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Application of Equitable Maxims in Malaysian Courts: A Comparative Analysis

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Abstract This paper examines the judicial application and evolving jurisprudence of equitable maxims within the Malaysian legal framework. The reception of English equity into Malaysian law is founded on Section 3 of the Civil Law Act 1956 (Act 67) [1]. Within this legal framework, Malaysian courts continually balance discretionary equitable doctrines against the mandatory requirements of statutory regimes, including the Torrens land registration system under the National Land Code (Act 828) [2], family law under the Law Reform (Marriage and Divorce) Act 1976 (Act 164) [3], industrial relations under the Industrial Relations Act 1967 (Act 177) [4], and statutory corporate disclosure requirements. The study draws on a chronological analysis of pivotal decisions delivered between 2010 and 2022, including *Adrik bin Mohd Ramli v Woo Swee Mee & Ors* [2010] 9 MLJ 717 [5], *Samuel Naik Siang Ting v Public Bank Bhd* [2015] 8 CLJ 944 [6], *Chin Jhin Thien & Anor v Chin Huat Yean & Anor* [2020] MLJU 906 [7], and *Abdul Ravuff bin Datuk AS Dawood & Ors v Dr Abdul Rahiman bin Datuk AS Dawood* [2022] 4 MLJ 379 [8], to demonstrate how equitable maxims function as important procedural and moral safeguards in the exercise of judicial discretion. The findings reveal that while equity yields to clear statutory commands under the maxim “equity follows the law”, courts actively invoke equity to prevent written statutes from becoming instruments of fraud or unconscionability. Furthermore, the principles of clean hands and reciprocal equitable obligations have also acquired particular importance in administrative and corporate litigation, helping to ensure that equitable relief remains available to litigants whose conduct meets the requirements of good conscience.

Index Terms equity and trusts, maxims of equity, civil law act 1956, malaysian land law, torrens system, secret trusts, judicial review, laches

I. Introduction and Historical Framework of Equity in Malaysia

Equity developed within the English Court of Chancery as a distinct and nuanced body of legal principles intended to mitigate the rigidity, procedural technicalities, and occasional inflexibility of early common law rules. According to Harper (2011) [9], one of its central purposes was to promote substantive justice by considering conscience, fairness, and moral integrity rather than relying exclusively on strict adherence to formalistic legal procedures. Over time, these equitable principles were consolidated into procedural and moral guidelines known as the maxims of equity. Rather than operating as unyielding statutory mandates, equitable maxims serve as flexible guiding principles for judicial decision-making, directing the exercise of judicial discretion, informing decisions on the availability of equitable remedies, and helping courts assess whether applicants should receive discretionary relief.

In Malaysia, the reception and practical application of equity are formally grounded in Section 3 of the Civil Law Act 1956 (Act 67) [1]. This statutory provision authorizes

Malaysian courts to apply the common law of England and the rules of equity, where the local circumstances permit and subject to the qualifications imposed by applicable Malaysian legislation. The application of equitable maxims in Malaysia is characterized by an ongoing interaction between discretionary equitable principles and established statutory regimes, such as the Torrens land registration system embodied in the National Land Code (Act 828) [2], family law statutes like the Law Reform (Marriage and Divorce) Act 1976 (Act 164) [3], industrial relations legislation under the Industrial Relations Act 1967 (Act 177) [4], and statutory corporate disclosure mandates.

The judicial application of equitable maxims in Malaysia demonstrates that equity is intended to complement positive law rather than override valid statutory enactments. Malaysian judges are therefore required to balance equitable considerations of conscience against binding statutory mandates, ensuring that equity intervenes to prevent unconscionable conduct, fraud, and bad faith, while declining to grant remedies that would undermine written law or statutory policy.

II. Conceptual Framework of Core Equitable Maxims

A. Equity will not assist a volunteer and equity will not perfect an imperfect gift

In the jurisprudence of equity, Ryan (1964) [10] examined the role of consideration in determining whether a person claiming a gratuitous benefit may be treated as a “volunteer”—that is, a person who receives or claims a benefit without furnishing any valuable consideration in return. Under the doctrine that equity will not assist a volunteer, courts generally refuse to enforce gratuitous promises that remain unexecuted or intentions to establish a trust or make a transfer that have not been legally carried into effect. Closely related is the maxim that equity will not perfect an imperfect gift. Where a donor intends to transfer property or establish a gift but fails to complete the statutory and other legal formalities necessary to vest title in the donee, equity will not intervene to complete the transfer on the donee’s behalf. As established in foundational common law authorities such as *Milroy v Lord* (1862) 45 ER 1185 [11] and reaffirmed in Malaysian jurisprudence such as *Lee Eng Teh v Teh Thiang Seong* [1967] 1 MLJ 42 [12], a donor must complete the steps required by the nature of the property and the applicable law to effect the intended transfer; an incomplete gift cannot be rescued by treating it as a declaration of trust.

