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Senior Management — ‘It wasn’t me, it was my subordinate’

Ahmad Kastalani Simo & Ors v Padiberas Nasional Berhad & Anor (Court of Appeal Civil Appeal No W-01(A)-579-10/2019)

On 24 August 2021, the Court of Appeal unanimously dismissed an appeal by three former senior-level employees (**the Appellants**) premised on the grounds, among others, that the Industrial Court had failed to consider that their subordinates who were directly involved in the mill operation at Kilang Beras Bernas (**KBB**), Sungai Besar, had been charged for causing an estimated revenue loss of RM1.8 million.

The Appellants in this case held senior management positions in the company and were entrusted with the duty to administer, supervise and monitor the operation of low-quality rice at KBB. Although they agreed that the company had suffered losses of RM1.8 million, they denied any accountability for the loss and instead blamed an engineer. In spite of this, none of them saw it fit to report the alleged fault of the engineer to the company’s management, especially bearing in mind that he was their subordinate.

It is trite industrial relations jurisprudence that an employee holding a senior position should not be allowed to absolve himself of accountability in an attempt to avoid ultimate responsibility. In considering, among others, the Appellants’ senior position, the Industrial Court concluded that their proven misconduct had shattered the trust and confidence reposed in them by the company. The magnitude of the loss caused to the company arising from the Appellants’ negligence could have been prevented or at least reduced had they acted responsibly and dutifully in their senior positions. This the Appellants had failed and/or neglected to do, although it was incumbent and reasonably expected of them.

The High Court went on to reaffirm the Industrial Court’s decision as it found no grounds for intervention in the exercise of its supervisory function in judicial review proceedings. It was

highlighted to the Court of Appeal that in view of the company's role as the nation's partner in the paddy and rice industry, involved in the procurement and processing of paddy as well as the importation, warehousing, distribution and marketing of rice in Malaysia, the Appellants' fiduciary duties to the company also extend to the public at large. The Court of Appeal then upheld both the High Court and Industrial Court decisions and agreed that:

- (a) The Appellants were guilty of their dereliction of duty to supervise, monitor and administer the operations at KBB;
- (b) The responsibility of supervising, monitoring and administering the operations at KBB Sungai Besar rested solely on the shoulders of the Appellants collectively; and
- (c) They could not therefore push or divert such responsibilities to their subordinates.

The company was represented by partner Shariffullah Majeed, and associate Arissa Ahrom, of [Lee Hishammuddin Allen & Gledhill](#).

The High Court's grounds of judgment may be viewed [here](#).

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