I

English Media Exposés

HILTON PROMOTION IN 1960's

Ceylon Observer - 26.10.1968

Govt. to acquire hotel land

HOTELS INTERNATIONAL Ltd. who are going ahead with the Ceylon Hilton project will not be able to make a large profit on the resale of the Steuart Place, Colpetty site on which the hotel was originally intended to be built.

Government will acquire the land.

The Ministry of State yesterday wrote to the Lands Ministry requesting that the acquisition machinery be made ready.

A spokesman for the Ministry of State said today that the CWE will be the purchaser of this four acres of valuable land with a Galle Road frontage.

"If Hilton's want to build their hotel on this site as originally intended, they can lease the land from the CWE. But the site would be Crown land. We do not want to leave the possibility open for it to be blocked out and re-sold in small lots".

According to this spokesman Hotels International Ltd. will get the price they paid the Church of Ceylon for the land. Government valuation procedurs takes the most recent sale price into account.

That would mean that Hotels Internationl Ltd. will now only break even as a result of the acquisition decision.

The Hilton which was to come up on the Hilton Hotel site is to be shifted to the property on which the South Wing of the Galle Face Hotel now stands.

In parliament on Tuesday. Mr. Bernard Soysa, MP for Colombo South raised the question of the decision of the Hotels Internatoinl's Director to re-sell the land they purchased from the Church.

He alleged that the land had been bought from the Church at a low figure (approximately Rs 4.5 million) after the Bishop of Colombo had been made to understand that the site was required for a national purpose.

Now the hotel site was being shifted to "the backyard of the Galle Face Hotel", Mr. Soysa said.

He said that he was told that Hilton's would get about Rs. 10 million on the re-sale of the land for which they paid Rs. 5.5 million two years ago. That would mean that they would double their money in two years.

Mr. Soysa said that it was an ugly word to use, but he thought the church had been "diddled".

THE OBSERVER TUESDAY OCTOBER 26, 1993

HILTON PROMOTED IN 1980's

THE SUNDAY TIMES, SUNDAY, OCTOBER 1991

The case of the missing storeys

Justice Ameen Ismail... The order was in respect of petitions for leave to Appeal and Revision filed by Mr. Nihal Sri Amerasekere, a Director and a shareholder of Hotel Developers (Lanka) Ltd., submissions on whose behalf were made by Mr. K. Kanag-Isvaran, P.C.

Mr. Amerasekere is a Chartered Accountant who was closely associated with the early phases of the hotel project.

His action is based on the contention that while the plaintiff in this case, Mr. Niha Sri Amerasekere is a Director and Shareholder of Hotel Developers (Lanka) Ltd., the owning company of the hotel and one of the defendants.

The other defendants are Mitsui and Company Ltd., of Japan, Taisei Corporation and Kanko Kikaku Sekkeisha Yozo Shibata & Associaties, two other Japanese firms, Mr. Cornel L. Pereta, Chairman and Managing Director of the owning company, Mr. F.G.N. Director of

In consequence, the building that finally emerged was not the one orginally envisaged and the original plan cannot be found.

After the hotel opened for operations, he says, Mitsui & Co. submitted profitability projections computed on 452 guest rooms. When queries were raised at this point and it was pointed out that the building lacked several storeys as per the original plan, an amended profitability projection was submitted, computed on 387 guest rooms.

DAILY NEWS, SATURDAY JUNE 17, 1995

HILTON PROMOTED IN 1980's

SUN Friday, September 21, 1990

Hilton hotel construction agreement

Court issues interim injunction on Mitsui & Co.

Mr. P. Navaratnarajah QC who supported the application submitted that whereas the original approved architectural plan provided for 23 floors there were only 20 floors and without a mazzanine floor.

He submitted that the first and second defendants had practised a fraud on fourth defendant. Hotel Developers Lanka Ltd. aided and abetted by two or three directors of the com

THE ISLAND Friday 28th April, 1995

Original plans of the Hilton Hotel missing

By M. J. M. Zarook and Madhubashinee Dayabandara

The original plans for the Hilton Hotel building submitted in 1983 to the Urban Development Authority were missing from the UDA files, witnesses said before the Special Presidential Commission sitting a

Chairman: Mr. Siriwardena has said in his evidence that the Tourist Board would not give approval to a hotel building project unless the architectural plans were submitted? - I do not know the legal requirement. I was

DAILY NEWS, THURSDAY SEPTEMBER 20, 1990

Hilton Hotel Project probe

Despite persistent urging there was continued silence — witness

by Dilrukshi Handunnetti

pleted.

