

**DALAM MAHKAMAH TINGGI MALAYA DI KUALA LUMPUR
DALAM WILAYAH PERSEKUTUAN KUALA LUMPUR
(BAHAGIAN KUASA-KUASA KHAS)
[PERMOHONAN BAGI SEMAKAN KEHAKIMAN NO.: WA-25-289-
09/2023]**

Dalam perkara Skim Berpagar dan Berpengawal di Jalan Limau Nipis, Jalan Limau Kasturi, Lorong Limau Kasturi, Lorong Limau Manis 1, Lorong Limau Manis 2 dan Jalan Limau Manis di Taman Bangsar, Kuala Lumpur;

DAN

Dalam perkara Perlembagaan Persekutuan Malaysia, *inter alia*, Artikel 5(1) dan 9(2);

DAN

Dalam perkara Akta Kerajaan Tempatan 1976, *inter alia*, Seksyen 65 dan 67;

DAN

Dalam perkara Akta Jalan, Parit dan Bangunan 1974, *inter alia*, Seksyen 3, 5, 46 dan 69;

DAN

Dalam perkara Akta Pengangkutan Jalan 1987, *inter alia*, Seksyen 3,

55, 58, 78 dan 112 dan perundangan subsidiari di bawahnya;

DAN

Dalam perkara Kanun Keseksaan;

DAN

Dalam perkara Akta Perancangan Bandar dan Desa 1976;

DAN

Dalam perkara Akta Pendaftaran Negara 1959 dan Peraturan-Peraturan Pendaftaran Negara 1990;

DAN

Dalam perkara Akta Perlindungan Data Peribadi 2010;

DAN

Dalam perkara Kanun Tanah Negara 2020;

DAN

Dalam perkara Akta Mahkamah Kehakiman 1964, *inter alia*, Perenggan 1 kepada Jadual;

DAN

Dalam perkara Akta Relief Spesifik 1950, *inter alia*, Bahagian 2, Chapter VIII;

DAN

Dalam perkara Akta Agensi Persendirian 1971, *inter alia*, Seksyen 2 dan 19(2);

DAN

Dalam perkara Akta Polis 1967 dan Akta Kastam 1967;

DAN

Dalam perkara Akta Rukun Tetangga 2012, *inter alia*, Seksyen 25;

DAN

Dalam perkara Aturan 53 Kaedah-Kaedah Mahkamah 2012.

ANTARA

1. RANJAN PARAMALINGAM

2. JUDE MICORY LOBIJIN ... PERAYU-PERAYU

DAN

1. DATUK BANDAR KUALA LUMPUR

2. PERSATUAN PENDUDUK TAMAN BANGSAR ... RESPONDEN-RESPONDEN

GROUND OF JUDGMENT

Introduction

- [1] The Applicants are the owner and tenant respectively of a terrace house in Bangsar Park. The present judicial review proceedings is filed to challenge the implementation of what they claim is a Gated and Guarded (“G & G”) scheme by the Bangsar Park Residents Association in Bangsar Park, Bangsar.

Salient facts

- [2] The primary facts upon which the Applicants’ case is premised, are as follows:
- (i) The Applicants have, until January 2017, enjoyed free and unimpeded use of all public roads, streets, lanes and amenities in the Bangsar Park area;
 - (ii) On 2.1.2017, the Applicants found that unmanned, locked metal barriers had been erected at various points over roads, streets and lanes on Lorong Limau Manis 1 in Bangsar Park. A guard house and boom gates had been put up at the entry and exit point of the street with surveillance cameras and floodlighting. Security guards were stationed at the entry and exit point who questioned road users before permitting ingress and egress. These were implemented at the instance of the 2nd Respondent, Bangsar Park Residents Association (“BPRA”);
 - (iii) The Applicants’ house is positioned in that the frontage was outside the G & G scheme but the rear was within the scheme because the side and back lanes were blocked by use of a locked metal barrier;
 - (iv) The actions of BPRA caused the Applicants to file a suit *vide* WA-22NCVC-152-03/2017 in the Kuala Lumpur High Court against BPRA founded upon private nuisance and breach of personal data laws. The suit was eventually dismissed by the High Court. The Applicants’ appeal to the Court of Appeal and thereafter to the Federal Court were also dismissed;

