

**A Palm Spring Joint Management Body & Anor v Muafakat
Kekal Sdn Bhd & Anor**

B FEDERAL COURT (PUTRAJAYA) — CIVIL APPEAL NO 02(F)-14-02
OF 2015(W)
ARIFIN ZAKARIA CHIEF JUSTICE, RAUS SHARIF PCA, HASAN LAH,
ZAINUN ALI AND ABU SAMAH NORDIN FCJJ
25 FEBRUARY 2016

C *Land Law — Strata title — Management corporation — Legal existence of new
entity as management corporation for condominium — Whether establishment of
joint management body was void ab initio — Whether joint management body
could be established when there was already in existence management corporation*
D — *Strata Titles Act 1985 — Building and Common Property (Maintenance and
Management) Act 2007*

E The first respondent ('Muafakat Kekal') was the developer of Palm Spring
Condominium @ Damansara ('the condominium'). The second appellant was
the management corporation ('MC') established under the Strata Titles Act
1985 ('Act 318') on 8 January 2008. The first appellant ('JMB') was a statutory
body purportedly established under s 4 of the Building and Common Property
(Maintenance and Management) Act 2007 ('Act 663') on 5 April 2008. The
F first general meeting of the MC was called by Muafakat Kekal as the original
proprietor of the condominium on 4 September 2011. JMB applied to the
High Court for an injunction to restrain Muafakat Kekal from holding the
general meeting but the application was dismissed. The general meeting was
adjourned to 11 September 2011. Muafakat Kekal contended the general
meeting failed to take place on 11 September 2011 because of the disturbances
G caused by members of JMB. JMB took the position that the general meeting
was duly held on 11 September 2011 as scheduled and that a council was duly
appointed on that date. Muafakat Kekal contended that a general meeting was
in fact held at a different venue on 15 October 2011 and a copy of the minutes
of meeting was sent to the second respondent (Pesuruhjaya Bangunan, Majlis
H Bandaraya Petaling Jaya ('MBPJ')). Dispute then arose between the two
factions which led to a meeting convened by the Federal Director General of
Land and Mines and in that meeting, it was resolved that Pesuruhjaya
Bangunan MBPJ was to direct Muafakat Kekal to produce the audited
accounts of Muafakat Kekal from 2008 until the current period, failing which
I the general meeting held on 11 September 2011 would be declared valid and
the appointment of members of the council on that date would also be valid.
Muafakat Kekal claimed that it could not produce the required audited
accounts because JMB had obtained an ex parte injunction followed by a
permanent injunction against Muafakat Kekal and had excluded the latter

from the management of the condominium. Muafakat Kekal then commenced a suit claiming for, inter alia, a declaration that the general meeting called by Muafakat Kekal was valid and in accordance with Act 318. The High Court held, inter alia, that the meeting held on 11 September 2011 was valid and in line with Act 318; the subsequent meeting held on 15 October 2011 was void; the JMB was a body validly established under Act 663; and all the management accounts set up by Muafakat Kekal under Act 318 following the meeting held on 15 October 2011 be closed forthwith and all monies therein be paid over to the account held by the JMB. Muafakat Kekal appealed to the Court of Appeal and the appeal was allowed. The Court of Appeal held that the establishment of the JMB was void ab initio as it was contrary to the relevant provisions of Act 318 and Act 663. The issue that arose before the court was whether the JMB could be established under Act 663 when there was already MC, established under Act 318.

Held, dismissing the appeal:

- (1) Section 4(1)(a) and (b) of Act 663 provides that when vacant possession of the parcel had been delivered but the MC had not come into existence, then the JMB is to take over the management of the building. The JMB was intended to be an interim body to cater for instances where there has been a delay in the issuance of strata titles. Section 4(1)(a) and (b) of Act 663 do not apply in cases where strata titles have in fact been issued and the book of strata register had been opened under s 15 of Act 318, as in the present case (see para 29).
- (2) Under Act 663, the JMB was only an interim body established for the purpose of carrying out the functions of MC pending the establishment of MC and once the MC is established, the JMB was automatically dissolved. This is expressly provided in s 15 of Act 663. The MC and the JMB was never intended to co-exist side by side at one and the same time (see paras 30–31).
- (3) The MC was established on 8 January 2008 while the JMB was established on 5 April 2008. On the date of the purported establishment of the JMB, the MC was already in existence. The fact that no general meeting of the MC was called until three years down the line did not affect the legality of the MC. It was thus contrary to the legislative scheme under Act 318 and Act 663 to have the JMB established after the establishment of the MC, which the appellants in the instant case purported to do. The JMB was unlawfully constituted and its establishment was thus null and void ab initio (see paras 32–33).

