



American Model United Nations

International Court of Justice

The International Court of Justice

Of the

American Model United Nations

November 20, 2005

Sovereignty Over Pedra Branca/Pulau Puteh, Middle Rocks and South Ledge

Malaysia/Singapore

PRESENT: President Billerbeck (Venezuela), Vice President Eldridge (Haiti), Justice Brown (Denmark), Justice Roberts (Cambodia), Justice Melo (Brazil), Justice Banuelos (Paraguay), Justice Bechtel (Iraq), Justice Van de Walker (Indonesia), Justice Makieva (Cuba), Justice Maher (Ireland), Justice Berg (South Africa), Justice Setchfield (Chile), Justice Coronel (Uruguay)

The Court,

Composed as above,

Delivers the following Judgement

1. In order to properly interpret methods of occupation and possession, the Court recognizes that treaty law is the most valid manner in which ownership and sovereignty are determined. In the absence of a treaty that clearly articulates possession of Pedra Branca, the Court then must consider methods of acquisition, such as effective occupation, as potentially legitimate. The Court finds Singapore's claim to effective

occupation and control from 1965 (its date of independence) to the date of Malaysia's protest in 1979 to be legitimate – certainly, the upkeep of the lighthouse and having built the lighthouse under British rule in 1851 demonstrate that British Singapore did have a physical presence, and it is true that Malaysia did not have a clear relationship with the islands for the entirety of the relevant period of time. Considering this, the Court recognizes that effective control may be an admissible manner in which sovereign control can be ascertained. However, the Court initially notes that when the British gained power over the state of Singapore in 1824, they gained only permission to administrate over the islands in question, which is not the same situation as the cession of Pedra Branca to British Singapore. Using this analysis, only the administration of the islands was transferred to the State of Singapore, not the actual possession of Pedra Branca. The question then lies with the nature of Singapore's prescription resulting from its effective possession of Pedra Branca, in comparison to the way in which Malaysia did or did not practice similar methods.

2. The Court concludes that throughout the period of time in question, from the building of the lighthouse by the British in 1851 to the initial protest in 1979 by Malaysia, Malaysia has failed to assert its sovereign control. While the nation of Malaysia may have historical ties to the nation of Singapore and the islands in question, the Court finds that these ties are exactly that: pieces of history. Because these areas were conquered by colonial powers that agreed upon the possession of the areas, Britain then exercised control over the region from 1824 until 1963, effectively ending the Johor Sultanate and disqualifying any historical claim to ownership. The Court thus concludes that the British

were given express responsibility to administrate Perdra Branca, and at the point that that responsibility was never expressly removed from the nation of Singapore, administrative control of Perdra Branca by Singapore was preserved. In addition, this transfer of effective control exemplifies the principle of prescription, whereupon the effective possession exercised by Singapore over the islands, both during and after its time as a colony of the United Kingdom and the Federation of Malaysia, manifested itself in the form of assumed sovereign control. Despite the claim that maps have illustrated the ownership of Perdra Branca by both nations, the Court does not find the maps referenced by Malaysia and Singapore to be appropriate sources, nor do these maps have the ability to adjudicate international law. The maps that were initially created to illustrate the ownership and territorial boundaries in question have changed dozens of times, and the Court finds it appropriate to re-iterate a thought from previous decisions, where the Court declared that “maps merely constitute information which varies in accuracy from case to case; of themselves, and by virtue solely of their existence, they cannot constitute a territorial title, that is, a document endowed by international law with intrinsic legal force for the purpose of establishing territorial rights”. In addition to the invalidity of maps, there is also the question of possession of Perdra Branca in regard to restrictions for nautical territorial boundaries. Because of the fact that the Law of the Sea Treaty was not created until 1982, in accordance with other factors that make the references irrelevant to this decision, the Court chooses to not use its facets to formulate its opinion at this point in time. In addition, none of the States have a conventional title to the islands, which makes the references by Malaysia to nautical mile restrictions inapplicable in this situation. Finally, the Court notes that there were four key historical opportunities for

Malaysia to assert its sovereign control or clarify its ownership in the course of 114 years, but despite extensive treaty law and discourse between the two nations, there has not been a single instance in which the nation of Malaysia made an attempt to establish control or any sort of relationship with the islands, save the only and initial protest in 1979. The Court concludes that in the instance that Malaysia has declined to exert effective possession and thus prescribe *Perdra Branca*, sovereign control cannot manifest itself in Malaysia's favor.

3. The Court recognizes that two methods of valid land acquisition are exemplified by the nation of Singapore, identified as Effective Occupation/possession and Prescription. The nation of Singapore created a basis of prescription as it administrated *Perdra Branca* during its time as a British colony, effectively occupying *Perdra Branca*. The simultaneous secession of Singapore and the creation of the nation of Malaysia from the previous Federation of Malaysia created a unique situation in regards to ownership of *Perdra Branca*. The formal split of the nations in 1965 did not imply express sovereignty over *Perdra Branca* by either nation. However, as discussed in the first point, the Court does recognize that the nation of Singapore has demonstrated effective control and occupation of *Perdra Branca* for at least fourteen years, and has continued such activities into the status quo. Through direct and physical occupation as well as the use of prescription, the Court finds that the distinctly uncontested effective possession of *Perdra Branca* by Singapore until the protest of 1979 makes it the valid sovereign of the islands via its prolonged administration. The court wishes as well to reference the principle of *terra nullius*, that is, the principle that territory acquisition and the assertion of sovereign

control is only possible in the instance that the desired territory has not been previously occupied by any sovereign state; it is has no declared sovereign presiding over it. In regards to this principle, the Court holds that the effective possession of Perdra Branca by Singapore was in fact an acquisition and assertion of sovereign control. The lack of articulation during the secession of Singapore and the creation of the nation of Malaysia made the assertion of sovereign control by Singapore legitimate because during this point in time, Perdra Branca stood as an unclaimed territory, with no defined sovereign. With the use of these principles as a basis, the Court finds that the effective possession and prescription simultaneously exerted by Singapore upon Perdra Branca leaves Singapore as the resultant sovereign of the islands.

4. For these reasons,

The Court,

By thirteen (13) votes to zero (0),

Find that the nation of Singapore reserves sovereignty over the islands of Pedra Branca.

Justice Coronel and Justice Roberts append separate opinions.

Justice Billerbeck

Justice Banuelos

Justice Brown

Justice Roberts

Justice Melo

Justice Van de Walker

Justice MaKieve

Justice Elderidge

Justice Berg

Justice Setchfield

Justice Coronel

Justice Maher

Justice Bechtel