

## CASE SUMMARY

# Rosli Jedut & Ors v Agrobest (M) Sdn Bhd & Ors

Federal Court holds that customary rights over ancestral graves survive relocation and are not extinguished by a commercial lease

 **Federal Constitution & Land Acquisition Act 1960**

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### Facts

Seven Orang Asli villagers from Kampung Batu 20, Pekan, Pahang, had for generations buried their dead at a burial site within their ancestral land. In 1999, the Department of Orang Asli Development (JAKOA) instructed the community to vacate the area to make way for development, and they relocated to Kampung Landai without compensation. The villagers continued to visit the burial site annually to perform customary rituals. In 2017, the Pahang State Secretariat Corporation leased 700 acres of the land to ABSF International Group (M) Sdn Bhd for prawn farming. Agrobest (M) Sdn Bhd, a wholly-owned subsidiary of ABSF, was appointed to carry out the development. On 31 December 2017, a backhoe contractor engaged by Agrobest cleared the burial site, disturbing graves and tombstones. The villagers lodged around 20 police reports and, in 2019, filed a civil suit alleging trespass and destruction of ancestral graves.

### Legal Issue

Whether Orang Asli villagers had standing to sue for the desecration of ancestral graves, and whether their customary proprietary rights to the burial ground survived relocation and the issuance of a commercial lease.

### Held (Federal Court, 16 June 2026)

The Federal Court unanimously reinstated the High Court's award of

RM20,000 in general damages to each of the seven villagers (total RM140,000). The destruction and desecration of the ancestral graves constituted an infringement of the villagers' native proprietary rights. Customary rights over ancestral land persist unless lawfully extinguished by compensation under the Land Acquisition Act 1960. The issuance of land titles to third parties cannot simply cancel those rights. The desecration of graves, the court held, strikes at the core of the villagers' dignity and infringed their constitutional rights.

### **Key Reasoning**

- The High Court was “perfectly positioned” to assess the evidence and had rightly concluded that the villagers established their connection to the grave sites and tombstones.
- The Court of Appeal erred by requiring formal proof of lineage (death certificates, named tombstones). Oral testimony, photographs of personal belongings, and even the company's own sketch plan were sufficient to prove standing. In indigenous claims, rigid documentary requirements do not reflect the reality of oral traditions and communal memory.
- The company's own apology letter — admitting it had cleared the cemeteries in its impatience to build “the biggest aquaculture park in Asia” — was cited by the Federal Court as evidence of the infringement.
- Orang Asli communities retain usufructuary rights, including the right to visit ancestral grave sites as part of their cultural and spiritual connection to the land. The issuance of titles to third parties does not automatically extinguish those rights; only lawful acquisition with compensation under the Land Acquisition Act 1960 can do so.

### **Practical Significance**

Developers and businesses must verify the existence of customary rights before clearing land — a valid lease or land title does not extinguish native proprietary rights. Community engagement is essential; reliance on a single intermediary is insufficient. Standing in indigenous land claims can be established through oral testimony and communal memory, not just formal documents. An apology letter or

any admission of impatience can become powerful evidence of liability. The case is a clear reminder that indigenous land rights are living, enforceable, and constitutionally protected.

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