Chairman: Did they

Choksy were dated 20

The President re-

THE ISLAND Wednesday 5th April, 1995

District Court issues injunction, enjoining order

Hilton Hotel short of floors?

The plaintiff, Mr. Nihal Sri Amarasekera, Chartered Accountant, has filed the report of a local architect/engineer, Mr. Shelton Wijayaratna, that the original architectural plan provided for 23 floors including a mezzanine floor, but the unauthorised approved architectural plan has only 20 floors including the ground floor and no mezzanine floor in the main building.

The original architectual plan provided for a building 274.6 ft tall. But on the unauthorised amended plan, the height of the building is 233.9 feet.

Other main differences pointed out in the engineer's report as averred in the plaint are:

The original architectural plan had provided for 19 floors of guest rooms, while the unauthorised amended architectural plan had provided for only 17 floors of guest rooms.

The original architectural plan had provided for 456 guest room bays, while the unauthorised amended architechtural plans had provided for 408 guest room bays plus a further 17 guest room bays depicted

the Hotel Developers Board, on the authority of the directors of the company.

The enjoining order and interim injunction has been issued on Mitsui and Co. Ltd., Taisei Corporation and Kanko Nikaku Sekkeisha Yozo Shibata and Associates.

According to the plaint, the Mitsui/Taisei Consortium had said on or about 30.10.85 that a fire had occured at their site office and all documents had got burnt. They had said that their principals in Tokyo had sent copies of all documents and drawings and the hotel construction work had recommenced.

The plaintiff has averred that he had discovered in March 1990 that these drawings and documents had been replaced by the Mitsui/Taisei Consortium principals, and were not in conformity with the original approved architectural plans which were part and parcel of the construction agreement.

He had found that while profitability projections of the hotel had been made on the basis of 452 guest rooms, the hotel's monthly statements reflected only 387 rooms.

DAILY NEWS, FRIDAY MAY 19, 1995

Board took no positive action

Hilton hotel project probe — Witness

By V. K. Wijeratna

Premadasa was concerned with and decided

information to the Finance Ministry. Shortly thereafter

alia that "no ground exists

Soza were not made known to the board. He

THE ISLAND, Wednesday 28th June, 1995

Probe into malpractices

Choksy and Paskaralingam took all decisions — Witness

by Asumpta Alles

The former Director of Hotel Developers

The former Director added that since he was not familiar with Company Law and

cash flow of the hotel and when he highlighted the fact that the number of rooms had

rized the physical check objected in court.

Mr. Shanmugaling-

floor area of the amended plan approved in 1986 was 10,800 sq metres. The

6,613,050 and the balance with interest was to be paid in 33 annual instalments.

Contradictory report on fire by CDB Fort

By M. J. M. Zarook and Daryll de Silva

The report of the Engineer, Ceylon Electricity Board stated that the fire which had taken place in the office of the Hilton Hotel work site in October 1985 was not due to an electrical fault

Witness was referred to a letter addressed to Taisei Corporation at Hilton Hotel site by SI Gilbert Kalupahana.

The letter stated: With reference to your letter dated

THE ISLAND Sunday 3rd April, 1994

Ford Rhodes given time to file objections

HILTON HOTEL CASE

The Colombo District Court, has granted the partners of Ford Rhodes Thornton and Co. Ltd. auditors of Hotel Developers (Lanka), Ltd., owning company of Colombo Hilton, time until May 2, to file their objections to an action filed by a former director of Hilton Hotel and Shareholder, Nihal Sri Amaresekere.

Mr. Amarasekera, has petitioned Court challenging the accounts of Colombo Hilton Hotel for the year 1989/1990 passed by Ford Rhodes Thornton and Co Ltd. He contends that the audited accounts do not make the necessary disclosures and has therefore not presented a true and fair picture of the hotel's financial position.

The defendants to the action are G. C. B. Wijesinghe, R. N. Asirwatham, A. N. Fernando, R. Seevaratnam, S. Sirikananathan, M. R. Mihular, P. Y. S. Perera, C. P. Jayatilake and M. P. Seneviratne, all partners of Ford Rhodes Thornton and Co Ltd.

Initially, Mr. Amarasekera had cited Hotel Developers (Lanka) Ltd., as the defendant in this case.

By this petition, he seeks to have all the partners of Ford Rhodes Thornton and Co. Ltd., added on as defendants.

Counsel for the defendants answering notice issued on them returnable on February 28, 1994, moved court for time to file objections.

District Judge, A. M. Somawansa accordingly granted the defendants time until May 2.

