

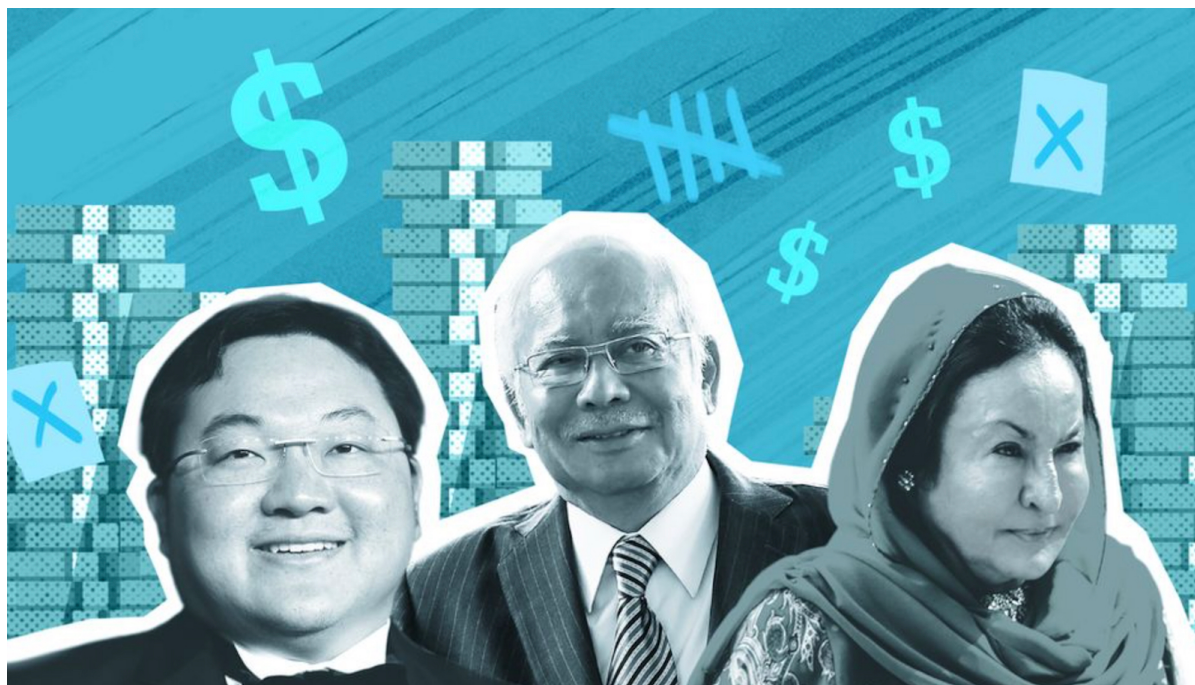
MALAYSIA

Hopes for 1MDB justice fast fading away

US court conviction of ex-Goldman banker Roger Ng stands in stark contrast to slow-moving proceedings in Malaysia

By NILE BOWIE

APRIL 15, 2022



The 1MDB scandal still hangs over Malaysia's politics as ex-premier and criminally convicted Najib makes a political comeback. Image: Twitter

SINGAPORE – Justice came swiftly for Roger Ng, the 49-year-old former head of investment banking at Goldman Sachs Malaysia.

After an eight-week US federal court trial, Ng was found guilty by a jury in Brooklyn, New York of violating anti-corruption laws and conspiring to launder billions from the 1Malaysia Development Berhad, or 1MDB, state development fund.

But in Malaysia itself, delays in prosecuting alleged crimes linked to the globe-spanning financial scandal is for many a rising source of frustration, one that is emboldening criminally convicted former premier Najib Razak, who is seeking to overturn his own 1MDB-related guilty verdict and 12-year jail sentence.

Portraying himself as the victim of a political conspiracy, Najib has mounted a strong political comeback while free on bail despite his conviction for money laundering, criminal breach of trust and abuse of power in July 2020 in the first of five corruption trials he faces. He denies all wrongdoing and is waiting for a date to be set for his final appeal hearing on his conviction.

The speedy US conviction of Ng, also known by his birth name Ng Chong Hwa, is spurring calls for 1MDB-related trials in Malaysia to be expedited. US trial testimony directly implicated the ex-premier and his wife Rosmah Mansor, while also raising questions about the involvement of others – a fact Najib's legal team is now attempting to leverage to the ex-premier's advantage.

Ng was found guilty on April 8 after being accused of receiving US\$35.1 million in illegal kickbacks and helping his ex-boss, Tim Leissner, embezzle money and bribe officials to win business for Goldman Sachs as part of \$4.5 billion that was misappropriated from 1MDB in what has been described as one of the largest ever financial heists worldwide.

Leissner, Goldman's former chairman of Southeast Asia, pleaded guilty in 2018 and forfeited \$44 million in a deal with prosecutors to cooperate as the government's star witness against Ng. The 50-year-old ex-banker's testimony provided the most incriminating evidence of Ng's involvement in the multibillion-dollar corruption scheme.