- (v) Between the years 2016 to 2020, there were administrative approvals granted by Dewan Bandaraya Kuala Lumpur (“**DBKL**”) the 1st Respondent in this action, to BPRA for the implementation of a guarded neighbourhood scheme (“**GN scheme**”). The last approval expired in March 2020;
- (vi) BPRA then wrote to DBKL for an extension of the approval for the GN scheme. In its letter of 22.6.2020, DBKL stated that no extension of approval was to be entertained in view of several breaches of conditions, complaints from the public and the pending suit in the High Court;
- (vii) In July 2020, BPRA commenced Judicial Review proceedings vide WA-25-198-2020 (“**JR 198**”) against DBKL to challenge its refusal for an extension of the security scheme. The Applicants applied, and were allowed to intervene. JR 198 was subsequently withdrawn in June 2023 and no determination was made on the issues arising in the suit;
- (viii) Notwithstanding that there was no approval by DBKL, BPRA continued with the security scheme;
- (ix) Thereafter from June 2023 to September 2023, the Applicants through their solicitors wrote to DBKL seeking an explanation for the lack of action on the part of DBKL on the operation of the security scheme by BPRA; and
- (x) The Applicants received no response from DBKL, save for a letter dated 27.7.2023 asking for further time to respond. However, there was no reply forthcoming from DBKL. The Applicants were then constrained to file the present proceedings.

Grounds for judicial review

[3] The Applicants' grounds for judicial review as contained in its O. 53 Statement can be summarized as follows:

- (i) There is no positive legislation to permit the operation of the G & G scheme whereby a private body such as the BPRA is authorized to set up barriers and gates over public areas such as roads, streets, lanes and amenities;
- (ii) The failure of DBKL to prevent the continued operation of the security scheme constitutes a breach of its public duties under s. 69 of the Street, Drainage and Building Act 1974 and s. 84 of the Road Transport Act 1987;
- (iii) By permitting the operation of the scheme, DBKL had allowed an infringement of the Applicants' fundamental rights of citizens as they were subject to actions of the security guards which can only be exercised by enforcement authorities instead. The right to inspect the identity of any person falls within the purview of the National Registration Act 1959. In addition, the actions of the security guards in demanding and retaining identification data infringed the Applicants' right to privacy and personal data;
- (iv) By permitting BPRA to establish road blocks over public roads, it was allowing an illegal act in view of existing legislation such as the Police Act 1967, Customs Act 1967 and Road Transport Act 1987 which allows only law enforcement officers to mount road blocks and exercise related powers. Additionally, DBKL's actions were tantamount to an outsourcing of law enforcement to private entities;
- (v) The barriers, boom gates and guardhouse were all situated on public spaces which are State land and Road Reserves and no Temporary Occupation Licence under the National Land Code was granted for these structures; and

- (vi) The refusal by DBKL to reply or respond positively to the Applicants' request to be notified of any new approvals for for community schemes and to be afforded an opportunity to be heard.

[4] Premised on the above grounds, the Applicants contend that the actions and omissions of DBKL are tainted with illegality, irrationality and ultra vires conduct. They therefore seek numerous reliefs in the nature of declarations as follows:

- (i) A declaration that the G & G scheme operated at Bangsar Park is illegal and unconstitutional;
- (ii) A declaration that the acts/omissions of DBKL in permitting the operation of the scheme is a breach of its public duties;
- (iii) A declaration that DBKL has no powers to permit the continued operation of the scheme;
- (iv) A declaration that DBKL has a public duty to prevent the operation of the scheme;
- (v) A declaration that the Applicants have a legitimate right to be informed prior to any approval by DBKL of a community security scheme;
- (vi) An order of mandamus to compel DBKL to stop the operation of the scheme and to remove all barriers, boom gates and guardhouses situated on public spaces in the said scheme; and
- (vii) An order for damages to be assessed and paid by DBKL.

Developments post filing of the Judicial Review application

[5] The present application was filed in September 2023. In 2024, upon the application of BPRA, DBKL granted an administrative approval for a GN scheme for a duration of 12 months from 28.6.2024 to

27.6.2025 (“**2024 Approval**”). However, at the time of the hearing of the present application, the approval had lapsed.

- [6] The Applicants complain that this move is a fait accompli to deny them the remedies sought. Consequent thereto, they pray for this court to exercise its jurisdiction to mould the reliefs as is appropriate to meet the factual matrix of this case.