Previously, the District Court of Colombo, had issued an enjoining order preventing H.D.L. Ltd., from adopting the Accounts that had been certified by the auditors.

Mr. Amaresekere, a professional Accountant himself and a Management Consultant, has complained to Court that the auditors had certified the Accounts without having carried out an examination and reporting, that had been required of them by H.D.L. Ltd., at his (Mr. Amaresekere's) instance, prior to the certification of the Accounts.

Mr. Ameresekere states that H.D.L. Ltd., has admitted that it has no inventory of the fixed assets, nor a copy of the originally approved plans and bills of quantities and measurements. All amended Plan has subsequer lodged with the UDA, without the Company's approval, violating contractual agreements. Disregarding these serious issues the auditors had certified the accounts, without having the required documents to verify the correctness thereof.

In another action previously instituted by Mr. Amaresekere, on the premise of fraud, in the construction of the Colombo Hilton Hotel, the Supreme Court had upheld the interim injunctions that had been issued by the District Court of Colombo, observing that such injunctions were issued to prevent the devious syphoning of a large scale of foreign exchange from the company and the country.

The Accounts had been certified by the Auditors even after

THE ISLAND Friday 7th April, 1995

Auditors have not performed their duties — Witness

Hotel Developers (Lanka) Ltd under scrutiny.

The Commission of Inquiry comprising into the irregularities raised by him.

At this stage the Commission observed that he expressed an raised and the irregularities in the implementation of the project and identify those responsible.

said in his evidence that Mitsui and Taisai wrote to Hotel Developers (Lanka) Ltd. objecting to the suggested Developers pointing out the irregularities in the accounts. He said that he asked the directors either to refute his

DAILY NEWS Tuesday January 22, 1991

Hotel Developers restrained from tabling accounts

District Judge, Colombo, P. Wijayaratne, has issued an enjoining order restraining Hotel Developers (Lanka) Ltd, (formerly Lanka Japan Hotels Ltd), the owning company of the Colombo Hilton Hotel from tabling and adopting the account for the year ending March 1990 along with a specified note No. 19 at their annual general meeting which was scheduled for January 17 or at any meeting thereafter until the plaintiff's application for an interim injunction was finally determined.

In this case the plaintiff, Mr. Nihal Sri Ameresekere of Sri Vipulasena Mawatha, Colombo 10, a business and management consultant has cited Hotel Developers Ltd as the defendant.

The judge also issued notice on the defendant company returnable on March 11 to show cause why the plaintiff's application for an interim injunction should not be granted.

Mr. P. Navaratnarajah, QC with Mr. P. Nagueswaran and Mr. A. A. M. Illiyas instructed by Messrs de Silva and Perera appeared in support of the plaintiff's application.

DAILY NEWS, SATURDAY DECEMBER 04, 1993

Mr. K. N. Choksy, Minister of Constitutional and State Affairs arriving for the 14th National Conference of Chartered Accountants held at the Colombo Marriott hotel at which he was the chief guest. With him are Mr. Nivard Cabraal, President of the Institute of Chartered Accountants, Mr. M. A. Abeynaike, Vice-President of the Institute and Prof. Janek Ratnatunga of Monash University, Melbourne. (Picture by Berty Mendis)

THE ISLAND Thursday 4th July, 1991

Attorney General represented owning company

In our news report granted an Enjoining under the heading Order Restraining Mitsui Company Limited Objections filed against the Enjoining Order". from receiving payment "Order on July 9". to build the Hotel Hilappearing in "The Is- ton of Colombo, the land" of July 2 we failed Hotel Developers to state that the Owning (Lanka) Limited too Company of the Colwas enjoined and restrained from making ombo Hilton. The Hotel Developers any payments to the (Lanka) Limited, was Japanese Companies, represented in the Hil- The notice of applicaton Hotel Case, heard tion for issue of the ction mpany Com-

THE SUNDAY TIMES, SUNDAY, NOVEMBER 03, 1991

Hilton case: stay order on payment

The District Court of Colombo has issued interim injunctions staying payment by Hotel Developers (Lanka) Ltd., the owning company of the Colombo Hilton Hotel, on any financial claims made by three Japanese director/shareholder in the owning company, who claimed that the construction lacked many of the features specified in the original plans on the basis of which the project was approved and proceeded with.

