

**DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
(BAHAGIAN SIVIL)
SAMAN PEMULA NO: S24-2465-2007**

**Dalam Perkara Mengenai pembayaran
wang insuran AIA Excel Trust Plus yang
di insurankan oleh Wan Eddie Jasmin bin
Wan Ibrahim yang meninggal dunia pada
24.8.2007.**

Dan

**Dalam perkara mengenai Seksyen 167 sub
seksyen (1) dan (2) Akta Insuran 1996.**

Dan

**Dalam perkara mengenai Aturan 7
Kaedah-Kaedah Mahkamah Tinggi 1980.**

ANTARA

JAAFAR BIN HAJI IBRAHIM & 2 LAGI

.....PLAINTIF

DAN

YAZELIN BINTI MOHD GHAZI

.....DEFENDANT

Decision of Enclosure 1:

Issues:

- a) Whether the Surat Ikatan Persefahaman is voidable by reasons set out under the Contract Act 1950;
- b) Whether the defendant is entitled to any of the insurance moneys.

Court's Findings:

- a) There are 7 signatories (excluding the Defendant) that signed the Surat Ikatan Persefahaman (agreement). However only 3 Plaintiffs are cited in the proceedings herein. It has not been pleaded that this is a representative action. Therefore the court cannot grant the claim for rescission of the agreement when all the signatories have not participated in this action.
- b) Moreover, the agreement is not voidable as the 7 signatories were represented by counsel when executing the agreement. Therefore they were deemed to have been accordingly advised before signing the Surat Ikatan Persefahaman. There is no evidence adduced to show that the signatories were coerced, induced or misrepresented when executing the agreement. Therefore parties have consented to the arrangement of distributing the policy moneys as stated in the agreement.

Therefore Enclosure 1 is dismissed with costs.

Decision of Enclosure 3:

The court ruled that the Plaintiffs have not established the tests as to why an injunction should be granted against the Defendant. It is for the Plaintiffs to satisfy the court as to why an injunction should be granted.

The claim by the Plaintiffs are purely monetary.

There is nothing to show that damages would not be an adequate remedy.

As for balance of convenience, no evidence to show that the Plaintiffs will suffer irreparable harm in the event the Defendant is not restrained.

There is no evidence adduced to show that there is a real risk that the Defendant will dissipate the monies or that the Defendant would not be able to satisfy the judgment in the event judgment is for the Plaintiffs.

Therefore Enclosure 3 is dismissed with costs.

Datin Zabariah Mohd Yusof
Tarikh 20.5.2009