B. Equity follows the law

The maxim “equity follows the law” establishes that equitable remedies and doctrines must operate in harmony with established legal rules, statutory provisions, and public policy. As discussed by MacLeod (2024) [13], equity does not possess an unrestricted authority to override express legislation, mandatory rules, or statutory preconditions merely to achieve an outcome perceived as subjectively fair. Where statutory law clearly defines rights, capacities, or mandatory prohibitions, equitable jurisdiction yields to legislative mandates. Consequently, equity operates alongside the law to alleviate inappropriate procedural rigidity where legally permitted, but it cannot set aside an express statutory prohibition or create a legal status that legislation does not recognize.

C. He who comes into equity must come with clean hands

As explained by Chafee (1949) [14], the clean hands doctrine is rooted in the preservation of judicial integrity and requires a litigant seeking equitable relief to demonstrate honesty, fairness, and good faith concerning the specific transaction that forms the basis of the claim. Where a plaintiff’s cause of action is tainted by fraud, deceit, statutory illegality, or bad faith directly connected to the matter in dispute, equity will withhold its discretionary remedies such as injunctions or declarations, regardless of the legal merits of the underlying claim. The maxim ensures that courts exercising equitable jurisdiction do not become instruments to facilitate or validate wrongdoings.

D. Equity does not allow a statute to be used as an instrument of fraud

While equity respects statutory rules, it prevents litigants from using statutory formalities as a shield to perpetrate unconscionable acts, wrongful retention of property, or subversion of beneficial entitlements. Under this maxim, where strict adherence to statutory formalities such as writing requirements under land law or testamentary statutes would allow a party to commit a fraud or dishonour a binding equitable commitment, courts exercising equitable jurisdiction may recognize implied, constructive, or secret trusts, where the legal requirements for those doctrines are satisfied, to prevent fraud and give effect to legally cognizable equitable obligations.

E. He who seeks equity must do equity

This maxim focuses on the present and future conduct of the party invoking equitable jurisdiction. As discussed in the analysis of equitable maxims by Lilienthal and Hussein (2020) [15], a claimant asking the court to grant an equitable remedy must be prepared to act fairly, honour reciprocal obligations, and fulfil the responsibilities arising from the transaction or agreement on which the equitable claim is based. Equity demands mutuality of fairness; a litigant cannot insist on enforcing equitable rights against another party while simultaneously repudiating their own contractual, equitable, or statutory burdens.

F. Delay defeats equity (*vigilantibus non dormientibus jura subveniunt*)

The doctrine of laches, derived from the maxim delay defeats equity, provides that equity aids the vigilant and not those who sleep on their rights. Where a claimant unreasonably delays in asserting an equitable right, and such delay causes prejudice, detriment, or a fundamental change of position for the defendant or leads to an inference of acquiescence, a court may refuse to entertain an otherwise stale equitable claim. Classical authorities such as *Smith v Clay* (1767) 29 ER 743 [16] and *Lindsay Petroleum Co v Hurd* (1874) LR 5 PC 221 [17] illustrate that mere passage of time is insufficient to trigger laches; the delay must be unreasonable and produce relevant inequity, detrimental reliance, or other prejudice to the opposing party.

III. Chronological Examination of Key Malaysian Case Law (2010–2022)

A. *Adrik bin Mohd Ramli v Woo Swee Mee & Ors* [2010] 9 MLJ 717 [5]

In *Adrik bin Mohd Ramli v Woo Swee Mee & Ors* [2010] 9 MLJ 717 [5], the plaintiff asserted that he held the legal title to real property (Lot 13A) as a trustee for the deceased, while simultaneously claiming that he had been coerced under economic duress and undue influence into executing Form 14A (the statutory memorandum of transfer under the National Land Code [2]) to transfer the property to the first defendant. The plaintiff sought equitable declarations of trust

and an order setting aside the registered transfer. The evidence demonstrated that the first defendant had paid the purchase price, as acknowledged by the deceased, and that the plaintiff had voluntarily executed the transfer document with knowledge of the surrounding commercial circumstances.

The court ruled against the plaintiff, finding that he had failed to adduce sufficient evidence establishing either duress or undue influence. The court emphasized that because the plaintiff was an active, willing participant in the disputed transaction that he subsequently sought to repudiate, his conduct was inconsistent with the good faith required of a party seeking discretionary equitable assistance. The judicial reasoning therefore illustrates that a litigant who actively participates in a transaction and later attempts to deny its validity to gain an equitable advantage approaches the court with unclean hands. Consequently, equity will withhold discretionary remedies such as declarations of trust or cancellation of instruments.