DAILY NEWS, SATURDAY APRIL 22, 1995 ★★ PAGE TWENTY ONE

AG's dept opposed inspection of Hilton project

(By M. J. M. Zarook and Daryll de Silva)

Mr. Nihal Sri Amaresekera, Chartered Accountant and Advisor to the Ministry of Finance said yesterday before the Special Presidential Commission that he made an application to the District Court to inspect the Hilton Hotel project

With regard to Japanese government sensitiveness in the matter, it has been pointed out that there has been growing public concern in Japan over frauds involving Japanese companies and public personages. No government in Japan, therefore, would like

DAILY NEWS, MONDAY APRIL 03, 1995

DAILY NEWS, WEDNESDAY NOVEMBER 06, 1991

Judge issues interim injunction in Hilton case

Colombo District Judge Mr. P. Wijayaratne (now, High Court Judge) has rejected the objections and issued an interim injunction restraining three Japanese firms (of contractors and architects) from demanding or receiving any monies whatsoever in connection with the construction of the Colombo Hilton hotel building until the final determination of the action.

An interim injunction was also issued restraining Hotel Developers (Lanka) Limited from entertaining any demand for claims on paying out any monies to the three Japanese companies.

Accordingly, the present position is that the Defendants' statement, that they have performed their part of the contracts and the willingness shown by the company to accept the same, as set out by the Defendants, cannot be accepted as the basis for payment.

Accordingly, what should be actually considered is, whether, the position of the company in relation to the said matters i.e. whether, the position taken concerning the agreements entered into with the 1st to 3rd Defendants, is adverse to the interests of the shareholders of the company, or else,

DAILY NEWS, FRIDAY MAY 31, 1996 ★★

SPC on malpractices by Govt Bodies

We resisted mortgage of Hilton Hotel building to Japanese – *Witness*

When Hotel Developers (Lanka) Ltd could not meet the loan instalments on the Hilton Hotel project, the Japanese Consortium of Mitsui Taisei suggested a debt rescheduling agreement which included the mortgage of the Hilton Hotel building to the Japanese.

This plan was stoutly resisted by Dr. A. C. Randeni, the government nominee on the Board of Directors and himself said Mr. Nihal Sri Amaresekere, Chartered Accountant and Advisor to the Ministry of Douglas Premaratne PC acting Solicitor General in the inquiry into matters relating to the Hilton Hotel project and acts of commission and omission by government and public bodies in this connection.

The Special Presidential Commission comprises Justice Priyantha Perera (Chairman), Judge of the Supreme Court, Justice Hector Yapa, Judge of the Court of Appeal and High Court Judge, Mr. F. N. D. Jayasuriya.

Mr. Amerasekera said that later the secretary to the

Treasury chief Paskaralingam rejected requests for physical check of Hilton – Nihal Amerasekere

By M. J. M. Zarook and Manjula Fernando

MR. Nihal Sri Ameresekera, Business and Management Consultant said yesterday before the Special Presidential Commission sitting at the BMICH that all his attempts to have a physical inspection of the Hilton Hotel building failed.

DSG: What is your present position on this. Was the building constructed according to the plan P4 and P4a? – No.

Witness referred to the report of the Panel of Architects appointed by the Commission.

Witness said according to the construction

filed in September 1990. Interim injunction was issued in October 1991 after earlier enjoining orders were given. There was an appeal filed and the Supreme Court gave judgement in December 1992.

Witness said the injunctions issued prevented HDL from paying any monies to the Japanese contractors

THE ISLAND Wednesday 2nd August, 1995 THE ISLAND

Commission to appoint panel of architects to check Hilton Hotel project plan

by Assumpta Alles

National List MP and former Director Hotel Developers Limited, (HDL) K. N. Choksy, HDL Chairman and Managing Director Cornel Perera and other Directors of HDL

plan, the construction agreement and the schedule of future income projections..

Justice Priyantha Perera said that a panel of independant architects should look

should be made available to the architects. There were certain documents not in dispute for example, the building application. There was a construction agreement entered into between the

the company will be appointing. Then a complete examination could be done.

Justice Perera - That is exactly what we want to do.

panel of architects. We are interested in finding out whether this building is in accordance with the original plan.

Choksy - We are not in any way going to in-

which list the Commission will select five. The President of the Institute of Architects is directed to forward a list of architects from several firms of Chartered Architects before September 1,

THE ISLAND Wednesday 1st January, 1992

Mr. Nihal Ameresekere, a Management Consultant writing to "The Island" details out a number of instances wherein he had complained to the Securities and Exchange Commission and the Colombo Stock Exchange against violations of the existing laws by certain public quoted companies.

Here is an excerpted version of his letter.

The Island Sunday 5th June, 1994 **Rs. 11,000 million held up by court injunction**

Japanese concerned about Hilton case

The Japanese government has expressed its concern to the Sri Lanka government about the

the Japanese envoy in Colombo, Mr. I. Hashimoto.