Position taken by DBKL

- [7] DBKL takes the following position. The Judicial Review application filed is premature as at the time of filing, there was no decision made by DBKL. Hence there is no decision to be made the subject matter of challenge in these proceedings.
- [8] However, after the filing of the application, the position changed. DBKL by its letter of 26.6.2024, granted the 2024 Approval. With the approval, the complaints of the Applicants in this Judicial Review proceedings are now academic. The grievance of the Applicants that BPRA had no approval to operate the G & G scheme has now been overtaken by events and the reliefs sought for are unnecessary.
- [9] Even if the 2024 Approval can be taken as the impugned decision, it has also lapsed on 26.6.2025. Hence, the application before this court is both pre-mature and academic.
- [10] DBKL further contends that it has powers under the Local Government Act 1976 to take actions in the interest of public safety and security, the GN scheme being one of them. The previous approvals were given only after DBKL had conducted site investigation. The approvals were given on condition that the Guidelines by the Ministry of Housing and Local Government as well as DBKL were complied with. The 2024 Approval was also granted on the same premise. Before the approval was granted, site

investigation showed that the barriers had been lifted and there was no obstruction on the roads.

Position taken by BPRA

- [11] The BPRA raised a few preliminary points in opposition to the application. Firstly, the factual premise of the Judicial Review application is wrong. The scheme that BPRA operated was not a G & G, but a GN. For this reason, the reliefs sought are misdirected.
- [12] Secondly, the present application was filed out of time, in noncompliance of O. 53 r. 6 of the Rules of Court 2012. Save for a declaration that DBKL has a public duty to prevent the operation of the GN scheme, the Applicant's complaint of inaction by DBKL went as far back as 2020 when the approval lapsed on 11.3.2020. However, they only filed the present application in 2023.
- [13] Finally, BPRA contends that the Applicants have no locus standi to bring this action as they are not persons adversely affected within the meaning of O. 53 r. 4. The Applicants have admitted in their affidavit in support that they were not prevented from access to their residence as they were known to the security guards on duty. It was workmen and tradesmen intending to enter the GN area that were subject to interrogation and questioning.
- [14] On the merits of the substantive application, BPRA contends that the GN scheme was for the benefit of the residents. DBKL had engaged BPRA in discussions to implement the scheme in order to arrive at the best solution for its operation. It had also advised BPRA to lift the barriers and allowed access pending the determination of JR 198 which was eventually withdrawn on 19.6.2023.
- [15] The complaints of the Applicants in these proceedings had been ventilated in suit WA-22NCVC-152-03/2017 ("**Suit 152**"). Similar arguments were canvassed all the way to the Federal Court. The appeal was not decided in the Applicants' favour.

Analysis and decision of this court

[16] I shall now deal with the issues arising from the contention of the respective parties.

G & G or GN scheme

[17] Parties have raised a factual dispute. The Applicants claim that BPRA was in fact operating a G & G scheme and not a GN scheme.

[18] The affidavit by DBKL states that the scheme approved to and operated by BPRA was a GN scheme. This was confirmed by its site visits and investigation before granting approval to BPRA.

[19] In addition, the High Court in Suit 152 had found as a fact that BPRA was operating a GN scheme. The judgment of the Court of Appeal is evidence that the scheme which was the subject matter of dispute was a GN scheme. (See: *Ranjan Paramalingam & Anor v. Persatuan Penduduk Taman Bangsar Kuala Lumpur* [2023] 1 MLJ 459).

[20] In any event, I am of the view that nothing turns on this factual dispute. The real grouse of the Applicants is a neighborhood security scheme implemented by BPRA which it claims DBKL wrongly permitted.

Locus standi of the Applicants

[21] Contrary to the contention of BPRA, I am of the view that the Applicants have the requisite *locus standi* to file the application. It cannot be denied that they are persons directly affected by the GN scheme, as their house is within the area covered by the GN scheme, which is the very subject matter of this judicial review proceedings.

Whether the application is time-barred

- [22] The critical fact relied on by the Applicants is that DBKL continued to permit the continuation of the GN scheme even after the last approval in 2020 lapsed. This is evident from the reliefs sought, in which declarations are sought on the basis of DBKL's inaction.
- [23] At the time this application was filed, the last approval for the GN scheme had lapsed on 11.3.2020. BPRA then filed JR 198 on 16.7.2020 to challenge the non-renewal of approval. The Applicants applied to intervene in JR 198 on 26.7.2021. By then, they were clearly aware of the fact that there was no renewal.
- [24] O. 53 r. 3 (6) of the Rules of Court 2012 provides,
- Leave (O. 53, r. 3)
3. (1) An application under this Order shall not be made unless leave therefore has been granted in accordance with this rule.
- ...
- (6) An application for judicial review shall be made promptly and in any event within three months from the date when the grounds of application first arose or when the decision is first communicated to the applicant.
- [25] Although the approval lapsed on 11.3.2020, I would give the Applicants the benefit of the doubt as to the date they had knowledge of the non-approval. The latest date would be 26.7.2021, when they applied to intervene in JR 198. This application filed in 2023, was well after the time frame stipulated in the Rules. There is therefore a clear non-compliance with the provision of the Rules.
- [26] The law on mandatory compliance with the time frame to apply for judicial review is well settled. Before an application for judicial review can be entertained, compliance with the procedure laid down is imperative. Failure to observe the period stipulated in Order 53 of the Rules of Court 2012 goes to jurisdiction. (See: *Wong Kin Hoong*