B. Samuel Naik Siang Ting v Public Bank Bhd [2015] 8 CLJ 944 [6]

In *Samuel Naik Siang Ting v Public Bank Bhd* [2015] 8 CLJ 944 [6], Majlis Perbandaran Manjung (MPM) appointed a developer to construct lots on land it owned. Initial purchasers bought these lots between 2001 and 2002, financing their acquisitions through Public Bank. The initial purchasers executed absolute Deeds of Assignment, assigning their contractual rights under the sale and purchase agreements (SPAs) to the bank as security for the loans, while MPM and the developer gave undertakings to deliver registrable titles once issued. After individual titles were issued in 2003, MPM and the developer defaulted on their undertakings and fraudulently executed second SPAs selling the same lots to new purchasers, including the appellant, who subsequently obtained registration of their transfers under the National Land Code (Act 828) [2]. Public Bank, holding the prior equitable assignment, lodged caveats in 2005 and initiated legal proceedings.

The Federal Court dismissed the subsequent purchaser's appeal, concluding that once MPM entered into valid SPAs with the first purchasers and received full payment, beneficial ownership passed to the original buyers, so that MPM held the property as a bare trustee. Consequently, MPM lacked the legal capacity to sell the land a second time. The subsequent SPAs and Form 14A transfers were void *ab initio*, constituting "void instruments" under Section 340(2)(b) of the National Land Code [2]. The Federal Court invoked the maxim equity will not permit a statute to be used as an instrument of fraud, holding that subsequent purchasers could not rely on the indefeasibility provisions of Section 340 of the National Land Code [2] to defeat the established equitable rights of the bank and the original purchasers. The court clarified that a delay in lodging a private caveat does not automatically destroy a prior equitable interest created by a valid assignment.

C. Darul Fikir v Dewan Bahasa dan Pustaka [2018] 10 MLJ 693 [18]

In *Darul Fikir v Dewan Bahasa dan Pustaka* [2018] 10 MLJ 693 [18], the plaintiff, a partnership holding distribution rights for religious textbooks, commenced proceedings against "Dewan Bahasa dan Pustaka" (DBP) for alleged breach of contract after DBP issued an open tender for printing and supplying textbooks for national primary schools. The plaintiff applied for an interlocutory injunction to restrain DBP from executing the tender process pending full trial.

The High Court dismissed the injunction application. Justice Wong Kian Kheong concluded that under the *Dewan Bahasa dan Pustaka Act 1959* (Act 213) [19], the statutory entity with the legal capacity to sue and be sued was the "Board of Control" (Lembaga Pengawal DBP), a body corporate established under Section 3(2), rather than the administrative entity "Dewan Bahasa dan Pustaka". By naming the wrong entity, the plaintiff directed the proceedings against a body without the relevant juristic personality. Applying the maxim equity follows the law, the court held that equity cannot override explicit statutory provisions governing legal personality and juristic capacity. Equity must operate within statutory bounds; an equitable remedy such as an injunction cannot be granted against an entity that lacks legal standing under positive law. Furthermore, the court considered damages to be an adequate remedy and concluded that the balance of convenience favoured the public interest in ensuring that schoolchildren continued to receive their religious education textbooks without disruption caused by an interlocutory order.

D. Benjamin Lim Keong Hoe v Tan Sri Lim Kok Thay & Ors [2018] MLJU 2186 [20]

In *Benjamin Lim Keong Hoe v Tan Sri Lim Kok Thay & Ors* [2018] MLJU 2186 [20], the plaintiff challenged the validity of a General Power of Attorney (PA) executed in 2012 by his grandmother in favor of his uncles (the defendants). The plaintiff alleged that the donor lacked mental capacity at execution and that the PA was procured through undue influence. The defendants applied to strike out the suit under Order 18, rule 19(1), of the Rules of Court 2012 [21] and Section 5 of the Powers of Attorney Act 1949 (Act 424) [22], pointing out that the plaintiff had known about the power of attorney since 2013, had participated in corporate decisions governed by it, and had waited more than four years before commencing the proceedings.

The High Court struck out the plaintiff's action. Justice Wan Ahmad Farid Wan Salleh held that while the plaintiff possessed locus standi due to his indirect commercial interest in family corporate vehicles, his prolonged and insufficiently explained delay of approximately four years supported a finding of acquiescence and equitable estoppel. Applying the maxim delay defeats equity alongside the legal principle *ignorantia juris non excusat*, the court ruled that equitable remedies (declarations and injunctions) are discretionary and reserved for litigants who act with promptness and diligence.

By accepting the practical operation of the power of attorney and acting upon it for several years, the plaintiff was precluded from invoking equity to dismantle commercial reliance built during his inaction.