The ambassador

Constitutional and State Affairs. Mr. Harindra

citation of an international cross-de fault, our foreign

copy of the originally approved Architectural Plans for the construction of Hilton Hotel

Japanese concerned... Continued from P1

Mr. Ameresekere furth-

THE ISLAND Wednesday 2nd November, 1994

Alleged Hilton kick-backs to be probed

By Ravi Ladduwahetty

Some influential persons connected to the J. R. Jayewardene regime are to come under investigation for fraud and corruption for alleged kickbacks received from a Japanese multinational, once the proposed permanent Commission for Bribery and Corruption is set up, informed Bribery Commissioner's Department sources yesterday.

Hong Kong based account of Deutsche Bank AG between April 1984 and December 1984 for alleged special favours it had obtained in connection with the Hilton Hotel project in Colombo, official sources disclosed.

c) The exemption of import duties on all materials and equipment for the Hilton Hotel.

d) The exemption of all corporate and other taxes.

quested by Mitsui.

The Attorney General, by his letter dated 6th March 1984 had categorically stated that no exemption from Import Duty could be granted to the Colombo Hilton under the law.

Consequently, former Minister of Constitutional Affairs K. N. Choksy — a very powerful personality in the United National Party governm

Colombo had been granted, costing the government around Rs. 650 million.

The Customs (Amendment) Law No. 35 of 1974 empowers the Minister of Finance to grant such exemptions, only if he deems it expedient in public interest to do so. The then government also issued state guarantees, under which the alleged claims today

THE ISLAND Saturday 2nd November, 1991

DAILY NEWS, WEDNESDAY MARCH 04, 1992

Allegations against Hotel Hilton baseless

– ASG

The action filed in the District Court of Colombo by Nihal Sri Amerasekere, a share-holder of Hotel Developers Limited against the contractor, architects and other directors of the Hilton Hotel was taken up before Mr. I. M. Liyanage District Judge, Colombo, for a ruling on the plaintiff's further pleadings. Mr. K. Kanageswaran PC submitted to Court that the original motion sought permission to file the further pleadings together with the request that the answer filed by the 4th Defendant (Hotel Developers Limited) be rejected or returned for amendment. However, he stated, that he now only wanted to file further pleadings and was withdrawing the request that the 4th defendant's answer be rejected.

Mr. Shibly Aziz PC Additional Solicitor General who appeared for the 4th defendant Hotel Developers Limited submitted that it was unfair for the plaintiff to now urge that only the plaintiff's further pleadings should be accepted and deprive the 4th defendant from answering plaintiff's further allegations.

Mr. Aziz further stated that the 4th defendant company, did not consider it appropriate to support either of the parties in the original answer in view of the serious and grave allegations of fraud, collusion and irregularities in the building of the Hilton Hotel. Moreover, the plaintiff had purported to bring the action to safeguard the interests of the company. A careful and thorough examination conducted thereafter into these allegations had clearly shown that the allegations were totally baseless and unfounded and based on a misconception entertained by the plaintiff.

Mr. Aziz submitted that the hotel was built in accordance with the agreement reached between the parties and the plans, and that there was no justification at all for the plaintiff's allegations of

would have wished to file an amended pleading setting this out in greater detail, he did not wish to do so since this may delay the trial in this case which is fixed for a date in March this year.

However, he categorically reserved the right to controvert the plaintiff's allegations at the appropriate stage. Mr. Aziz also pointed out that this course of action was necessary in view of the fact that foreign firms are involved in this matter and policy considerations required that this action should be concluded as early as possible, in the interest of everybody.

Accordingly, the judge permitted the further pleadings subject to reservation made by the Additional Solicitor General.

In this case the plaintiff Mr. Nihal Sri Amerasekera of Sri Vipulasena Mawatha, Colombo 10, a chartered accountant and a shareholder of Hotel Developers Ltd. has stated that the original architectural plans for the Colombo Hilton provided for 23 floors including a mezzanine floor but the unauthorised approved architectural plan had only 20 floors including the ground floor and no mezzanine floor in the main building.

There were also other differences in the building with regard to the number of guest rooms etc.

The District Court has already issued an interim injunction restraining the three Japanese firms of contractors and architects from demanding or receiving any monies whatsoever in connection with the construction of the Colombo Hilton building. An interim injunction has also been issued restraining Hotel Developers (Lanka) Ltd from entertaining any demand for claims or paying out any monies to the three Japanese companies.

