

# English Media Exposés

## HILTON PROMOTION IN 1960's

Ceylon Observer - 26. 10. 1968 THE OBSERVER TUESDAY OCTOBER 26, 1993

### 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 Stewart 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 procedures takes the most recent sale price into account.

That would mean that Hotels International 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 International'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".

## HILTON PROMOTED IN 1980's

THE SUNDAY TIMES, SUNDAY, OCTOBER 1991

### The case of the missing storeys

The plaintiff in this case, Mr. Nihal Sri Amarasekera 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 & Associates, two other Japanese firms, Mr. Cornel L. Perera, 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 originally 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.

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

Mr. Amarasekera 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

## HILTON PROMOTED IN 1980's

SUN Friday, September 21, 1990

### Hilton hotel construction agreement Court issues interim injunction on Mitsui & Co.

Mr. P. Navaraj 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 mezzanine floor.

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

THE ISLAND Friday 28th April, 1995

## DAILY NEWS, SATURDAY JUNE 17, 1995

### Original plans of the Hilton Hotel missing

By M. J. M. Zarook and Madhubashini 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.

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

### 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 Wijayarathna, 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 architectural 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 architectural plans had provided for 408 guest rooms, the hotel's monthly statements reflected only 387 rooms.

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 occurred 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

### Hilton Hotel Project probe

#### Despite persistent urging there was continued silence — witness

by Dirukshi Handunnettil

Choksy were dated 20th April 1995

The President re-

THE ISLAND Wednesday 5th April, 1995

### Board took no positive action

#### Hilton hotel project probe — Witness

By V. K. Wijeratne

Premadasa was concerned with and decided information to the Finance Ministry. Shortly thereafter

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 Alies

The former Director added that since he was not familiar with the number of rooms had 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. Shanmugalingam

floor area of the amended plan approved in 1986 was 10,800 sq metres. The area in the 1985 plan was 8,813,050 and the balance with interest was to be paid in 33 annual instalments.

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 10.10.85 with regard to the fire which occurred at

## 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

# 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 Amerasekera.

Mr. Amerasekera 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 auditors, R. Seewarathnam, S. Srinanathan, M. R. Mihal, P. Y. S. Perera, C. P. Jayatilake and M. P. Senewiratne, all partners of Ford Rhodes Thornton and Co. Ltd. Initially, Mr. Amerasekera 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. Amerasekera, 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. Amerasekera's) instance, prior to the certification of the Accounts.

Mr. Amerasekera 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 subsequent

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. Amerasekera, 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 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 Cabral, President of the Institute of Chartered Accountants, Mr. M. A. Abeynayake, Vice-President of the Institute and Prof. Janket Ratnatunga of Monash University, Melbourne. (Picture by Berty Mendis)

# 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 Amerasek-

ere 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. Naguleswaran and Mr. A. M. Illiyas instructed by Messrs de Silva and Perera appeared in support of the plaintiff's application.



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 Cabral, President of the Institute of Chartered Accountants, Mr. M. A. Abeynayake, Vice-President of the Institute and Prof. Janket Ratnatunga of Monash University, Melbourne. (Picture by Berty Mendis)

DAILY NEWS, SATURDAY DECEMBER 04, 1993

# 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 out the irregularities in the accounts. He said that he asked the directors either to refute his

THE ISLAND Thursday 4th July, 1991

# Attorney General represented owning company

In our news report granted an Enjoining Order, Restraining M.H. Objections filed against the Enjoining Order, from receiving payment "Order" on July 9, appearing in "The Island" of July 2 we failed to state that the owning company of the Colombo Hilton Hotel Developers, the trained from making (Lanka) Limited, was Japanese Companies, represented in the Hilton Hotel Case, heard for issues of the

# 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, WEDNESDAY NOVEMBER 06, 1991

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 Amerasekera, 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 persons. No government in Japan, therefore, would like to have a public inquiry into the

DAILY NEWS, MONDAY APRIL 03, 1995

# 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 Taiisei 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 Amerasekera, Chartered Accountant and Advisor to the Ministry of Finance Wednesday 1st January, 1992

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

Mr. Nihal Amerasekera, 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.

# 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.

DAILY NEWS, FRIDAY MAY 31, 1996

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,

# Treasury chief Paskaralingam rejected requests for physical check of Hilton — Nihal Amerasekera

By M. J. M. Zarook and Manjula Fernando MR. Nihal Sri Amerasekera, Business and Management Consultant said yesterday before the Special Presidential Commission sitting at the BMCH that all his attempts to have a physical inspection of the Hilton Hotel building failed.

DSC: 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 expiring 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 Assamula 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 independent 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

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 ap-

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 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 Dissanayake

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

Japanese concerned... Continued from P1

Mr. Ameresekere further THE ISLAND Wednesday 2nd November, 1991

## Allegations against Hotel Hilton baseless

The action filed in the District Court of Colombo by Nihal Sri Ameresekere, 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. Lyanage District Judge, Colombo, for a ruling on the plaintiff's further pleadings. Mr. K. Kanagasaran FC 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 FC Additional Solicitor General who appeared for the 4th defendant Hotel Developers Limited submitted that it was unfair for the plaintiff to now argue 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 Ameresekere 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.