E. Rumpun Tirai Sdn Bhd v Budaya Tenggara Sdn Bhd & Ors [2019] MLJU 223 [23]

In *Rumpun Tirai Sdn Bhd v Budaya Tenggara Sdn Bhd & Ors* [2019] MLJU 223 [23], the plaintiff entered into a private tenancy agreement with registered owners of three parcels of land designated as a Malay Reservation in Negeri Sembilan. The plaintiff, a non-Malay corporate entity, paid monthly rentals and cultivated oil palms on the land. When the owners executed a sale and purchase agreement to transfer the land to a third party, the plaintiff sought an interlocutory injunction to stop the sale, arguing irreparable harm to its agricultural operations.

The court refused the injunction after concluding that the tenancy arrangement was unlawful and void ab initio. Under Section 8(1) of the Malay Reservation Enactment (FMS Cap 142) [24], any transfer, lease, or charge of Malay Reserve land to a non-Malay is strictly prohibited, and Section 19(1) declares dealings in contravention of the Enactment null and void. Citing *CBM Construction Sdn Bhd v Builtcon And Development Sdn Bhd* [1992] 2 MLJ 368 [25] and *Tahan Steel Corp Sdn Bhd v Bank Islam Malaysia Bhd* [2004] 6 MLJ 1 [26], the court applied the maxim he who comes into equity must come with clean hands, holding that the plaintiff's entire claim relied upon an unlawful transaction executed in direct violation of statutory law. Because the plaintiff approached the court with hands "soiled with illegality," equity refused to issue an injunction. Granting equitable relief would have conferred judicial protection upon an agreement made contrary to statutory prohibitions and the requirements of public policy.

F. Ong Chai Hoon (F) v Tan Ah Nek @ Fanny Tan & Ors [2020] MLJU 976 [27]

In *Ong Chai Hoon (F) v Tan Ah Nek @ Fanny Tan & Ors* [2020] MLJU 976 [27], the plaintiff claimed entitlement to a derivative pension arising from the death of a government employee, on the basis that she was his lawful surviving widow. The deceased had previously entered into a valid marriage with the first defendant, and no legally effective dissolution of that marriage was established by a decree absolute or the relevant registration records. The deceased later entered into a second marriage ceremony with the plaintiff, who lived with him until his death in the belief that the prior marriage had ended. When the Public Service Department revoked the plaintiff's pension allocation upon the first wife's claim, the plaintiff sought equitable relief, invoking equity follows the law to argue that the court should grant an equitable remedy recognizing her long cohabitation and marital status.

The High Court dismissed the application. Under the Law Reform (Marriage and Divorce) Act 1976 (Act 164) [3], the earlier marriage remained legally effective because it had not been dissolved in accordance with the applicable legal

requirements. Section 62 of that Act further specifies the circumstances in which a divorced person may marry again after a decree of divorce has become absolute, thereby emphasizing the legal significance of formal dissolution before remarriage. Furthermore, the proceedings could not be used by a third party lacking the necessary standing to obtain dissolution of the earlier marriage under the relevant provisions of Act 164. The decision illustrates the operation of the maxim "equity follows the law" in this context: equity cannot construct a legal status or grant financial remedies in direct contravention of a mandatory statute. Sympathy for the plaintiff's position could not supersede statutory nullity.

G. Chin Jhin Thien & Anor v Chin Huat Yean & Anor [2020] MLJU 906 [7]

In *Chin Jhin Thien & Anor v Chin Huat Yean & Anor* [2020] MLJU 906 [7], the children of a deceased testator's first (and only legally registered) marriage challenged the validity of his will. The testator, suffering from terminal cancer, had executed a will leaving his assets to his brother and nephew (the defendants). The plaintiffs alleged a lack of testamentary capacity and undue influence. The defendants resisted the suit by establishing that they held the estate as trustees under a valid fully secret trust communicated by the testator for the benefit of his second wife and her dependent children.

The Federal Court affirmed the validity of the secret trust and dismissed the appeal. The court confirmed that the doctrine of secret trusts is recognized in Malaysian law, having regard to Section 3(1) of the Civil Law Act 1956 (Act 67) [1]. The court rejected the argument that secret trusts violate the formal execution requirements of the Wills Act 1959 (Act 346) [28], clarifying that a secret trust operates outside (dehors) the will. Instead, it binds the conscience of a testamentary beneficiary who has accepted an obligation to hold the property on trust for another person. The court applied the equitable principle that a statute must not be used as an instrument of fraud, holding that permitting the named beneficiaries to renege on their secret trust undertaking by hiding behind the formal requirements of the Wills Act 1959 [28] would facilitate unconscionable conduct and defeat the clear intention of the testator.