[Bahasa Malaysia summary

Responden pertama ('Muafakat Kekal') merupakan pemaju Kondominium Palm Spring @ Damansara ('kondominium tersebut'). Perayu kedua ialah

- A** perbadanan pengurusan ('PP') yang ditubuhkan di bawah Akta Hakmilik Strata 1985 ('Akta 318') pada 8 Januari 2008. Perayu pertama ('JMB') ialah badan bekanun yang dikatakan ditubuhkan di bawah s 4 Akta Bangunan dan Hartanah Bersama (Penyelenggaraan dan Pengurusan) 2007 ('Akta 663') pada 5 April 2008. Mesyuarat agung pertama PP telah dipanggil oleh Muafakat Kekal sebagai pemilik asal kondominium tersebut pada 4 September 2011.
- B** JMB telah memohon kepada Mahkamah Tinggi untuk injunksi bagi menghalang Muafakat Kekal daripada mengadakan mesyuarat agung tetapi permohonan itu telah ditolak. Mesyuarat agung itu telah ditangguhkan pada 11 September 2011. Muafakat Kekal berhujah yang mesyuarat agung itu telah gagal untuk diadakan pada 11 September 2011 kerana gangguan yang diakibatkan oleh ahli-ahli JMB. JMB telah mengambil kedudukan bahawa mesyuarat agung itu telahpun diadakan pada 11 September 2011 sebagaimana dijadualkan dan bahawa suatu majlis telahpun dilantik pada tarikh tersebut.
- C** Muafakat Kekal berhujah bahawa satu mesyuarat agung telahpun sebenarnya diadakan di tempat lain pada 15 Oktober 2011 dan sesalinan minit mesyuarat itu telah dihantar kepada responden kedua (Pesuruhjaya Bangunan, Majlis Bandaraya Petaling Jaya ('MBPJ')). Pertikaian kemudian timbul antara dua kumpulan yang membawa kepada satu mesyuarat yang diadakan oleh Ketua Pengarah Persekutuan Tanah dan Galian dan dalam mesyuarat tersebut, ia telah diselesaikan bahawa Pesuruhjaya Bangunan MBPJ akan mengarah Muafakat Kekal untuk mengemukakan akaun yang diaudit bagi Muafakat Kekal dari 2008 sehingga tempoh terkini, dan jika gagal maka mesyuarat agung yang diadakan pada 11 September 2011 akan diisytiharkan sah dan pelantikan ahli-ahli majlis pada tarikh tersebut juga adalah sah. Muafakat Kekal mendakwa bahawa ia tidak boleh mengemukakan akaun yang diaudit yang dikehendaki itu kerana JMB telah memperoleh injunksi ex parte diikuti dengan injunksi kekal terhadap Muafakat Kekal dan telah mengecualikan Muafakat Kekal daripada pengurusan kondominium tersebut. Muafakat Kekal kemudian telah memulakan guaman menuntut untuk, antara lain, satu deklarasi bahawa mesyuarat agung yang dipanggil oleh Muafakat Kekal adalah sah dan menurut Akta 318. Mahkamah Tinggi memutuskan, antara lain, bahawa mesyuarat yang diadakan pada 11 September 2011 adalah sah dan sejajar dengan Akta 318; mesyuarat berikutnya yang diadakan pada 15 Oktober 2011 adalah tidak sah; JMN adalah badan yang sah ditubuhkan di bawah Akta 663; dan semua akaun pengurusan yang dibuka oleh Muafakat Kekal di bawah Akta 318 berikutan mesyuarat yang diadakan pada 15 Oktober 2011 ditutup dengan serta-merta dan semua wang di dalamnya dibayar ke akaun yang dipegang oleh JMB. Muafakat Kekal telah merayu kepada Mahkamah Rayuan dan rayuan itu telah dibenarkan. Mahkamah Rayuan memutuskan bahawa penubuhan JMB adalah *void ab initio* kerana ia bertentangan dengan peruntukan-peruntukan relevan Akta 318 dan Akta 663. Isu yang timbul di hadapan mahkamah adalah sama ada JMB boleh ditubuhkan di bawah Akta 663 walhal PP telahpun ditubuhkan di bawah Akta 318.

