

MTD ACPI ENGINEERING BERHAD
General Announcement

SUBJECT : MATERIAL LITIGATION

DESCRIPTION: FEDERAL COURT APPLICATION NO. 08-353-07/2014
[COURT OF APPEAL, CIVIL APPEAL NO. W-02-1600-2011]
[KUALA LUMPUR HIGH COURT CIVIL SUIT NO. S2-22-177-2005]
BETWEEN MTD CONSTRUCTION SDN BHD ...APPELLANT
AND
AXA AFFIN ASSURANCE BERHAD ...RESPONDENT

We refer to the announcement dated 2 June 2011 and 31 May 2013 made by MTD ACPI Engineering Berhad (“MTDACPI” or “Company”) in relation to the Civil Suit No. S2-22-177-2005 between MTD Construction Sdn Bhd (“MTDC”) and AXA Affin Assurance Berhad (“AXA”).

MTDACPI wishes to announce that the Federal Court had on 27 October 2014, refused the Notice of Motion for leave to appeal submitted by MTDC on the ground that the proposed issues/questions for determination by the Federal Court were essentially issues of fact, thus making any leave application incompetent. The Federal Court in addition ordered costs of RM10,000.00 to AXA.

As no leave has been granted, the following Grounds of Judgment from the Court of Appeal as announced on 31 May 2013, stands:

- (1) the appeal in part was allowed by varying the order of the Learned Trial Judge limiting the liability of AXA to indemnify MTDC to only for losses arising from incidents which occurred after 11 May 2001;
- (2) the liability of AXA to indemnify MTDC pursuant to Item (1) above, is reduced to 50% of the losses payable to MTDC; and
- (3) MTDC to pay agreed costs of RM15,000.00 to AXA.

The Court of Appeal had clarified and directed that the correct cut-off date as stated in Item (1) above ought to read as 11 May 2001 instead of 13 July 2000.

In view of the above, MTDC has no claims against AXA for the costs of rectification works for the slope failures or landslips, as all landslips occurred between June 1998 to March 2001.

This announcement is dated 28 October 2014.