

The Law of Unjust Enrichment and Restitution in Malaysia: A Search for Principle, Post 'Dream Property'

by Ms Siti Aliza binti Alias
International Islamic University Malaysia

Chairperson: Assistant Professor Tan Zhong Xing
NUS Law

Tuesday, 12 November 2019
12pm to 1.30pm

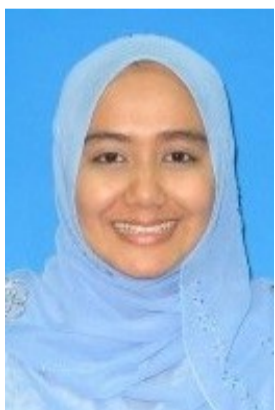
~~Lee Sheridan Conference Room~~
Federal Conference Room,
Federal Building, NUS Law (Bukit Timah Campus)
(Please note: change of venue)

ABSTRACT

Part VI of the Malaysian Contracts Act 1950 ('of certain relations resembling those created by contract') embodies the old notion of quasi-contract or implied contract - what is now known under English law and in other Common Law jurisdictions as Restitution of Unjust Enrichment. The landmark decision of the Malaysian apex court, the Federal Court, in the case of **Dream Property Sdn Bhd v Atlas Housing Sdn Bhd (2015)** gave recognition to Unjust Enrichment as a separate cause of action in Malaysia. However, the law of Unjust Enrichment in Malaysia is still very much at its infancy and developing stage. This research focuses on two main questions that arise from the decision in the landmark case:

1. The legal consequences of the court's apparent adoption of the civilian 'absence of basis' approach to determine whether an enrichment is 'unjust', rather than the traditional 'unjust factor' approach under English law, and how this affects the future development of Unjust Enrichment as a separate cause of action in Malaysia including how subsequent court decisions in Malaysia have applied Unjust Enrichment in different scenarios;
2. On the larger question of what the law of Unjust Enrichment in Malaysia now is or should be - whether the correct approach is to develop Unjust Enrichment within an apparent dual legal regime ie. the statutory regime under the Contracts Act 1950 and the Common Law regime; or rather to use the Common Law by analogy to develop the contents (ie. detailed rules and principles) of the Contracts Act 1950 (Part VI) in a principled approach that may require legal transplant and modern restatement for practical use today. The Speaker will present her findings, thoughts and analysis to the above questions in this Seminar.

ABOUT THE SPEAKER



Ms Aliza is a lecturer at the law faculty of International Islamic University Malaysia (IIUM), the Ahmad Ibrahim Kulliyah of Laws. She holds an LL.B (Hons.) from IIUM and graduated top of her class, receiving the University's Overall Best Student Award at graduation. She also holds a Master's degree, the Bachelor of Civil Law (BCL) from the University of Oxford, where she was a recipient of the Oxford Centre for Islamic Studies (OCIS) Scholarship. She has also been called to the Malaysian Bar as an Advocate and Solicitor of the High Court of Malaya. She primarily teaches Law of Contract and Legal Skills courses such as Mooting and Legal Methodology, was the Course Coordinator for Mooting, co-authored a student textbook on Mooting, actively coaches IIUM mooting teams (she was 1st Runner-Up at Philip C. Jessup International Law Moot Court Competition in Washington DC in 2005 while an undergraduate) and was previously the Director of IIUM World Debate and Oratory Centre. Her research interests primarily lies in the area of Law of Obligations (Unjust Enrichment, Contract and Torts), however she has also received research grants from IIUM and the Malaysian government as well as published in other areas of law such as Public International Law, Bioethics, Commercial Law, Human Rights and Constitutional Law. Her previous research work on 'unfair contracts' won the IIUM's Gold Award for Research. Ms. Aliza has previously worked with NUS Centre for International Law (CIL) as part of the ASEAN Integration Through Law Research Project and as the Country Reporter for Malaysia at the CIL International Maritime Crimes Workshop in 2011. She is also active in Legal and Social Advocacy works and was one of five people chosen for the 'Malaysian Muslim Young Leaders Program' by the Australian Department of Foreign Affairs and Trade in 2016, as well as chosen for 'Women With A Mission' leadership program under MyWIN Academy of the Prime Minister's Department in 2017.

REGISTRATION

There is no registration fee for this seminar, but seats are limited.
There will be a light meal provided on a first-come-first-served basis.

Closing Date: **Tuesday, 5 November 2019**

For enquiries, please contact Nur Fazirah at rescle@nus.edu.sg

To register, go to <https://nus.edu/2MwwRwX>

Or scan the QR code