Diputuskan, menolak rayuan:

- (1) Seksyen 4(1)(a) dan (b) Akta 663 memperuntukkan bahawa apabila milikan kosong petak itu telah diserahkan tetapi PP belum wujud, kemudian JMB akan mengambil alih pengurusan bangunan itu. JMB itu bertujuan menjadi badan sementara untuk memenuhi keperluan di mana terdapat kelewatan dalam keluaran hakmilik strata. Seksyen 4(1)(a) dan (b) Akta 663 tidak terpakai dalam kes-kes di mana hakmilik strata memang telah dikeluarkan dan buku daftar strata telah dibuka di bawah s 15 Akta 318, sepertimana dalam kes ini (lihat perenggan 29).
- (2) Di bawah Akta 663, JMB hanya badan sementara yang ditubuhkan bagi tujuan menjalankan fungsi-fungsi PP sementara menunggu penubuhan PP dan setelah PP ditubuhkan, JMB secara automatik akan dibubarkan. Ini telah jelas diperuntukkan dalam s 15 Akta 663. PP dan JMB tidak berniat untuk wujud bersama bersebelahan pada satu dan masa sama (lihat perenggan 30–31).
- (3) PP telah ditubuhkan pada 8 Januari 2008 manakala JMB telah ditubuhkan pada 5 April 2008. Pada tarikh dikatakan penubuhan JMB, PP telahpun wujud. Fakta bahawa tiada mesyuarat agung MC dipanggil sehingga tiga tahun kemudian tidak menjejaskan kesahan PP. Oleh itu ia bertentangan dengan skim perundangan di bawah Akta 318 dan Akta 663 agar JMB yang ditubuhkan selepas penubuhan PP, yang perayu-perayu dalam kes ini bertujuan untuk berbuat demikian. JMB telah ditubuhkan secara tidak sah dan penubuhannya oleh itu adalah terbatal dan *void ab initio* (lihat perenggan 32–33).]

Notes

For cases on management corporation, see 8(3) *Mallal's Digest* (5th Ed, 2015) paras 5534–5558.

Cases referred to

Cayman Development (SP) Sdn Bhd (in winding up) v Badan Pengurusan Bersama Kompleks Cayman & Anor [2014] 8 MLJ 894, HC (folld)

Legislation referred to

Building and Common Property (Maintenance and Management) Act 2007 (repealed by Strata Management Act 2013) ss 4, 4(1)(a), (b), 15
Strata Titles Act 1985 ss 4, 15, 17, 39(1), 39(2A), 41, 45, 46

Justin Voon (Annou Xavier, Robin FS Lim and Ng Li Kian with him) (Azri, Lee Swee Seng & Co) for the appellants.

Ringo Low (Ringo Low & Assoc) for the first respondent.

Ihsan Busyro Hj Zakaria (Rusmah Arunan & Assoc) for the second respondent.

A Arifin Zakaria Chief Justice (delivering judgment of the court):

INTRODUCTION

B [1] This is an appeal by the appellants against the decision of the Court of Appeal dated 22 July 2013 which allowed the respondents' appeal. Leave to appeal was granted by this court on 5 February 2015 on the following questions of law:

C (i) Can a Joint Management Body ('JMB'), be formed after and/or co-exist with, a Management Corporation ('MC') formed vide the opening of a Strata Register under section 39(1) of the Strata Titles Act 1985 whilst awaiting the First Annual General Meeting ('AGM') of the Management Corporation which has not taken place (since the JMB can exist until the time 3 months have expired from the date of the said first AGM of the

D MC, in which case the JMB will be dissolved under section 15(1) of the Building And Common Property (Maintenance And Management) Act 2007)?

E (ii) Whether a JMB can be established pursuant to section 4(1) Building and Common Property (Maintenance and Management) Act 2007 to maintain and manage a building even though the MC has been established by the opening of a book of the strata register pursuant to section 39, Strata Titles Act 1985?

BACKGROUND FACTS

F [2] Muafakat Kekal Sdn Bhd, the first respondent, ('Muafakat Kekal') was the developer of the residential condominium development known as Palm Spring Condominium @ Damansara ('the condominium'). It was the original proprietor of the land on which the condominium was developed.

