

MALAYSIA
IN THE TRIBUNAL FOR CONSUMER CLAIMS
KOTA KINABALU
CLAIM NO: TTPM-SAB-(P)-15-2020
IN THE MATTER OF THE CONSUMER PROTECTION ACT 1999

BETWEEN

ENTUNG @ MILLIANA INTUNG
BINTI RANJAH

... PIHAK YANG MENUNTUT

AND

DANI KONTRAKTOR

... PENENTANG

GROUND OF DECISION

PYM'S CLAIM

In August 2019, the PYM had appointed the Penentang to build one storey link house on the PYM's land in Kg. Dungang in Tuaran with an agreed cost of RM 150,000.00 (hereinafter referred to as "the said Project"). On 22.08.2019, an agreement was entered between the PYM and the Penentang. The PYM claimed that the said Agreement was not signed before a lawyer.

In the said Agreement, it was agreed between the parties that the Penentang shall build a 2X2 FT drainage for free but the cost for the materials shall be borne by the PYM. The PYM claimed that she never

intended to do the 2x2 FT drainage but the Penentang insisted to build the drainage despite her disagreement.

The Penentang sent its workers to the site on 23.08.2019 to start with doing the drainage on the said Land.

On 30.08.2019, the PYM paid to the Penentang 10% deposit in the sum of RM 15,000.00 as provided under the said Agreement. The payment of the 10% deposit was for material deposit, footing and stamp as stated in the Quotation dated 22.08.2019.

THE PENENTANG'S DEFENCE

The Penentang's defence is that he terminated the said Agreement and stopped work because the PYM has been changing her mind from time to time. The Penentang also stated that the PYM wanted to change the original layout plan to another layout plan. The Penentang refused to refund the deposit of RM 15,000.00 to the PYM because he had used the money to pay for materials and labour cost.

The total cost for material for the drainage is RM 7,575.00.

FINDINGS

Even though the PYM claimed she never agreed to do the 2X2 FT drainage on the said Land, but she had however signed the said Agreement. When the Penentang started to do the drainage, she also never disputed it or stopped them from doing the drainage.

The payment of the 10% deposit in the sum of RM 15,000.00 was for material deposit, footing and stamp as stated in the Quotation dated 22.08.2019.

According to the PYM, the footing and stamp was never done on the said Land. The Penentang never challenged this. From 23.08.2019 until the Penentang stopped work, the only works done for the said Project was the drainage and the installation of chain link fence. This was also not challenged by the Penentang during the hearing.

It was also agreed between the PYM and the Penentang, the labour cost for the construction of the drainage is to be borne by the Penentang and the material used is to be borne by the PYM.

In the circumstances, I therefore find that the PYM is entitled to claim for the refund of the deposit paid less the cost of material paid by the Penentang for the construction of the drainage i.e. RM 7,575.00.

I therefore make the following Award Borang 10:-

The Penentang hendaklah membayar balik RM 7,425.00 kepada Pihak Yang Menuntut dalam tempoh 14 hari dari tarikh Award ini.

Dated this 30th June 2020

T.T
YONG PEI YI
PRESIDEN TRIBUNAL TUNTUTAN
PENGGUNA MALAYSIA