

EVIDENCE

Standard of proof – Civil action – Fraud – Dispute arising from contract

Sinnaiyah & Sons Sdn Bhd v Damai Setia Sdn Bhd

[2015] 7 CLJ 584, Federal Court

Facts The respondent (“the defendant”) appointed the appellant (“the plaintiff”) as the project manager for its construction contract. Dispute arose and the appellant sued the respondent for unpaid management fees and financial advances given. The respondent on the other hand disputed the appellant’s claim, and counterclaimed for a sum paid by the appellant fraudulently to its own account instead of into the subcontractor’s account. The appellant’s claim was dismissed in the High Court and Court of Appeal, hence the present appeal. Leave to appeal was granted, and the issue was whether the standard of proving fraud in a civil suit is dependent on the nature of fraud, as set in *Ang Hiok Seng v. Yim Yut Kiu*¹ should be relied on.

Issue The issue to be determined was what the standard of proof is for fraud in a civil case.

Held In dismissing the appeal, the Federal Court overruled the principle set in *Ang Hiok Seng v. Yim Yut Kiu* and held that when fraud is the subject in a civil claim, the standard of proof is balance of probabilities. The standard of proof required in a criminal case which is beyond reasonable doubt, is irrelevant.

ZUL RAFIQUE & partners
{SEPTEMBER 2015 \ 01242691}

¹ [1997] 1 CLJ 497