

## PRIME NEWS

# Bkt Gasing residents denied leave to appeal

**PUTRAJAYA:** A five-year legal battle by 108 Bukit Gasing residents to stop a hill slope project adjacent to their Petaling Jaya neighbourhood has come to an end.

This follows the Federal Court's decision yesterday to unanimously dismiss a leave application by the residents to appeal against the Datuk Bandar of Kuala Lumpur and a developer.

A five-man bench, led by Tan Sri Raus Sharif, said the residents failed to cross the threshold requirement under section 96 of the Courts of Judicature Act 1964 to obtain leave to appeal their case in the Federal Court.

The residents posed a question whether the Town and Country Planning Act 1976, and amended in

2001, was applicable to the Federal Territory of Kuala Lumpur.

(The applicants had to show that the question posed was of public interest and that it was being raised for the first time.)

"We are of the view that no further argument is needed as the apex court favoured the majority decision of the Court of Appeal," he said.

The court also awarded RM10,000 each in costs to the Datuk Bandar, who was represented by Romesh Abraham, and the developer, Gasing Meridian Sdn Bhd (GMSB), who was represented the Datuk R. R. Sethu.

Abraham said the Federal Territory Planning Act overruled the Town and Country Planning Act as amended in 2001. He said residents

in Kuala Lumpur could only be heard if there was a change in land use or increase in density.

Sethu said the project was underway since 2010 and the residents had also not filed a stay after they lost in the High Court.

On March 6, the Court of Appeal concurred with the High Court that dismissed the residents' judicial review application to challenge the issuance of a development order by the mayor of Kuala Lumpur.

Court of Appeal judge Datuk Zaharah Ibrahim delivered a 2-1 majority verdict. Datuk Ramly Ali concurred with her while Datuk Jeffrey Tan Kok Wha, now a Federal Court judge, dissented.

The majority ruling disagreed

with the residents' submission through their lawyer R. Sivarasa that the amended Town and Country Planning Act, which stipulated residents should have a right to a public objection hearing, extended to the Federal Territory.

Zaharah said the Federal Territory (Planning) Act 1982 was applicable to areas falling under the Federal Territory. In this Act, a public hearing is possible only if the land is used for other purposes or the proposed move leads to an increase in population density.

Bukit Gasing Joint Action Committee member Mohamed Kamar Mohamed said the verdict to deny them leave to appeal overlooked the public interest factor.