

Storm likely cause of rockfall, counsel tells court

By Law Hong San

Ipoh, Tues: A thunderstorm was the most probable cause of the rockfall at the Gunningung Tungal limestone outcrop near Kampar on Dec 29, 1987, a counsel told the High Court here today.

Edwin Seibel urged the court to reject the report by plaintiff expert witness P. Pakianathan which states that rock blasting was the cause of the rockfall.

"Pakianathan's report is not a professional opinion on the geological structure of Gunningung Tungal, but it is only a mixture of mining and geological terminologies not related to the limestone hill," Edwin said.

He urged the court to admit geologist Chow Weng Sum's opinion that heavy rain, thunder and lightning on that day could be the major and primary contribution to the rockfall.

He was submitting for the defendant company of Gunningung Tungal Quarry & Construction Sdn Bhd at a civil suit brought by Wu

Siew Ying of Fuh Lin Budgrafting Centre for damage and loss of 150,000 seedlings worth RM1.2 million and loss of profit totalling RM1.25 million for a period of 50 years.

The other defendants are Darus Mohd Said, the registered proprietor of the Gunningung Tungal limestone outcrop, and the Perak Lands and Mines director who issued the permit to extract or remove rocks from the hill adjoining Wu's land.

Wu claimed that a portion of the hill's face collapsed on his land on Dec 29, 1987 and affected approximately 0.8ha.

He claimed that the collapse was due to the negligence of Gunningung Tungal Quarry and Construction in failing to develop benches on the quarry face and to use proper blasting methods.

Wu, represented by Chan Kok Keong, also claimed that the Land and Mines Department failed to visit the site and to carry out proper investigation to assess its safety before issuing the permit

to extract rock materials under section 70 of the National Land Code (NLC) on Jan 1, 1987.

The department allowed the quarry to operate even though its distance was less than 200m from Ipoh-Kampar Road.

Federal counsel Raja Rozela Raja Toran submitted that the director of Lands and Mines cannot be blamed for the incident as the department did not undertake any quarrying activity.

She further submitted that the Department was not empowered under the NLC to carry out investigation on the site to assess safety of the quarry.

Submitting before justice Datuk Kang Hwee Gee, Raja Rozela said the department is not required under any written law or guideline to seek advice or approval from other government bodies before the issuance of a permit and that the permit was issued within the scope of the law.

Kang fixed Aug 20 for the next hearing.