Ng's defense portrayed him as a "fall guy" for his ex-boss, and had challenged Leissner's credibility by casting him as a habitual liar testifying against his former junior partner in a desperate bid to spare himself prison time. But the jury ultimately did not buy Ng's explanation that the funds acquired were from a legitimate business investment.



Roger Ng says he's a 'fall guy' in the 1MDB scandal. Image: Twitter

"The defense had plenty of ammunition to make Tim Leissner the real bad guy here," said Kevin J O'Brien, a former assistant US attorney and seasoned trial lawyer specializing in white-collar criminal defense. "But it was always an uphill battle, given the documents that supported his accomplice testimony."

Leissner spilled lurid details about the 1MDB scheme during his nine days of testimony, but it was his confession that both he and Ng concocted a "cover story" that the \$35.1 million in kickbacks the Malaysian national was convicted of laundering had derived from a business venture between their wives that was the coup de grace.

Ng's wife, Hwee Bin Lim, testified for the defense that she invested \$6 million in the mid-2000s in a Chinese company owned by the family of Leissner's then-wife, Judy Chan, and that the funds were her return on that investment. Prosecutors then called two FBI employees who presented a financial analysis refuting her claims.

FBI agent Sean Fern testified that funds from the first of three 1MDB bond issuances arranged by Goldman Sachs valued at \$6.5 billion were tracked from Chan's account to an offshore one controlled by Ng's mother-in-law, Tan Kim Chin, in 2012. Two more transactions followed in 2013 when the second bond was issued.

Fern told the jurors that portions of the plundered 1MDB money were used to buy \$300,500 in diamond jewelery, including a six-carat ring, and a \$20,000 gold-plated hourglass. Neither Ng's wife nor his mother-in-law has been charged, though prosecutors said Lim participated "at a minimum in a conspiracy to launder criminal proceeds."

Ng now faces a maximum prison sentence of 30 years but has been allowed to remain free subject to a curfew pending his sentencing. Defense attorney Marc Agnifilo has vowed to appeal the conviction, said he and Ng's lawyers in Malaysia, where he also faces charges.

"The appeal doesn't look promising, to the extent the conviction rested on the jury buying Leissner's testimony and perhaps also rejecting the testimony of Ng's wife," said O'Brien. "These credibility decisions are uniquely the province of a jury, and an appellate court will be reluctant to disturb them absent some glaring error or abuse at trial."

Following his conviction, Malaysian Attorney General Idrus Harun told local media that his office would await Ng's sentencing and appeal process in the United States before deciding its next course of action in relation to pursuing four charges of violating securities law Ng faces in Malaysia, which carries a punishment of up to 10 years in prison and fines.



Tim Leissner spilled the beans on the scandal in a bid to avoid jail time. Image: Facebook

Some have taken issue with that approach. Lim Lip Eng, an opposition lawmaker, issued a statement calling on the attorney-general to immediately seek Ng's repatriation and issue orders to charge other Malaysians implicated in the US trial, describing the judiciary's response to the verdict as "deeply disappointing."

Former premier Muhyiddin Yassin, meanwhile, also called on the country's 1MDB trial to be expedited "so that justice can be dealt swiftly," an apparent reference to Najib's ongoing cases. "I have opposed their criminal acts from the beginning and will continue to fight to prevent this kleptocratic group from returning to power," he said in a statement.

Despite positioning his Perikatan Nasional (PN) coalition as staunchly anti-corruption, Muhyiddin previously relied on a pro-Najib faction of the United Malays National Organization (UMNO) to prop up his short-lived government, only for the group to withdraw support for him and force his resignation last August after a tumultuous 17 months in office.

Opposition leader Anwar Ibrahim, on the other hand, contrasted Ng's conviction with that of an unspecified "VIP" he alleged is receiving "special treatment" under the Malaysian legal system, including travel privileges. "This means that there are two sets of rules in Malaysia – the rich are treated such and such, while others are treated a different way," he said.

Anwar's remarks, published on Facebook, appear to reference a controversial court decision allowing Najib and his wife to visit Singapore in November to attend the birth of their grandson. The pair had previously been barred from leaving Malaysia after the historic defeat of Najib's scandal-plagued government at the 2018 general election.

Anwar also pointed to the "clear involvement" of Goldman Sachs' senior management in the scandal, calling the bank's \$3.9 billion settlement with the Malaysian government in 2020 under Muhyiddin's administration "premature." The Wall Street bank paid \$2.9 billion to settle the case in the US that year, while its Malaysian unit pleaded guilty.

James Chin, inaugural director of the University of Tasmania's Asia Institute, said many Malaysians were surprised by the speedy pace of Ng's trial. "The public perception is that how come the Americans can get it done so quickly and so efficiently," said Chin, adding it's a question only the attorney-general's office could answer in Malaysia's context.

"The other perception widely held by the Malaysian public is that how come the Americans were able to get people like Tim Leissner to become a government witness and spill the beans, when on the Malaysian side they seem to be having problems getting any of the key players to be a witness," the academic told Asia Times.