& Anor (suing for themselves and on behalf all of the occupants of Kampung Bukit Koman, Raub, Pahang) v. Ketua Pengarah Jabatan Alam Sekitar & Anor. [2013] 4 MLJ 161 (FC), *Ketua Pengarah Hasil Dalam Negeri v. Genting Malaysia Bhd* [2025] 2 MLJ 822 (CoA)).

- [27] To recapitulate, the reliefs are primarily founded upon the omission of DBKL to prevent the continued operation of the scheme. The earliest date upon which the grounds of application arose would be 11.3.2020; the latest would be 26.7.2021, when the Applicants were clearly aware of the expiry of the approval. The Applicants are clearly time-barred. In the circumstances the court has no jurisdiction to entertain the judicial review application.

Whether the present JR is now academic

- [28] There is merit in the contention of DBKL that the Judicial Review application is now academic as post filing of the application, it granted the 2024 approval. This was clearly stated in DBKL's additional affidavit in reply affirmed on 31.7.2024. Notwithstanding this averment, no attempt was made by the Applicants to amend their O. 53 Statement, and the reliefs sought therein.
- [29] O. 53 r. 7 allows the Statement filed to be amended if the affidavit of the other party to the application raises new matters. The Applicants did not resort to this provision.
- [30] Although it was urged upon this court to mould the reliefs as is appropriate to the meet the fact situation, I am of the view that where it pertains to a material fact which would have an effect on the reliefs sought, the onus is on the Applicants to make the necessary application. But it did not.
- [31] In my view, the 2024 Approval puts paid to the allegations against DBKL that it permitted the GN without approval. The challenge to the inaction of DBKL in view of the non-approval have now been superseded by the 2024 approval. Thus, the issues in the application

had been overtaken by the subsequent approval. The facts forming the substratum of the reliefs can no longer be relied on.

[32] The question of issues that have become academic was dealt with by the Federal Court in *Bar Council Malaysia v. Tun Dato' Seri Arifin bin Zakaria & Ors (Persatuan Peguam-Peguam Muslim Malaysia, intervener) and another appeal* [2020] 4 MLJ 773 A challenge was brought on the appointment of the then Chief Justice and President of the Court of Appeal as being contrary to the provisions of A. 122B of the Federal Constitution. Arguments had been advanced, but before decision could be delivered, both judges had issued their letters of resignation. The Federal Court held,

[53] The question before us is this. In view of the fundamental changes in the governance of the judiciary with the departure of the second and third respondents, the stark issues as housed in the questions posed have now become blunted by consequential events.

[54] It bears repeating that the illegality alleged has been superseded by subsequent events. As such, the subject matter of the dispute -the constitutionality of the judges holding their respective offices (second and third respondent) is no longer in existence. Their replacements have been made. What then is the dispute that needs to be resolved?

[55] The outcome of the constitutional reference will not affect the positions of the parties at all. No order can be made to give effect to the issue. In other words, there is now no remedy that this court can order, to give effect to the applicant's view on the constitutionality of the appointments.

...

[57] Although it is not unusual for the court to hear cases which may have become academic or hypothetical, this discretion is to be exercised sparingly.

[58] The authorities indicate that in such a case, the court has a narrow discretion to proceed, for it is to be exercised with caution.

[33] Applying the principles therein to the present case, I am of the view that to determine the suit based on facts which have been overtaken by events would be an academic exercise with no beneficial outcome.

Legal authority for the GN scheme

[34] The fact that the Judicial Review application is time-barred and an academic exercise, would suffice for this court to dismiss the application. However, for the sake of completeness, I shall deal with the merits of the application.

[35] GN schemes are not a new phenomenon. With increased concern over the security and safety of residential areas, residents have on their own initiative, established community security schemes to safeguard the area they reside. Ultimately, these schemes are implemented for the interests and the well-being of the residents.