H. Persatuan Eksekutif Tenaga Nasional Berhad v YB Menteri Sumber Manusia & Anor [2020] MLJU 752 [29]

In *Persatuan Eksekutif Tenaga Nasional Berhad v YB Menteri Sumber Manusia & Anor* [2020] MLJU 752 [29], an internal trade union representing executive staff filed a judicial review application for certiorari to quash a decision by the Minister of Human Resources under Section 9(10) of the Industrial Relations Act 1967 (Act 177) [4]. The Minister had determined that out of 2,128 executive positions in grades E12 to E17, 1,306 were managerial, confidential, or security-related, and ordered their removal from union membership. During proceedings, it emerged that despite the Minister's decision, the union continued to permit excluded employees to remain

union members and serve as executive committee (EXCO) officials in defiance of statutory restrictions.

The High Court dismissed the judicial review application. Justice Nordin bin Hassan held that the Minister acted within his statutory jurisdiction under Section 9(10) of Act 177 and was entitled to rely on investigation reports compiled by the Director General of Industrial Relations. On equitable grounds, the court considered the maxim “he who seeks equity must do equity” and the clean hands doctrine. The union, while seeking discretionary prerogative orders (certiorari) from a court of equity, was actively violating statutory provisions and administrative directions by retaining disqualified personnel in its leadership. Litigants seeking equitable intervention against executive decisions must demonstrate compliance with legal duties regarding the dispute.

I. Scomi Group Bhd v Gelombang Global Sdn Bhd & Anor [2020] 12 MLJ 715 [30]

In *Scomi Group Bhd v Gelombang Global Sdn Bhd & Anor* [2020] 12 MLJ 715 [30], Scomi, a financially distressed public listed company in PN17 status, secured RM42 million in shareholder support loans from the defendants to fund a corporate restructuring exercise. Scomi secured the advances by pledging shares in its subsidiary, Scomi Energy Services Bhd (SESB), to a trustee. After defaulting on repayment, Scomi filed legal suits claiming the loan agreements violated the Moneylenders Act 1951 (Act 400) [31], secretly discontinued those suits without notifying Bursa Malaysia or the defendants, made regulatory announcements admitting default and recognizing the defendants’ right to enforce securities, and then quietly filed new suits seeking ex parte injunctions to block the share transfers.

Judicial Commissioner Ong Chee Kwan dismissed Scomi’s application for an injunction. The court held that the advances were commercial shareholder support loans tied to corporate restructuring rather than unlicensed moneylending. The court applied the maxim he who comes into equity must come with clean hands, ruling that Scomi’s litigation tactics, including misleading regulatory bodies, failing to disclose relevant litigation, and making contradictory statements to Bursa Malaysia while seeking ex parte orders, demonstrated bad faith and an attempt to obtain an unfair procedural advantage before the court. The court considered Scomi’s conduct inconsistent with the clean hands requirement, disentitling it to equitable injunctive relief regardless of the underlying legal claims.

J. Chua Chong Poh & Ors v Kingsley Hills Sdn Bhd & Anor [2020] MLJU 1452 [32]

In *Chua Chong Poh & Ors v Kingsley Hills Sdn Bhd & Anor* [2020] MLJU 1452 [32], 47 purchasers entered into 29 sales and purchase agreements for vacant land and corresponding construction contracts with the defendants. Following a 314-day delay in delivering vacant possession, the parties negotiated a series of binding settlement agreements. Under these agreements, the developer paid agreed liquidated damages in

full, and the purchasers agreed not to pursue further legal claims. Later, the purchasers filed a lawsuit seeking an additional 12 months of liquidated damages, arguing that under Schedule G of the Housing Development (Control and Licensing) Regulations 1989, made under the Housing Development (Control and Licensing) Act 1966 (Act 118) [33], delivery should have occurred within 24 months, rendering the original 36-month clause void.

The High Court struck out the purchasers’ action following applications under Order 18, rule 19, of the Rules of Court 2012 [21]. Citing *Verschures Creameries v Hull & Netherlands Steamship Co Ltd* [1921] 2 KB 608 [34], the court reasoned that where parties, assisted by legal counsel, execute a compromise or settlement agreement and subsequently accept performance under that agreement, its binding terms ordinarily govern their legal relationship. Applying the maxim he who seeks equity must do equity, the court held that the purchasers could not “approve and reprobate” by retaining the settlement proceeds while simultaneously attempting to repudiate the agreed waiver provisions through subsequent reliance on statutory arguments. Litigants seeking equitable protection against unfair terms must do equity by honoring their compromised contracts.

