



Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia v. Singapore)

ARGUED: 24 November 2019

DECIDED: 24 November 2019

1 The Consensus Opinion was signed and agreed upon by President Mach of Cameroon, Vice President Postula
2 of the Republic of India, Justice Remington of Switzerland, Justice Grapes of Russian Federation, Justice McClellan of
3 Algeria, Justice Peavey of Singapore, Justice Boxall of South Africa, Justice Al-Hamad of Norway, Justice Castellanos
4 of the Democratic People's Republic of Korea, Justice Wallen of Ireland, Justice Anderson of Austria, Justice Marr
5 of the Islamic Republic of Iran, Justice Tragesser of Chile, and Justice Johnson of Sri Lanka.

6 The question brought to this Court is: Does Singapore or Malaysia have sovereignty over the islands of Pedra
7 Branca/Pulau Batu Puteh, Middle Rocks, and South Ledge? These maritime features are located approximately
8 twenty-five miles east of Singapore and eight nautical miles southeast of Malaysia. Pedra Branca is a small island
9 north of the maritime features of Middle Rocks and South Ledge. The Republic of Singapore and the Federation
10 of Malaysia submitted a Special Agreement to the International Court of Justice of which Article 2 states that The
11 Court is requested to determine whether sovereignty over:

- 12 • Pedra Branca/Pulau Batu Puteh;
- 13 • Middle Rocks;
- 14 • South Ledge,

15 Belongs to Malaysia or the Republic of Singapore. A declaration was made alongside the Special Agreement under
16 Article 36 on the 24th of July 2004, which recognized the court's final opinion as final and binding.

17 The member-states determined their negotiations would be unsuccessful and would like the International
18 Court of Justice to rule on this matter. The member-states recognize that this ruling will be a final, binding decision
19 over the sovereignty of these maritime features.

20 Therefore, the Court orders the following:

21 In the context of this case, the Court decided to consider these contested maritime features as unique and
22 distinct landmasses and not as one contiguous maritime feature.

23 First, the Court finds that based on the non-binding precedent within the Island of Palmas case (1925), that
24 acts of sovereignty exercised by Singapore, which were uncontested by Malaysia, gives them sovereign rule over Pedra
25 Branca. These actions include the construction and maintenance of the lighthouse, the military communications
26 center, ferry tours on Pedra Branca, and patrolling of the waters surrounding Pedra Branca. The Court would like
27 to note the complex history of this case, which uniquely allows for a carveout within the Law of the Sea as it was
28 ratified in 1982.

29 Beginning with the Horsburgh Lighthouse, Singapore has had a long standing presence on Pedra Branca
30 through their predecessors and taken care of lighthouse maintenance responsibilities since the 1850s. Malaysia holds
31 that because the Sultan of Johor commissioned the building of this lighthouse, it does not denote an acquisition of
32 territory. Yet, in 1953, the Sultanate of Johor, the predecessor state of Malaysia, wrote a letter to Singapore, and
33 it stated that the Sultanate of Johor did not claim sovereignty over Pedra Branca. Also, Malaysian maps published
34 in 1962, 1965, 1970, and 1975 recognized Pedra Branca as Singapore's territory. However, Malaysian maps did not
35 attribute Pedra Branca as its own territory until 1979. Furthermore, Singapore constructed a military communication
36 center on Pedra Branca in 1977 without any dissent or permission from Malaysia. Rather, permission was granted

37 from the Singaporean Port Authority. The fact that a Singaporean entity granted permission further supports their
38 claim of sovereignty. We find these facts to be significant in determining the sovereignty of the island due to the
39 complex history of the case and feel that this particular case is unique in its circumstances.

40 However, the Court does award territorial sovereignty of Middle Rocks to Malaysia due to the lack of
41 evidentiary support from either Malaysia or Singapore that provides justification of territorial sovereignty, thus
42 making this territory *terra nullius*. Law of the Seas Article 3 states that every state has the right to establish the
43 breadth of its territorial sea up to a limit not exceeding 12 nautical miles. The Court finds that since Middle Rocks
44 falls within Malaysia's 12 nautical mile territorial zone, it has the stronger claim to sovereignty.

45 Finally, the Court finds that South Ledge should be designated as *terra nullius* due to the uninhabitability
46 of the rock, which is completely submerged during high tide. Additionally, it has been shown that fishermen from
47 multiple states, including Malaysia and Singapore, utilize the South Ledge when conducting their business. This
48 justifies a unique carve out for neither to wholly control this maritime feature.

49 **Therefore, the Court finds that Singapore has sovereignty of Pedra Branca, Malaysia has**
50 **sovereignty over Middle Rocks, and South Ledge is *terra nullius*. The Court would like to articulate**
51 **that this decision is binding under international law and the Special Agreement of 2004.**

Signed By

Justice Elliot Anderson

Justice Raegan Mach

Justice Rebecca Postula

Justice Simon Oliver Boxall

Justice Noah Johnson

Justice Michael McClellan

Justice Ashton Kimberly Marr

Justice Tiana-Marie Peavey

Justice Chase Tragesser

Justice Kadir Castellanos

Justice Blair Remington

Justice Karissa Grapes

Justice Megan Wallen

Justice Hamad Al-Hamad