[36] DBKL acknowledges that at present, there are no specific laws governing the establishment of GN schemes. These schemes are however regulated by the Guidelines issued by the Ministry of Housing and Local Government and DBKL. In the approvals granted by DBKL, it will stipulate that such approvals are subject to observance with these guidelines.

[38] It is DBKL's contention that s. 101(v) of the Local Government Act 1976 [Act 171] is a general provision which authorises the local authority to take such action as is necessary for the public safety,

health and convenience of the public. I agree with DBKL on this point.

[39] S. 101(v) of Act provides,

Further powers of the local authority

101. In addition to any other powers conferred upon it by this Act, or by any other written law, a local authority shall have power to do all or any of the following things, namely-

...

(v) to do all things necessary for or conducive to the public safety, health and convenience;

...

[40] The reliance on s. 101 to allow GN scheme was endorsed by the Court of Appeal in *Ranjan Paramalingam & Anor v. Persatuan Penduduk Taman Bangsar Kuala Lumpur (supra)*. The Applicants there questioned the legality of the GN scheme operated by BPRA.

[41] In answering the issue posed, the Court of Appeal held,

[35] ...The question is, can the local authority give approval to a GN scheme since there is no law that governs the scheme? In answering question 7 of his witness statement, TPW1 referred to ‘Pekeliling Ketua Setiausaha Kementerian Perumahan dan Kerajaan Tempatan Bilangan 1 Tahun 2010’ titled ‘Garis Panduan Perancangan Gated Community and Guarded Neighbourhood’ (Pekeliling KSU KPKT) dated 20 October 2010 and marked as an exh TP80, and it was referred to in the proceedings as ‘Lampiran GN’. See end 16 at pp 1054-1056. According to TPW1, the local authority referred to the consent and authorisation in the Pekeliling KSU KPKT to approve the defendant’s GN scheme.

[36] It is pertinent to note that the issuance of the Pekeliling KSU KPKT is intended to provide explanations and guidance to state authority and the local authority in relation to the implementation of the Gated Community (GC) and GN. Pekeliling KSU KPKT specifically referred to the ‘Garis Panduan Perancangan Gated Community and Guarded Neighbourhood’ (the Guidelines) annexed as ‘Lampiran T. ...We had viewed the guidelines and it is essential for us to produce the notification at the beginning of the document which stated as follows:

...

[37] From the notification, it is clear that the guidelines had been approved by the Cabinet on 28 July 2010 and then, it was approved in the Meeting of the National Council for Local Government on 2 September 2010. It is important to note that the National Council for Local Government is a council that was establish under art 95A of the Federal Constitution (‘FC’).

...

[40] Back to the question of whether the local authority has the power to approve the GN scheme, we are of the opinion that the implementation of GN scheme has been recognised as a national policy, and the local authority can rely on the guidelines to approve the GN scheme provided that the approval is consistent with all relevant laws and regulations mentioned in the guidelines.

[41] Even though there is no specific legislation on the GN scheme, the local authority can still rely on the general powers given to the local authority under Part XII of the Local Government Act 1976 (‘the LGA 1976’) titled ‘FURTHER POWERS OF

LOCAL AUTHORITY’ especially the powers under s. 101(v) of the LGA 1976 which provides as follows:

...

Therefore, we are of the opinion that the local authority has the necessary residual power to approve the defendant’s GN scheme based on the general power conferred to the local authority under the LGA 1976.

(emphasis added)

[42] To my mind, the decision of the Court of Appeal has expressly decided on the legality of the GN scheme operated by BPRA. Upon perusal of the grounds relied on by Applicant, they are in essence questioning the operation of BPRA scheme which DBKL had earlier given approvals for. As the approvals had expired, the grounds are used to challenge the continuation of the scheme. I am of the view that the decision of the Court of Appeal by extension, has effectively answered all the grounds of challenge now advanced by the Applicants. In the result, they have no basis to challenge DBKL’s action to permit the scheme to continue.

Evidence in support of GN scheme

[43] Additionally, the previous approvals granted by DBKL and the 2024 Approval were not granted arbitrarily. It was only upon site investigation and express stipulation of the condition that it was subject to the Guidelines issued by the Ministry and DBKL. The approvals allowed a guard house and boom gates to be erected. In addition, BPRA was allowed to appoint a private agency to oversee the security of the GN area. There was due consideration given to BPRA’s application.