G [3] Perbadanan Pengurusan Palm Spring @ Damansara, the second appellant, is the management corporation ('MC') which was established under the Strata Titles Act 1985 ('Act 318') on 8 January 2008.

H [4] Palm Spring Joint Management Body, the first appellant, ('JMB') was a statutory body purportedly established under s 4 of the Building and Common Property (Maintenance and Management) Act 2007 ('Act 663') on 5 April 2008.

I [5] The first general meeting of the MC was called by Muafakat Kekal as the original proprietor of the condominium, on 4 September 2011. JMB applied to the High Court for an injunction to restrain Muafakat Kekal from

holding the general meeting. The application was dismissed by the High Court on 2 September 2011. However, due to lack of quorum, that general meeting was adjourned to 11 September 2011. A

[6] Muafakat Kekal contended the general meeting failed to take place on 11 September 2011 because it was not possible nor safe to proceed with the general meeting due to the disturbance caused by members of JMB. B

[7] On the other hand, JMB took the position that the general meeting was duly held on 11 September 2011 as scheduled and that a council was duly appointed on that date. C

[8] Muafakat Kekal contended that a general meeting was in fact held at a different venue on 15 October 2011 and a copy of the minutes of meeting was sent to Pesuruhjaya Bangunan, Majlis Bandaraya Petaling Jaya, the second respondent. D

[9] Dispute then arose between the two factions which led to a meeting convened by the Federal Director General of Land and Mines on 8 November 2011 and in that meeting it was resolved that Pesuruhjaya Bangunan, Majlis Bandaraya Petaling Jaya was to direct Muafakat Kekal to produce the audited accounts of Muafakat Kekal from 2008 until the current period, failing which the general meeting held on 11 September 2011 would be declared to be valid and the appointment of members of the council on that date would also be valid. E F

[10] Muafakat Kekal claimed that it could not produce the required audited accounts in view of the fact that by Suit No S5–22–868 of 2006, JMB had, at first obtained an ex parte injunction on 28 August 2008 and followed by a permanent injunction on 28 June 2010 against Muafakat Kekal and had excluded Muafakat Kekal from the management of the condominium and had in fact commenced committal proceedings against Muafakat Kekal for its failure to comply with the terms of the injunction. G H

THE HIGH COURT

[11] It was against that backdrop of facts that Muafakat Kekal commenced this suit claiming, inter alia, the following reliefs: I

- (a) a declaration that the general meeting called by Muafakat Kekal on 15 October 2011 was valid and in accordance with Act 318;
- (b) a declaration that the general meeting on 11 September 2011 was not conducted by Muafakat Kekal and was null and void;

- A (c) a declaration that the establishment of the JMB was not valid and contravened s 4(1)(a) of the Building and Common Property (Maintenance and Management) Act 2007 (Act 663); and
- B (d) a declaration that the act of Pesuruhjaya Bangunan, Majlis Bandaraya Petaling Jaya who attempted to validate the meeting of 11 September 2011 and the appointment of members of the council on 11 September 2011 was 'ultra vires'.

C [12] In its defence, JMB claimed that it was lawfully constituted. JMB also pleaded *res judicata* and *estoppel*. JMB then counterclaimed for, *inter alia*, the following reliefs:

- D (a) a declaration that the general meeting held on 11 September 2011 was valid and in accordance with Act 318;
- (b) a declaration that the general meeting held on 15 October 2011 was null and void;
- (c) a declaration that JMB was a body lawfully established under Act 663;
- E (d) an order that any new account or management fund under s 45 or special account under s 46 of Act 318 opened by Muafakat Kekal pursuant to the general meeting of 15 October 2011 be closed forthwith and all monies in those accounts be paid into the account maintained by the JMB;
- F (e) general damages to be assessed; and
- (f) exemplary and aggravated damages of RM500,000 or alternatively to be assessed.

DECISION OF THE HIGH COURT

- G [13] After a full trial, the High Court dismissed Muafakat Kekal's claims and allowed the JMB's counterclaims. The High Court made the following orders:
- H (a) that the meeting held on 11 September 2011 is declared valid in line with Act 318;
- (b) that the subsequent meeting held on 15 October 2011 is declared void;
- (c) that the JMB is a body validly established under Act 663;
- I (d) that all the management accounts set up by Muafakat Kekal under the Act 318 following from the meeting held on 15 October 2011 be closed forthwith and all monies therein be paid over to the account held by the JMB; and
- (e) that Muafakat Kekal has to pay the sum of RM500,000 as general and aggravated damages to the JMB.