Malaysia's legal approach to 1MDB has focused on senior individuals in the scandal, with cases involving criminal activities pertaining to the distribution of embezzled funds and alleged evidence tampering. Seven years since the scandal initially broke in 2015, Najib remains the only person convicted in Malaysia's courts.



Protesters' placard pictures Jho Low, during a "Nab A Thief" rally in Kuala Lumpur, Malaysia, April 14, 2018. Photo: AFP / EyePress Newswire / FL Wong

Malaysian authorities have been unable to serve charges to fugitive Malaysian financier Low Taek Jho, or Jho Low, who is widely regarded as the suspected mastermind of the sprawling financial fraud and a proxy for the ex-premier in his alleged corrupt dealings. Low was indicted by US prosecutors alongside Leissner and Ng in 2018 but remains at large.

Najib's defense team, meanwhile, has utilized what many see as a deliberate strategy of stalling legal proceedings for as long as possible. Hearings have also been impacted by the Covid-19 pandemic. The ex-premier's second trial, involving an alleged deposit of \$681 million of 1MDB funds made into his personal bank account, is currently being heard.

Lawyers for the 68-year-old politician have pushed for a retrial in his first conviction involving the misappropriation of \$9.9 million from former 1MDB unit SRC International Sdn Bhd, citing a purported conflict of interest

concerning a High Court judge who had previously been the general counsel of commercial bank Maybank, a past lender to 1MDB.

The Federal Court, the country's highest and final appellate court, has previously dismissed attempts by Najib's attorneys to adduce alleged fresh evidence in the SRC case. No date has been set to hear his final appeal. Najib's second trial is still in the prosecution stage and the former premier has not been called to enter a defense yet.

The appeals court has, however, set a hearing date in May for a request by Najib's lawyers to access banking information of former Bank Negara Malaysia (BNM) governor Zeti Akhtar Aziz and her husband Tawfiq Ayman, who Leissner alleged in his testimony had received a bribe to ensure central bank approval of a \$1 billion transfer of 1MDB funds.

Leissner stated he was directly informed by Ng that the funds were sent to an overseas account controlled by fugitive tycoon Low. Zeti and her husband deny the allegations. Should Najib's attorneys access documents linked to the transfer, observers say he will use it to bolster his legal defense as the victim of a conspiracy orchestrated by Low.

Testimony also directly tied the former premier and his wife to stolen 1MDB funds. FBI agent Eric Van Dorn told the courts during Ng's trial that the agency determined Najib had received approximately \$756 million of misappropriated funds, while Low reportedly pocketed \$1.42 billion from bond floats arranged by Goldman Sachs.

New York jeweler Lorraine Schwartz also testified that Low had commissioned her to create a 22-carat pink diamond necklace worth \$23 million, which she personally delivered in 2013 to Najib's wife Rosmah aboard a yacht in Monaco with Low present. Rosmah and her husband deny ever commissioning or receiving the diamond necklace.

Chin of the Asia Institute said that if the courts fail to reverse Najib's verdict, "he can create the right conditions to ask for a royal pardon" from Malaysia's

constitutional monarch. If his party UMNO clinches a major victory in a soon-expected general election, the academic believes Najib's "other trials [that] have not even started can be disposed of."



Najib Razak is still popular among Malaysians despite his role in the 1MDB heist. Photo: Facebook

A string of recent by-election victories has emboldened UMNO's leadership, contests in which Najib has been front-and-center as the ruling Barisan Nasional's (BN) star campaigner. Members of the ex-premier's corruption-tainted faction are pushing for snap polls that analysts say are aimed as solidifying control over the next federal government.

Malaysian courts have previously reversed verdicts on appeals of high-profile cases, most famously with opposition leader Anwar's first sodomy case, which was reversed in 2004 after a second appeal. Anwar then received a full royal pardon relating to his second sodomy conviction in 2018, a precedent that Najib could seek to leverage.

Leissner's fate, meanwhile, will be determined when he is sentenced in July. The ex-Goldman banker said repeatedly during the trial that he hopes to avoid prison for agreeing to assist prosecutors. Trial lawyer O'Brien told Asia Times that Leissner will "almost certainly" obtain a lenient sentence for his cooperation.

"Whether he avoids prison entirely is an open question. Stranger things have happened," he said, pointing to the infamous case of former mobster Sammy "the Bull" Gravano, who confessed to involvement in 19 murders but effectively received no jail time after testifying as a government witness to convict mafia crime boss John Gotti in 1992.

"Leissner's crimes pale, even though committed on an epic scale," said O'Brien. "But then Ng is no Gotti."

Follow Nile Bowie on Twitter at [@NileBowie](https://twitter.com/NileBowie)

© 2022 COVERING GEO-POLITICAL NEWS AND CURRENT AFFAIRS ACROSS ASIA.

PROUDLY POWERED BY NEWSPACK BY AUTOMATTIC