K. Abdul Ravuff bin Datuk AS Dawood & Ors v Dr Abdul Rahiman bin Datuk AS Dawood [2022] 4 MLJ 379 [8]

In *Abdul Ravuff bin Datuk AS Dawood & Ors v Dr Abdul Rahiman bin Datuk AS Dawood* [2022] 4 MLJ 379 [8], a businessman with four wives executed a written agreement in 1981 promising to transfer 110,000 shares in Pasla Holdings Sdn Bhd to the children of his fourth wife (the plaintiffs). However, the father never executed share transfer forms, appointed the children as directors, or relinquished control before his death in 1989. Instead, the disputed shares were transferred to his first wife, who later held them on trust through her son. Decades later, the fourth wife’s children sued, alleging the existence of a constructive trust and a breach of equitable obligations.

The Federal Court dismissed the appeal, referring to the principles expressed in *Wan Naimah v Wan Mohamad Nawawai* [1974] 1 MLJ 41 [35]. The court held that the 1981 agreement lacked clear evidence of an intention to declare an immediate trust and was an unexecuted family understanding created to preserve peace. Because the plaintiffs had provided no valuable consideration for the unexecuted promise, the court classified them as volunteers. Applying equity will not assist a volunteer and equity will not perfect an imperfect gift alongside *Milroy v Lord* (1862) 45 ER 1185 [11], the court ruled that because the donor failed to execute the required legal instruments to transfer share ownership, equity would not intervene to complete the imperfect gift. Intention alone, unsupported by consideration or formal execution, cannot create enforceable equitable rights.

L. Tenaga Nasional Berhad v Vijayalakshmi a/p Subbiah & Ors [2022] MLJU 2150 [36]

In *Tenaga Nasional Berhad v Vijayalakshmi a/p Subbiah & Ors* [2022] MLJU 2150 [36], Tenaga Nasional Berhad (TNB) was the registered proprietor of land in Cameron Highlands, holding title protected by the provisions of the National Land Code (Act 828) [2]. The defendants occupied the land without express permission starting around 1987, cultivating crops and building structures. TNB acquired registered title in 1993 but took no formal eviction steps until issuing notices in 2018. More than 25 years elapsed before the owner took steps to recover possession. The occupants resisted eviction, raising the equitable defense of laches and acquiescence based on the maxim delay defeats equity and Section 32 of the Limitation Act 1953 (Act 254) [37].

Justice Roslan Mat Nor ruled in favour of TNB, emphasizing the statutory protection of registered ownership under the Torrens system, subject to the exceptions recognized by the National Land Code. The court clarified that, under the maxim "delay defeats equity," mere passage of time does not automatically establish laches. Reaffirming *Smith v Clay* (1767) 29 ER 743 [16] and *Lindsay Petroleum Co v Hurd* (1874) LR 5 PC 221 [17], the court held that to invoke laches to bar a legal owner's claim, the occupant must prove that the delay caused prejudice, altered circumstances, or demonstrated a clear intention to abandon ownership. Unlawful occupation or trespass does not, through the landowner's inactivity alone, mature into an enforceable equitable title. Because TNB's delay caused no legal prejudice to the trespassers, equitable considerations did not prevent the registered titleholder from seeking recovery of possession.

IV. Comparative Matrix of Case Law

Table 1 presents a structured comparative analysis of the selected cases and the equitable principles examined in this study. It compares the key facts, legal issues, judicial reasoning, applicable legal principles, and decisions across the cases to identify similarities, differences, and emerging trends in judicial interpretation and the application of the law. The matrix further facilitates an assessment of how these principles have developed through judicial interpretation and provides a systematic basis for considering the consistency and adequacy of the applicable statutory and equitable legal framework.

V. Comparative Synthesis and Jurisprudential Analysis

A synthesis of the judicial decisions examined chronologically between 2010 and 2022 reveals three interrelated patterns in the application of equitable maxims by Malaysian courts, as summarized in Table 1.

A. Interaction between equitable principles and statutory mandates

A primary theme in modern Malaysian equitable jurisprudence is the subjection of equity to written law, anchored by the maxim equity follows the law. As illustrated by Darul Fikir [18] and Ong Chai Hoon [27], Malaysian courts decline to use

equity to bypass mandatory statutory thresholds, whether regarding juristic capacity under statutory enactments or marital capacity under the Law Reform (Marriage and Divorce) Act 1976 [3]. Equity operates within the framework of positive law, stepping in only where statutory lacunae exist or where rigid application would facilitate unconscionable acts.