THE COURT OF APPEAL

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[14] Dissatisfied, Muafakat Kekal then appealed to the Court of Appeal. The Court of Appeal allowed Muafakat Kekal's appeal and made the following orders:

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47. In view of the Plaintiffs' concession with respect to paragraphs (a) and (b) of the High Court Order and our conclusion that the establishment of the 2nd Defendant was void ab initio, we varied the High Court order as follows:

- (a) Paragraphs (a) and (b) of the High Court Order were affirmed;
- (b) Paragraph (c) of the Order and the order for damages were set aside;
- (c) in paragraph (d) of the Order, the reference to the 2nd Defendant (the Joint Management Body) was replaced with the reference to the 2nd Plaintiff (the management corporation).

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In short, the Court of Appeal held that the establishment of the JMB was void ab initio as it was contrary to the relevant provisions of Act 318 and Act 663.

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THIS COURT

[15] The issue before us is whether the JMB can be established under Act 663 when there is already in existence the MC which was established under Act 318?

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ESTABLISHMENT OF MANAGEMENT CORPORATION

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[16] From the questions posed, we can assume that the JMB was formed after the establishment of the MC. Therefore, the question is whether, under the scheme of Act 318 and Act 663, the two bodies, namely the JMB and the MC can co-exist side by side. The appellants contended that the answer is in the positive as there is nothing under Act 318 and Act 663 prohibiting the two bodies existing side by side. The respondents held the opposite view. The Court of Appeal agreed with the respondents.

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[17] To answer the questions, it is necessary for us to consider how the two bodies came into existence under the respective Act.

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[18] The MC is a body which came to be established under Act 318. Section 15 of Act 318 provides:

Preparation and maintenance of strata register

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15 (1) The Registrar shall prepare and maintain for the purposes of this Act a register of strata titles to be known as the strata register.

(2) The strata register shall consist of a series of books, each relating to one lot, and every such book shall contain —

- A (a) an index in Form 2 to the individual parcels and, if any, appurtenant accessory parcels and to the individual provisional block, if any, comprised in the lot;
- B (b) a statement in Form 3 which subject to subsections (4), (5) and (6) shall—
(i) set out, or where appropriate summarize so far as they relate to matters capable of affecting any of those parcels or provisional blocks, all memorials, endorsements and other entries which appeared on the register document of title to the lot at the time the statement was authenticated by the Registrar; or (ii) confirm that there were no such entries;
- C (c) a copy of the certified strata plan prepared under paragraph 13(1)(a); and
(d) the register document of title to each parcel and each provisional block.
- D (3) The name of the management corporation, and the address for the service of documents thereon, required to be stated in the index in Form 2 shall be supplied to the Registrar by the proprietor of the lot.

E [19] Section 17 of Act 318 provides that when a book of strata register is opened, the strata register and the document of title to the lot will have a memorial entered by the registrar of titles stating that such book has been opened. What is the effect of the opening of the book of strata register?

[20] This is provided in s 39(1) of Act 318 which reads:

F Establishment of management corporation
39 (1) *Upon the opening of a book of the strata register in respect of a subdivided building there shall, by the operation of this section, come into existence a management corporation consisting of all the parcel proprietors including in the case of phased development, the proprietor of the provisional block or blocks. (Emphasis added.)*

G [21] In the present case, it is not in dispute that the book of strata register was opened on 8 January 2008. A certificate of the same date was issued pursuant to s 39(2A) of Act 318, stating to the effect that ‘Perbadanan Pengurusan Palm Spring @ Damansara’ is the MC for the condominium. However, no general meeting of the MC was called by the developer until 4 September 2011.