DAILY NEWS, FRIDAY MARCH 31, 1995

Embarrassed President wanted suit withdrawn

Mr. Nihal Sri Amerasekera told the Special Presidential Commission sitting at the BMICH yesterday, that when he filed action in the district court and obtained an enjoining order preventing payment to the Japanese consortium of Mitsui Taisei etc, Mr. R. Paskaralingam then secretary to the ministry of finance, informed him that President Premadasa was disturbed and wanted him to consider withdrawing the action.

Case against Hotel Hilton contractors

Interim injunction restraining drawing of payments issued

by Chitra Weerarathne

The District Judge of Colombo, Mr. I. M. Liyanage, recently issued an Interim Injunction, restraining Mitsui and Company Limited, Taisei Corporation and Kanko Kikaku Sekkeisha Yozo Shibata and Associates, Architects and Designers, from drawing any payment from Hotel Developers Lanka Limited for having constructed the Hilton Hotel of Colombo.

The Petitioner in this case is Mr. Nihal Sri Amerasekera, a Director of Hotel Lanka Developers Limited (the owners of Hilton Hotel Colombo).

The Petitioner Mr. Amerasekera in his petition, requested the District Court to grant him:

(1) an Interim Injunction restraining Mitsui/Taisei Consortium and architects the 1st, 2nd and 3rd defendants by themselves, their representatives, servants and agents or otherwise from demanding, claiming

enjoining orders in the same manner and issued the Notice of Interim Injunctions.

The Objections that were filed by the Defendants, and the submissions made by the learned Counsel, on behalf of the parties, became the subject of this Inquiry. When considering all the objections, submissions and legal positions, the position that is clear, is that, the 4th Defendant Company which is the other party to the Agreements, in respect of which the 1st, 2nd and 3rd Defendants have a right to receive monies on such Contracts, did not contest such an application. However, the subject of the argument mainly adduced herein was, that the Plaintiff, who is a Shareholder of the Company, sees this, as an attempt by other Shareholders and the Parties, who are showing interest concerning the Company, and who are exercising the influence, that they have gained in Society, acting together with the Company, to prevent the raising of the questions concerning the matters of the work in connection with the Contracts, the Prospec-

Hilton Hotel case

THE ISLAND Wednesday 4th March, 1992

SC to hear application for special leave to appeal against AC order

By Chitra Weerarathne

Contractors of Hilton Hotel Colombo, special leave to appeal to the The Supreme Court Court of Appeal, against

ombo. The order of Mr. P. Wijeratne, District Judge of Colombo, delivered on

claims for payment of money and receiving any money from the owning company of Hilton Hotel

panies. The plaintiff in the District Court Action is Mr. Nihal Sri Amerasekera,

Court of Appeal requesting that Court to grant them leave to appeal against the District Court

asekara has appealed to the Supreme Court requesting the Supreme Court to grant him special leave to appeal against the order of the

Friday 13th September, 1991 THE ISLAND

Vasudeva writes to President on Hilton

by Prabath Sahabandu

Mr UNSP) for Ratnapura, Vasudeva Nanayakkara has in a letter to President Ranasinghe Premadasa to inquire as to why a director com shareholder of the Hilton Hotel had to file legal action against the manner in which the Hotel was constructed.

Mr. Vasudeva has brought to the notice of the President that Mr. Nihal Amerasekera the Director had filed a case in the District Court of Colombo alleging that the construction of the Hilton Hotel had not been

Amerasekara has alleged that his efforts to probe the matters have been deliberately obstructed by an influential director of the Hotel who is also a legal luminary in the country.

Mr. Nanayakkara further alleged in the letter that there has been a Rs. 2 – 3 thousand million fraud. The government has restrained itself from actively supporting such legal action despite the fact that the legal action has been instituted in the sole interest of the Government and the public of Sri Lanka in view of the large state guarantee. Mr. Nanayakkara also says that

THE ISLAND Sunday 13th October, 1991

Alleged defaults in Hilton construction

Director-shareholder files further pleadings

by Prabath Sahabandu

A very rare and extreme legal measure has been resorted to by Mr. Nihal Sri Amerasekara, Director Shareholder of Hotel Developers (Lanka) Ltd, the owning company

Mr. Amerasekera earlier instituted legal action in the District Court of Colombo and obtained Enjoining Orders restraining any payments to the Mitsui/Taisei Consortium and the Japanese Architects, Kanko Kikaku Sekkeisha Yozo Shibata

ments signed for that purpose.

