this Court for purposes of reference are as follows-
  - (i) Ikatan Pliding Terpinda —: A
  - (ii) Isu-Isu Untuk Dibicarakan —: B

(iii)	Fakta-fakta yang dipersetujui	⇒	C
(iv)	Ikatan Dokumen Bersama (Part B - Jilid 1)	⇒	D
(v)	Ikatan Dokumen Bersama (Part B - Jilid 2)	⇒	D1
(vi)	Ikatan Dokumen Bersama (Part C)	⇒	D2
(vii)	Ikatan Dokumen Tambahan Plaintiff	⇒	D3
(viii)	Ikatan Dokumen Tambahan (2) Plaintiff	⇒	D4
(ix)	Ikatan Dokumen Defendan	⇒	D5
(x)	Ikatan Dokumen Tambahan (3) Plaintiff	⇒	D6
(xi)	Ringkasan Kes Plaintiff	⇒	E
(xii)	Ringkasan Kes Defendan	⇒	F

10. The witnesses who gave evidence during the trial and their respective witness statements are marked as follows: -

**Plaintiff's Witnesses**

- (i) **PW1: Datuk May Phng @ Cho Mai Sum**  
The Plaintiff's Witness Statement: **WSPW1**  
The Plaintiff's Additional Witness Statement: **WSPW1 (A)**  
The Plaintiff's Additional Witness Statement (2): **WSPW1 (B)**
- (ii) **PW2: Kok Yek Yee**  
The Plaintiff's Witness Statement: **WSPW2**
- (iii) **PW3: Ooi Seong Huat (Henry)**  
The Plaintiff's Witness Statement: **WSPW3**
- (iv) **PW4: Thong Jiunn Perng**  
The Plaintiff's Witness Statement: **WSPW4**







