H [22] By s 41 of Act 318, the developer is required to convene the first general meeting of the management corporation within one month of the expiry of the initial period. The term ‘initial period’ is defined in s 4 of Act 318 as follows:

I ‘initial period’ in relation to a management corporation, means the period commencing on the day on which the management corporation is formed and ending on the day on which there are proprietors, excluding the proprietor of the lot who is registered as the proprietor of a parcel or parcels or a provisional block or blocks, the sum of whose share units is at least one-third of the aggregate share units;

[23] There is no evidence led as to when the initial period in the present case ended. In any event, we are of the view that it is of no relevance to the issue before us. A

[24] In the present case, despite the fact that the MC was established as early as 8 January 2008, the first general meeting was only convened on 4 September 2011 which was adjourned, due to lack of quorum to 11 September 2011. The High Court in its finding held that the meeting of 11 September 2011 and the election of council by the general meeting on the date to be valid. The Court of Appeal agreed with the finding of the High Court. B
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ESTABLISHMENT OF JOINT MANAGEMENT BODY

[25] Let us now consider how the JMB is established. JMB is a body established under the Building and Common Property (Maintenance and Management) Act 2007 (Act 663). This act is intended to put in place a legislative scheme to ensure the proper management and maintenance of a strata development pending the opening of a book of strata register and the coming into being of the MC. This may be derived from the speech of the minister for housing and local government in tabling the bill for second reading in the Dewan Rakyat on 12 December 2006 where he stated: D
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Rang Undang-undang Bangunan dan Harta Bersama ini juga memperkenalkan satu elemen baru iaitu Badan Pengurusan Bersama dengan izin, Joint Management Body atau JMB yang ditubuhkan dalam tempoh interim untuk mengambil alih tugas dan tanggungjawab pemaju dalam menyelenggara dan mengurus harta bersama sesuatu bangunan itu *sehinggalah hak milik strata diperolehi*. (Emphasis added.) F

[26] The establishment of the JMB is governed by s 4 of the Act 663 which reads: G

Establishment of a Joint Management Body

4 (1) Where a building or land intended for subdivision into parcels has been completed —

- (a) before the commencement of this Act and vacant possession of the parcels has been delivered by the developer to purchasers but the management corporation has not come into existence, a Joint Management Body shall be established consisting of the developer and the purchasers upon the convening of the first meeting not later than twelve months from the commencement of this Act; and H
- (b) on or after the commencement of this Act, a Joint Management Body shall be established consisting of the developer and the purchasers upon the convening of the first meeting not later than twelve months from the date of delivery of vacant possession of the parcels to the purchaser. I

A [27] In the present case, there was no evidence led as to when the condominium was completed, therefore we could not decide whether it was completed before or after the commencement of Act 663. Be that as it may, we are of the view that this is not material to the present case as the facts of the present case clearly show that the MC was in fact established prior to the JMB.

B [28] Further, it is common ground that, the book of strata register was opened on 8 January 2008. Therefore, we can safely assumed that the strata titles to the condominium had been issued prior to that date.

C [29] By ss 4(1)(a) and (b) of Act 663, it provides that when vacant possession of the parcel has been delivered, but the MC has not come into existence, then the JMB is to take over the management of the building. It is also clear that the JMB is intended to be an interim body to cater for instances where there has been a delay in the issuance of strata titles. Section 4(1)(a) and (b) of Act 663 do not apply in cases where strata titles have in fact been issued and the book of strata register has been opened under s 15 of Act 318, as in the present case.

D [30] Therefore, under Act 663, the JMB is only an interim body established for the purpose of carrying out the functions of MC pending the establishment of MC and once the MC is established, the JMB is automatically dissolved. This is expressly provided in s 15 of Act 663 which reads:

Dissolution of Joint Management Body

F 15 (1) The Body shall be deemed to be dissolved three months from the date of the first meeting of the management corporation for the building.

G [31] From the above, it is clear that the MC and the JMB was never intended to co-exist side by side at one and the same time. In this regard, we wish to record our agreement with the finding of the learned High Court judge on a similar issue in *Cayman Development (SP) Sdn Bhd (in winding up) v Badan Pengurusan Bersama Kompleks Cayman & Anor* [2014] 8 MLJ 894.

H [32] In the instant case the MC was established on 8 January 2008 while the JMB was established on 5 April 2008. This means to say that on the date of the purported establishment of the JMB, the MC was already in existence. The fact that no general meeting of the MC was called until three years down the line, in our view, does not affect the legality of the MC. It is thus contrary to the legislative scheme under Act 318 and Act 663 to have the JMB established after the establishment of the MC, which the appellants in the instant case purported to do.

I [33] In the result, we agree with the Court of Appeal that the JMB was unlawfully constituted and its establishment is thus null and void ab initio.

CONCLUSION

[34] For the above reasons, we answer the questions posed to us in the negative. The appeal is accordingly dismissed with costs.

Appeal dismissed.

Reported by Afiq Mohamad

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