Conversely, where a party attempts to use statutory protections to mask fraudulent dealings or unconscionable conduct, courts invoke the counter-balancing maxim that equity will not allow a statute to be used as an instrument of fraud. In *Samuel Naik* [6], the Federal Court limited the indefeasibility protections of Section 340 of the National Land Code [2], holding that a vendor who has received full payment becomes a bare trustee, rendering subsequent registered transfers void. Similarly, in *Chin Jhin Thien* [7], the Federal Court applied this maxim to enforce an unwritten secret trust. By recognizing that secret trusts operate outside (*dehors*) the Wills Act 1959 [28], the court prevented testamentary beneficiaries from using statutory writing formalities to unconscionably retain property intended for dependent family members.

B. Evolution of conduct standards: Clean hands and reciprocal equity

The maxims he who comes into equity must come with clean hands and he who seeks equity must do equity have evolved from general ethical principles into strict procedural safeguards against unconscionable tactics. In property disputes, such as *Adrik bin Mohd Ramli* [5] and *Rumpun Tirai* [23], clean hands was applied to bar claimants who participated in questionable land dealings or contracts tainted by statutory illegality, such as non-compliance with the Malay Reservation Enactment [24].

In recent commercial and public law decisions, courts have broadened these maxims to address corporate maneuvers and public law duties. In *Scomi Group* [30], the High Court denied injunctive relief on the basis that the corporate claimant had engaged in misleading litigation tactics, made contradictory disclosures to Bursa Malaysia, and brought *ex parte* applications in bad faith. In *Persatuan Eksekutif TNB* [29], the High Court extended the clean hands requirement to public law judicial review, holding that a trade union seeking *certiorari* could not secure equitable intervention while actively violating statutory membership directives. In *Chua Chong Poh* [32], the court applied the principle that a party seeking equity must also do equity, declining to permit purchasers to retain settlement funds while simultaneously seeking further statutory damages under housing development legislation, prohibiting parties from "approbating and reprobating" contractual compromises. Finally, as shown in *Abdul Ravuff* [8], the requirement for valid consideration remains a strict threshold; equity will not assist a volunteer or complete an imperfect gift where a donor died without executing the formal legal instruments necessary to transfer property.

Table 1: Comparative matrix of case law

Case Name & Citation	Year	Primary Equitable Maxim Applied	Statutory Overlay & Legal Framework	Core Judicial Holding	Comparative Jurisprudential Impact
Adrik bin Mohd Ramli v Woo Swee Mee [2010] 9 MLJ 717 [5]	2010	He who comes into equity must come with clean hands	National Land Code [2] (Form 14A Transfers)	Property transfer upheld; plaintiff's active participation barred equitable cancellation	Illustrates the significance of a claimant's voluntary conduct in assessing the clean hands requirement.
Samuel Naik Siang Ting v Public Bank Bhd [2015] 8 CLJ 944 [6]	2015	Equity will not permit a statute to be used as an instrument of fraud	National Land Code [2] Section 340 (Indefeasibility)	Priority awarded to prior unregistered assignee over subsequent registered buyers	Illustrates the statutory limits of indefeasibility where a later registered transaction is void and prior equitable interests exist.
Darul Fikir v Dewan Bahasa dan Pustaka [2018] 10 MLJ 693 [18]	2018	Equity follows the law	Dewan Bahasa dan Pustaka Act 1959 (Act 213) [19]	Injunction refused; suit against non-juristic statutory body legally invalid	Reinforces that discretionary equitable remedies cannot circumvent requirements governing a statutory body's legal capacity.
Benjamin Lim Keong Hoe v Tan Sri Lim Kok Thay [2018] MLJU 2186 [20]	2018	Delay defeats equity	Powers of Attorney Act 1949 (Act 424) [22] / Rules of Court 2012 [21]	Challenge to Power of Attorney struck out due to four-year acquiescence	Establishes that commercial reliance built during unexplained delay bars subsequent equitable challenges.
Rumpun Tirai Sdn Bhd v Budaya Tenggara Sdn Bhd [2019] MLJU 223 [23]	2019	He who comes into equity must come with clean hands	Malay Reservation Enactment (FMS Cap 142) [24]	Injunction denied; tenancy agreement violating statutory land rules held void ab initio	Affirms that equity will not grant discretionary remedies to protect contracts tainted by statutory illegality.
Ong Chai Hoon v Tan Ah Nek [2020] MLJU 976 [27]	2020	Equity follows the law	Law Reform (Marriage and Divorce) Act 1976 (Act 164) [3]	Equitable widow status denied; second marriage void without divorce decree	Shows that equity cannot create marital status or associated rights contrary to mandatory statutory requirements.
Chin Jhin Thien v Chin Huat Yean [2020] MLJU 906 [7]	2020	Equity does not allow a statute to be used as an instrument of fraud	Wills Act 1959 (Act 346) [28] / Civil Law Act 1956 [1] Section 3(1)	Fully secret trust enforced outside the will to protect dependent beneficiaries	Confirms recognition of secret trusts within Malaysian law and prevents reliance on testamentary formalities to facilitate fraud.
Persatuan Eksekutif TNB v YB Menteri Sumber Manusia [2020] MLJU 752 [29]	2020	He who seeks equity must do equity / Clean hands	Industrial Relations Act 1967 (Act 177) [4] Section 9(10)	Judicial review dismissed; union violated membership regulations	Extends clean hands and mutual fairness standards to public law judicial review applications.
Scomi Group Bhd v Gelombang Global Sdn Bhd [2020] 12 MLJ 715 [30]	2020	He who comes into equity must come with clean hands	Moneylenders Act 1951 (Act 400) [31] / Bursa Securities Mandates	Restraining injunction denied due to misleading court disclosures and bad faith	Prevents corporate litigants from using suppressed litigation and false regulatory disclosures to gain equitable relief.
Chua Chong Poh v Kingsley Hills Sdn Bhd [2020] MLJU 1452 [32]	2020	He who seeks equity must do equity	Housing Development (Control and Licensing) Act 1966 (Act 118) and the 1989 Regulations, Schedule G [33]	Additional damages action struck out; binding settlement terms were given effect	Prevents litigants from retaining settlement proceeds while seeking further statutory remedies ("appropriate and reprobate").
Abdul Ravuff v Dr Abdul Rahiman [2022] 4 MLJ 379 [8]	2022	Equity will not assist a volunteer / Perfect an imperfect gift	Law of Trusts & Corporate Share Transfers	Claim for shares dismissed; unexecuted gift created no enforceable equitable right	Confirms that bare promises lacking consideration or legal transfer instruments cannot create equitable trusts.
Tenaga Nasional Berhad v Vijayalakshmi [2022] MLJU 2150 [36]	2022	Delay defeats equity	National Land Code (Act 828), sections 89 and 340 [2]	Registered owner granted possession; 25-year delay without prejudice did not trigger laches	Clarifies that laches requires demonstrable prejudice or reliance, not merely the passage of time against registered title holders.