[44] Factually, it was also in evidence that:

- (i) The majority of the residents agreed to the GN scheme;

- (ii) Supporting letters were given by Alam Flora, Ibu Pejabat Polis Daerah Brickfields and Balai Bomba dan Penyelamat Pantai to the implementation of the scheme;
- (iii) The Applicants were not obstructed from entry to their house as only their back door is within the GN area.

[45] To my mind, it would be unreasonable for the Applicants to question the operation of the GN scheme which was to benefit the community from the security it affords. As residents, it cannot be denied that they would have benefited from an increased security.

[46] Community security schemes have challenged in court by plaintiffs who have refused to be part of the scheme. The courts have not been sympathetic to their cause.

[47] The Federal Court in *Au Kean Hoe v. Persatuan Penduduk D' villa Equestrian* [2015] 4 MLJ 204 had this to say,

[26] We are of the view the underlying rule is a recognition that individuals live within a community and it is always the balancing of the individuals' inconvenience against the communities' interest that is of paramount concern. On this point in *George Philip & Ors v. Subbammal & Ors* AIR 1957 Tra-Co 281, the High Court in India observed as follows:

Every little discomfort or inconvenience cannot be brought on to the category of actionable nuisance. Consistent with the circumstances under which a person is living, he may have to put up with a certain amount of inevitable annoyance or inconvenience. But if such inconvenience or annoyance exceeds all reasonable limits, then the same would amount to actionable nuisance. The question as to what would be a reasonable limit in a given case will have to be determined on a consideration as to whether there has been a material

interference with the ordinary comfort and convenience of life under normal circumstances.

- [48] In *Lim Keng Jit (suing in the capacity of an authorised member under s. 9(c) of the Societies Act 1966 for Persatuan Penduduk Parkville Jalan PJU 3/32-3/37 Sunway Damansara, Petaling Jaya, Selangor) v. Majlis Bandaraya Petaling Jaya* [2023] 5 MLJ 716 the Court of Appeal held,

We reiterate that the larger interest of the community has to prevail over the rights of individuals, where the issues of public safety and security has to prevail over matters of inconvenience to balance the rights of the individuals against that of the community.

Applicants' suit lies within the arena of private law

- [49] In 2017, the Applicants filed Suit 152 premised on tort of nuisance, both private and public, as well as breach of personal data law. Its suit was dismissed and the dismissal of their claim was affirmed by the Court of Appeal and the Federal Court. At the material time, their claim was filed only against BPRA, which was operating the GN scheme pursuant to approvals given by DBKL.
- [50] Their claim failed, and the High Court as well as the Court of Appeal found inter alia, the GN scheme operated by BPRA to be lawful. (See: *Ranjan Paramalingam & Anor v. Bangsar Park Residents Association* [2021] CLJU 403; [2021] 1 LNS 403 (High Court) and *Ranjan Paramalingam & Anor v. Persatuan Penduduk Taman Bangsar Kuala Lumpur (supra)* (Court of Appeal)).
- [51] Having found the scheme not to be illegal, the Applicants cannot be permitted again to re-litigate the issue by inter alia, seeking a declaration that the scheme is both illegal and unconstitutional. By challenging the actions of DBKL to permit the scheme, the Applicants are attempting a back door challenge by bringing their

suit now in a public law action. To my mind, this is an abuse of the process of the court.

[51] In view of the findings of both the High Court and the Court of Appeal, it does not lie in the mouth of the Applicants to now claim that DBKL is permitting an illegal and unconstitutional scheme.

Order of mandamus to compel DBKL to remove the structures

[52] In any event, it would appear that the Applicant's real grievance is that the scheme is still continuing in the absence of an approval. They want the structures erected for the operation of the GN **scheme to be taken down. As these were erected pursuant to the GN scheme which was approved, it is a matter for litigation against the BPRA in a private law action. The order of mandamus applied for has no merit.**

Conclusion

[53] Premised on the foregoing reasons, I find the Applicants have not established a case for judicial review and for the public law remedies to be granted. The application must fail. The application in enclosure 14 is therefore dismissed with costs of RM 5,000.00 to each of the Respondents.

Dated: 12 JANUARY 2026

(Alice Loke Yee Ching)

Judge

High Court Kuala Lumpur

Counsel:

For the applicant - Bastian Vendargon & Anna Vendargon; M/s Bastian Vendargon

For 1st the respondent - Zainol Aziz Mohamad; M/s Zainol, Kiong & Azizi

For the 2nd respondent - Ameerul Aizat Noor Haslan; M/s Ameerul Aizat