



**PARAGRAPH 34A (4) SCHEDULE 2 REAL
PROPERTY GAINS TAX ACT 1976**

**DR. FRANCIS LISA MUGA & LEE SOON MUI
V.
DIRECTOR GENERAL OF INLAND REVENUE
WA-14-39-12/2022 & WA-14-40-12/2022**

 **KUALA LUMPUR HIGH COURT**

 **Y.A DATO' AHMAD KAMAL BIN MD. SHAHID**

 **22 APRIL 2024**

Impian Dupleks Sdn Bhd ('Impian Dupleks') became a Real Property Company (RPC) on 20th April 2014 when Impian Dupleks acquired one and a half story factory from Sime Darby USJ Development Sdn Bhd and Sime Darby

USJ (Klang) Sdn Bhd. On 30.04.2014, the Taxpayers acquired 100 unit of shares in Impian Dupleks for RM100.00. On 16.05.2014, the Taxpayers acquired additional 99,900 unit of shares in Impian Dupleks for RM99,900.00. On 26.03.2018, the Taxpayers entered into Share Sales Agreement to sell off the 100,000 unit of shares in Impian Dupleks to Merit Energy Sdn Bhd for RM4,200,000.00. Based on the information stated in Form CKHT1B, the Director General of Inland Revenue ('the DGIR') raised Notice of Additional Assessments under Paragraph 34A(4) Schedule 2 Real Property Gains Tax Act 1976 ('RPGTA 1976') for an amount of RM368,631.00 for each Taxpayer.

The Taxpayers argued that the DGIR failed to consider Paragraph 9 Schedule 2 RPGTA 1976 in determining the acquisition price. They further submitted that Paragraph 9 Schedule 2 is the correct provision as the transaction is an arm's length transaction under Paragraph 23 Schedule 2 RPGTA 1976. The Taxpayer further argued that the correct acquisition price is RM4,056,888.00 which was derived from the factory acquisition price on 20.04.2014.

The DGIR submitted that the Taxpayers had never denied that Impian Dupleks is a Real Property Company and therefore the disposal of the 100,000 unit of shares falls under the ambit of paragraph 34A (4) Schedule 2 RPGTA 1976. The DGIR further submitted that the wording in paragraph 34A (4) Schedule 2 RPGTA 1976 is clear where the disposal price of the chargeable asset is the amount or value of the consideration in money or money's worth for the disposal of the chargeable asset. The DGIR further submitted that Paragraph 9 Schedule 2 RPGTA 1976 is not applicable for the Taxpayers' disposal of shares as the acquisition and disposal price has been clearly stated in the documents provided by the Taxpayers.

On 22.04.2024, the High Court confirmed the SCIT's decision and dismissed the Taxpayers' appeal with costs of RM2,500.00 for each Taxpayer.

Editorial Notes: The Taxpayer has a right to appeal to the Court of Appeal within 30 days from the date of the decision.