C. Temporal vigilance and indefeasible property title

A comparison of Benjamin Lim Keong Hoe [20] and Tenaga Nasional Berhad v Vijayalakshmi [36] illustrates how Malaysian courts reconcile the doctrine of laches, commonly associated with the maxim "delay defeats equity" with statutory title protections under the Torrens system. In Benjamin Lim [20], a four-year delay in challenging a power of attorney was held fatal because the plaintiff had acquiesced to corporate decisions executed under that authority. In commercial and corporate governance matters, promptness is required because inaction induces third-party reliance and alters business positions.

In Tenaga Nasional Berhad [36], a delay of approximately 25 years by a registered proprietor in evicting squatters did not bar the recovery of land. The High Court emphasized that the Torrens system protects registered ownership, and that the provisions governing conclusiveness and indefeasibility of title must be considered in their proper statutory context under the National Land Code [2]. Laches requires more than the passage of time; the defendant must demonstrate prejudice,

reliance, or unconscionable detriment. In the absence of prejudice, mere delay by a registered land proprietor will not divest them of legal ownership.

VI. Conclusion

The evolution of equitable maxims in Malaysian legal practice demonstrates that equity is a disciplined system of conscience designed to complement positive law. Anchored in Section 3 of the Civil Law Act 1956 [1], Malaysian courts use equitable maxims as procedural and substantive safeguards. The judiciary enforces these maxims to ensure that statutory formalities are not weaponized to facilitate fraud, while refusing to let equity override unambiguous statutory prohibitions or public policy mandates.

As reflected across the 2010–2022 case law, Malaysian courts consistently enforce standards of fairness and vigilance. Claimants seeking discretionary relief must approach the court with clean hands, free from litigation misconduct or statutory illegality. Litigants invoking equitable remedies must act in good faith and fulfil their own obligations under

compromised settlements or legal duties. Unexplained delay will bar stale claims where third-party reliance or detriment has intervened, but passivity alone will not defeat registered property titles under the Torrens system. In the same way, equity ordinarily will not intervene on behalf of volunteers who seek to enforce uncompleted gifts where neither the required consideration nor legally effective execution or transfer has been established. Ultimately, equitable maxims contribute to a principled balance within the Malaysian legal system, ensuring that judicial discretion remains principled, predictable, and firmly aligned with equity's foundational purpose: promoting conscience and fairness within the framework of written law.

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Competing Interests

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Data Availability

This study is based on the analysis of published judicial decisions, legal provisions, and scholarly literature. No original participant-level datasets were generated or analyzed. Materials referred to in the manuscript may be accessed through the cited legal reports, statutory publications, and bibliographic sources, subject to applicable database-access requirements.

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