In the further pleadings Mr. Amerasekara's Counsel has stated that the Attorney-General has failed to expressly traverse several serious and material averments in the plaint. It is also

THE ISLAND Sunday 24th January, 1993

Minority shareholder rights against defiant majority

With the public being invited with increasing frequency to buy shares in commercial companies, the recent judgment of the Supreme Court in the Hilton Hotel case (reported in full in last Sunday's edition of this newspaper) will be of much interest.

The precise position of a company and its shareholders at law has often come up for discussion in the courts. A company is treated as a legal person distinct from its individual shareholders, and yet

them hold not less than 5 per cent of the nominal value of the company's issued capital.

The Companies Act itself provides a remedy under the chapter headed "Prevention of Oppression and Mismanagement".

Under those provisions such persons who

recoverable if it was ultimately found to have been wrongly paid.

The plaintiff Nihal Sri Amerasekera was a subscriber to the Memorandum and Articles of Association of Lanka Japan Hotels Ltd. which was later renamed Hotel Developers (Lanka) Ltd. and is the company that

declared by the Civil Law Ordinance to be the prevailing English law.

for the project was also Japanese.

According to the plaintiff, the plans for the project as originally approved by the Urban Development Authority in 1984 envisaged a hotel with 450 rooms. Subsequently it was discovered that the hotel (completed in 1987) had

THE ISLAND Friday 29th May, 1992

Director, Hilton Hotel granted special leave to appeal to S.C.

By Chitra Weerarathne

The Supreme Court on Wednesday, granted Mr. Nihal Sri Amarasekera director Hilton Hotel Colombo, special leave to appeal to the Supreme Court against an order of the Court of Appeal in the Colombo Hilton Hotel case.

The Bench comprised,

Ltd. its Directors or agents. The injunction also restrained the Hotel Developers Lanka Limited or its Directors from entertaining any claims on payment or making any payments to the Japanese Contractors and their Architects for construction works Hilton Hotel of Colombo.

ජනාධිපති ලේකම් කාර්යාලය
ஜனாதிபதி செயலகம்
THE PRESIDENTIAL SECRETARIAT

මගේ අංකය
எனது இல.
My No. EA/4/214

ඔබේ අංකය
உமது இல.
Your No.

කොළඹ 1.
கொழும்பு 1.
Colombo 1.

8th April 1993

Dear Sir,

Hilton Hotel

I am writing with reference to your letter dated 9th March 1993, addressed to His Excellency the President on the above subject.

I have been directed by His Excellency to refute your claim that my reply dated 5th February 1993, sent to you on His Excellency's instructions contained "false and untrue statements."

His Excellency has further directed me to inform you that,

(a). for the reasons set out in the aforesaid reply dated 5th February 1993, and

(b). in view of the decision of the Supreme Court, referred to in the penultimate paragraph of the aforesaid reply,

your request for action by His Excellency is inappropriate and therefore cannot be acceded to.

Yours faithfully,

(K H J Wijayadasa),
Secretary to the President

Mr Vasudeva Nanayakkara,
Member of Parliament for
Ratnapura District,
143/3, Kew Road,
Colombo 2.

6 THE ISLAND Sunday 17th January, 1993

Historic Supreme Court Judgment in the Hilton Hotel Case

Shareholder wins legal right to institute action on behalf of a company and in its right in exceptional circumstances

"...but for the interim injunctions, the 4th Defendant Company, like Pyrrhus after the battle of Asculum in Apulio, might well be constrained to say, One more such victory and we are lost."

THE ISLAND Sunday 10th January, 1993

Landmark Supreme Court Judgment

Establishes unique legal right of a shareholder to sue on behalf of a company

A Supreme Court Bench presided by the Chief Justice G. P. S. de Silva and comprising Justices Dr. A. R. B. Amarasinghe and K. M. M. B. Kulatunge unanimously delivered a historic Judgment written by Dr. A. R. B. Amarasinghe recently in the Hilton Hotel Case, recognising the legal right of a minority Shareholder, irrespective of the size of Shareholding to institute a derivative/ representatives legal action, on behalf of a Company in the right and the interest of The Company, where in the reliefs claimed are for the benefit of the Company and its Shareholders.

This Judgment makes this a landmark case, establishing a legal precedent in this country, keeeping in conformity the established international legal practice and Case Law pertaining to Companies.

The Judgment gives comprehensive legal references and authorities in relation to such established international Case Law and the right of Court to intervene in the interest of justice.

In deference to numerous requests and interests expressed in legal circles including students of law and members of the investing public, the Sunday Island next Sunday will carry the full Judgement, which would be of Public and Legal interest.

