IN THE HIGH COURT IN BORNEO

PRACTICE NOTE NO. 1 OF 1974

PROHIBITORY ORDER

There has been a complaint about the delay in the issue of Prohibitory Order. The provisions relating to seizure of immovable property are laid down in Order 43 rule 2 and rule 2 (1) prescribes that such seizure be made by means of a Prohibitory Order. In order to ensure uniformity of practice and procedure in Sabah and Sarawak, the Honourable the Chief Justice has directed that there is no necessity to apply for leave to issue a Prohibitory Order by way of ex parte summons. Any delay in the issue of a Prohibitory Order would defeat the purpose of attachment.

2. In Sabah, under Order 43 rule 2 (4) a Prohibitory Order expires six months from the date of registration unless extended, whereas in Sarawak under Order 43 rule 2A the period is three months in compliance with the provisions of the Land Code (Cap. 81).

3. All that is required is for the plaintiff/judgment creditor or his advocate to file a Praecipe for the issue of a Prohibitory Order and pay the appropriate fees and submit together the following:-

(a) An office copy of the judgment or Order (O. 42 r.11),

(b) A certified extract of title of the land to be attached and

(c) At least FIVE copies of the Prohibitory Order.

4. Normally, if all the papers are in order and the appropriate fees paid, it should be possible for a Prohibitory Order to be signed, sealed and issued on the same day. A certified extract of title will avoid unnecessary delay on the part of the Registrar from making inquiry from the Land Office and also enable him to prevent wrongful attachment.

5. Subsequently, a Summons for Directions may be taken out by the plaintiff/judgment creditor or his advocate before the Registrar to fix terms and conditions of sale of the land so seized.

Signed
(CHEW KUI SANG),
Ag. Registrar,
High Court in Borneo.

Kuching,
18th February, 1974.

Distribution:

The Deputy Registrar, High Court, Sabah.

All Senior/Assistant Registrars, High Court, Sabah/Sarawak.

All Advocates in Sabah/Sarawak.

1951 SUBORDINATE COURTS (CRIMINAL FEES)

RULE No. 2

(L.N. 597/1951)

WE, the Subordinate Courts Rule Committee established under section 5 of the Rule Committee Ordinance, 1948, by virtue of section 6 of the said Ordinance and of all other powers thereunto us enabling hereby make the following Rule:

1951 Subordinate Courts (Criminal Fees) Rule No. 2.

1. (Omitted by PU(A)357/80 w.e.f. 1.6.1981).

2. The fees set out in the Schedule hereto and no others shall be taken and paid in respect of all criminal cases, matters and proceedings in Sessions' Courts and Magistrates' Courts.

3. All such fees shall be collected -

(a) in West Malaysia, by means of stamps on praecipe; and

(b) in Sabah and Sarawak, by means of cash until such time as the Chief Justice of the High Court in Borneo directs that they shall be collected by means of stamps on praecipe.

(Substituted by PU(A)357/80 w.e.f. 1.6.1981).

4. The fees in the Schedule hereto shall not be payable by any person, being a public servant within the meaning of Penal Code, in respect of anything done by him as such public servant.

5. No fees shall be payable in respect of filing any notice or memorandum of appeal to the High Court or in respect of the supply of any copies or documents necessary for the purpose of such appeal, or in respect of filing any motion or affidavit incidental to any such appeal.

Provided that a certified copy and additional copies of any judgment, record or other document, when required otherwise than for the purpose of an appeal, shall be chargeable with the fees prescribed for a certified copy and additional copies of any document when prepared by the Court in civil matters.

SCHEDULE

CRIMINAL	Sessions' Courts	Magistrates' Courts 1st Class	Magistrates' Courts 2nd Class
	$ c.	$ c.	$ c.
1. Summons to defendant (for each defendant named)	1 00	1 00	1 00
2. Summons to witness for the Prosecution (for each witness named)	1 00	1 00	1 00
3. Warrant of arrest (for each person named	1 00	1 00	1 00
4. Search Warrant	1 00	1 00	1 00

...2/-

		Sessions' Court	Magistrates' Courts 1st Class	Magistrates' Courts 2nd Class
		$ c.	$ c.	$ c.
5.	Proclamation	2 00	1 00	1 00
6.	Taking an affidavit or declaration	1 00	1 00	1 00
7.	Marking an exhibit to any affidavit or declaration ...	70	70	70

Dated at Penang, this 10th day of October, 1951.

B. G. SMITH,
President, Sessions Court

LIM KHENG KOOI,
Member

M. GARTON,
President, Sessions Court

We, the Supreme Court Rule Committee established under section 3 of the Rule Committee Ordinance, 1948, by virtue of section 7 of the said Ordinance and of all other powers thereunto us enabling hereby confirm 1951 Subordinate Courts (Criminal Fees) Rule No. 2.

Dated at Kuala Lumpur, this 10th day of October, 1951.

CHARLES ABBOTT,
Acting Chief Justice

W. G. W. HASTINGS,
Member

H. W. WILSON,
Judge

TAN TEOH BOK,
Member

W. BUHAGIAR,
for Attorney-General

P. J. D. REGESTER,
Member

By virtue of the provisions of sub-section (i) of section 12 of the Rule Committee Ordinance, 1948, I certify that, by reason of urgency, it is expedient that this Rule should come into operation without the approval of the Legislative Council. (RSC. 39/51.)

CHARLES ABBOTT,
Acting Chief Justice,
Chairman,
Supreme Court Rule Committee.