

REGISTRAR'S CIRCULAR NO: 13/48

FILING AND ISSUANCE OF CIVIL APPEALS TO THE COURT OF APPEAL, FEDERATION OF MALAYA.

The Federal Registry at Kuala Lumpur registers and maintains all files of Civil appeals from the High Court to Court of Appeal, Federation of Malaya.

2. A very careful study of the judgment of the Court of appeal in Federation of Malaya Civil Application No. 44/48 is recommended. A copy of this judgment is attached. ⁽¹⁾ arising out of this decision the following instructions should be observed with great care:

(a) Upon receipt of a notice of appeal from a decision of the High Court not accompanied by the Statutory deposit, the Assistant Registrar concerned should endorse the notice to the following effect:

"Received this day of 19...., but
deposit not made."

Since the appeal cannot be entered owing to no deposit having been made, and therefore no Court of Appeal case file can be opened, the notice of appeal should be filed in the Court case file of the original proceedings.

NOTE: New Court of Appeal Rules governing Civil appeals will come into force early in January, 1949, increasing the Statutory Deposit from ₧100 to ₧500, and that is why ₧500 and not ₧100 is mentioned throughout this Circular. ⁽²⁾

(b) If subsequently, the required deposit is lodged ⁽³⁾ within time, the Assistant Registrar should make a further endorsement on the notice of appeal to the following effect:

"Deposit of ₧500 lodged this day of 19...."

He should thereupon immediately send a copy of the Notice of Appeal to the Registrar, Supreme Court, Kuala Lumpur, ⁽⁴⁾

- 11 -

date on which the deposit required by law was made. The Registrar, Supreme Court, will register a Federation of Malaya Civil Appeal File⁽⁵⁾ at Kuala Lumpur and notify the Assistant Registrar, Supreme Court, concerned the number of such file. He should then forthwith enter the appeal in the List of Appeals and open a skeleton Court of appeal case file, under the number supplied by the Registrar enclosing therein the notice of Appeal, and noting on the cover of the file the fact that the required deposit has been made. He should also note on the Court case file that the notice of appeal has been transferred to the Court of Appeal case file. The Assistant Registrar will then send all records, documents etc. intended for the use of the Court of Appeal to the Federal Registry and maintain in his Skeleton file all papers and correspondence which he is called upon to take with reference to the appeal.

(c) If however the required deposit is tendered out of time, the Registrar should refuse to accept it and make a further endorsement on the notice of appeal to the following effect:

"Deposit of 500 tendered this ... day of 19...
Not accepted because out of time."

(d) He should retain the notice of appeal in the Court case file of the original proceedings, because there is no Court of appeal case file in existence.

(e) It must be stressed here that each endorsement must be signed by the Assistant Registrar. If this practice is followed there never should be any doubt as to the date on which a notice of appeal was filed, or on which the required deposit was made or tendered.

(f) Action should be taken on similar lines about every other document required by law to be filed. For

and the party filing should be informed that the document cannot be taken as having been duly filed and can only be referred to or used in court by leave of such Court.

3. Every application to the Court of Appeal, made before an actual appeal has been filed and entered, should be registered as a Federation of Malaya Civil Application, ⁽⁶⁾ The Assistant Registrar receiving the application shall immediately open a skeleton file and send the papers to the Registrar. The Registrar will register the application and will notify the number to the Assistant Registrar who will so number his skeleton file. ⁽⁷⁾ When forwarding the papers the Assistant Registrar should intimate whether the applicant asks for the application to be heard by the full Court or by a single Judge of that Court. No such application should be listed for hearing before the full Court of Appeal (that is three Judges) or a single Judge of the Court of Appeal without the previous instructions of the Registrar, Supreme Court.

4. Should any practical difficulty arise in following this procedure Assistant Registrars concerned should write immediately to the Registrar, Supreme Court, Federal Registry, for instructions.

5. Assistant Registrars should also note that any document in a Civil Appeal which is forwarded to the Registrar and which is required for the use or information of the Judges of appeal should be submitted in quadruplicate so that one copy may be filed and the other three distributed to the Judges of Appeal.

The Federal Registry,
Supreme Court,
Federation of Malaya.

AG: REGISTRAR.

Kuala Lumpur, 30th December, 1943.

DISTRIBUTION:

To all Presidents of Sessions Courts

8/1951