THE ISLAND Sunday 14th November, 1993

Hilton Hotel judgment in C'wealth Law Reports

The Supreme Court judgment in the Hilton Hotel case has been given pride of place in the Commonwealth Law Reports of 1992 just released in U.K. The Commonwealth Law Reports in its Commercial Law Volume for the year 1992 has reported this Judgment at pages 636 to 649.

Court restraining the first, second and third defendants from demanding claiming, etc any moneys under contracts with the fourth defendant. The first to third defendants were granted leave to appeal by the Court of Appeal on the basis that (a) the district Court judge had not addressed his mind to whether the appellant had the light of the defences raised. The judge had considered the material before him and correctly decided that the applicant had a real prospect of success and a prima facie case. Further, the judge had properly desisted from referring to the evidence in detail as there were serious allegations and incomplete and second defendants Mitsui & Co Ltd of Tokyo and Taisei Corporation of Tokyo (promoters, contractors, suppliers, financiers and shareholders of the fourth defendant) and third defendant, Kanko Kikkau Sekkeisha Yozo Shibata & Associates (architects) to appeal from the decision of a judge of the district court

THE ISLAND Sunday 6th December, 1992

Legal experts view Hilton Hotel case judgment as historic

by Zacki Jabbar

Legal experts have described the Supreme Court Judgement in the Hilton Hotel case delivered last week which established the right of derivative representative action in Sri Lanka in conformity with accepted international legal practice and case law pertaining to companies as "historic."

Legal experts, said it is a landmark decision which establishes legal precedence wherein the shareholder of a company irrespective of size of shareholding could sue the company, its directors and third parties filing the action on behalf of the company and in its right.

The Supreme Court in its judgement directed that the case against the three Japanese firms which constructed the Hilton Hotel and Hotel Developers (Lanka) Ltd., which owns the hotel, filed by Nihal Sri Amarasekera, a former director in the owning company pending in the District Court of Colombo, be proceeded to trial and concluded as soon as practicable.

In doing so the Court set aside an order by the Court of Appeal granting the first three defendants Mitsui and Co. Ltd., Taisei Corporation, and Kanko Kikaku Sekkeisha Yozo Sihbara and Associates, all of Japan, leave to appeal against interim injunction against the defendants abovenamed by the District Court of Colombo on September 9, 1991.

A three member Bench of the Court comprising the Chief Justice G. P. S. de Silva and Justices Ranjith Amerasinghe and K. M. M. B. Kulatunga affirmed the judgement of the District Judge, Colombo dated September 9, 1991 and directed that the action proceed to trial and be concluded as soon as practicable.

The Supreme Court held that the Court of Appeal

Continued on page 3

THE ISLAND Sunday 3rd July, 1994

Hilton Hotel case

AG directed to prepare papers for settlement

by Chitra Weerarathne

DAILY NEWS SATURDAY MAY 11, 1996

Commission allows settlement with Japanese firms on rescheduled payments

(By Madhubhashinee Dayabandara and Manjula Fernando)

SPC on malpractices in public bodies

THE ISLAND Sunday 17th January, 1993

Historic Supreme Court....

Claims under state guarantees injuncted to prevent "siphoning out of money" from the company and the country.

DAILY NEWS SATURDAY JULY 1ST, 1995

Japanese companies write off Rs. 10.2 b

Hilton Hotel dispute settled

By T. Sabaratnam

The Hilton Hotel dispute which was a major irritant in Sri Lanka – Japan relations has been settled with the Japanese companies agreeing to write off interest payments and a portion of the capital amounting to Rs. 10.2 billion.

THE ISLAND Saturday 1st July, 1995

Hilton Hotel dispute settlement with Japanese consortium helps govt. save Rs. 10,200 million —Prof. G. L. Peiris

By Ravi Ladduwahetty

The total saving to the government of Sri Lanka following the signing of the Hilton Hotel dispute settlement ... lion which is to be paid over the next 15 years commencing 1996, Prof. Peiris explained to the local and foreign media personnel. ... ernment's commitment which has brought about the large scale saving. However, this settlement has nothing to do with the punitive ac... Japanese Ambassador in Sri Lanka Yasuo Naguchi and his predecessor Masaki Kuniyasu"

Addressing journal...

DAILY NEWS THURSDAY FEBRUARY 02, 1995

SPC on frauds and irregularities

Airbus, Hilton affair get top billing

By T. Sabaratnam

The Special Presidential Commission (SPC) on Frauds and Irregularities will take up the controversial Airbus deal and the Hilton Hotel affair as its first major assignments, Justice Minister Prof. G. L. Peiris said yesterday.