## Alleged Hilton kick-backs to be probed

By Ravi Loddurwahetty

Some influential persons connected to the J. R. Jayawardene 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 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 govern

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 the public interest to do so. The then government also issued state guarantees under which the alleged claims today

THE ISLAND Saturday 2nd November, 1991

## Embarrassed President wanted suit withdrawn

Mr. Nihal Sri Ameresekera 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 Weeraratne

The District Judge of Colombo, Mr. I. M. Lyanage, 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 Ameresekere, a Director of Hotel Lanka Developers Limited (the owners of Hilton Hotel Colombo).

The Petitioner Mr. Ameresekere 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 Prospe-

THE ISLAND Wednesday 4th March, 1992



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,

- for the reasons set out in the aforesaid reply dated 5th February 1993, and
- 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, New Road,  
 Colombo 2.

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

By Chitra Weeraratne  
Contractors of Hilton Hotel Colombo, special leave to appeal to the Supreme Court, against the order of Mr. P. Jayaratne, District Judge of Colombo, delivered on Friday 13th September, 1991 THE ISLAND

## Vasudeva writes to President on Hilton

by Prabhath Sahabandu  
Mr. Vasudeva Nanayakkara has written to President Premadasa to request as to why a director and shareholder of the Hilton Hotel had to file legal action against the manner in which the hotel was constructed.

## Minority shareholder rights against defiant majority

When the public being invited to subscribe to the Hilton Hotel, the plaintiff found to have been wrongfully paid 5 per cent of the nominal value of the company's issued capital. The plaintiff Nihal Sri Ameresekere has filed a writ of Mandamus under the Companies Act 1984, against the directors of the company to provide a remedy under the chapter headed "Prevention of Oppression and Mismanagement". Under those provisions, the plaintiff has sought an order of the Court to grant him special leave to appeal against the order of the District Court.

## Alleged defaults in Hilton construction Director-shareholder files further pleadings

by Prabhath Sahabandu  
Mr. Ameresekere 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

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

By Chitra Weeraratne  
The Supreme Court on Wednesday, granted Mr. Nihal Sri Ameresekere 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.

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 certain circumstances

Colombo Hilton Hotel, owned by Hotel Developers (Lanka) Ltd, a public quoted company, had been promoted in 1981 by Mitsui & Co. Ltd and Taisei Corporation, both of Japan...

Architectural Plans had been carried out without the knowledge and approval of the Board of Directors of the Company and was a contravention and violation of the terms of the several Agreements and contracts that had been entered into...

In the construction a fire was said to have completely destroyed the Hilton Hotel construction site office at the Echelon Square and all documents had been destroyed...

Disregarding the Action instituted by the Plaintiff on behalf of the Company, wherein the District Court had issued an order restraining the Plaintiff from pursuing its claims...

In the Supreme Court of the Democratic Socialist Republic of Sri Lanka...

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

THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

S. C. Appeal No. 3182 of 1992

S. C. Special Leave to Appeal Applications Nos. 18 & 19 of 1992

S. C. Colombo Case No. 10 of 1992

Nihal Sri Amarasekera of No. 1674, Sri Vajupasama, Colombo 10.

PLAINTIFF-RESPONDENT-PETITIONER-APPELLANT

1. Mitsui and Company Limited, a Company organized and existing under the laws of Japan and having the Principal place of business at 2-1, Ohtemachi 1-Chome, Ohyo-da-ku, Tokyo, Japan and having a liaison office at the office of business in Sri Lanka at No. 315, Vauxhall Street, Colombo 03.

2. Taisei Corporation, a Company organized and existing under the laws of Japan and having the Principal place of business at 2-1, Nishi-Shinjuku 1-Chome, Shinjuku-ku, Tokyo, Japan and having a liaison office and/or place of business in Sri Lanka at No. 05, High Level Road, Maharagama and presently Hilton Hotel Colombo.

3. Kanko Kikaku Sekkeisha Yozo Shibata & Associates, Architects & Designers, Corporation organized under the laws of Japan and having the Principal place of business at No. 9, Marujicho 1-2-2, Atsugi, Miyagi, Tokyo, Japan.

4. Hotel Developers (Lanka) Limited, formerly known as Lanka-Japan Hotel Limited, of No. 16, Alfred Place, Colombo 03.

5. Cornel Lionel Perera, Chairman/Managing Director, Hotel Developers (Lanka) Limited of No. 51/3, Dharmapala Mawatha, Colombo 3.

6. Frederick Germaine de Medis, Director, Hotel Developers (Lanka) Limited and of No. 51/3, Dharmapala Mawatha, Colombo 3.

7. Karishap Narinam Chokky, Director, Hotel Developers (Lanka) Limited and of 228, Ernest De Silva Mawatha, Colombo 03.

8. Don Peter Senewiratne, Director, Hotel Developers (Lanka) Limited, and of 69/2, Harvelod, Road, Colombo 06.

9. Kanetaka Kobayashi, Director of Hotel Developers (Lanka) Limited, and of 6-38, Fujimoto, Chigasaki, Kanagawa, Japan.

10. Kanagathipalli Shanmugalingam, Director, Hotel Developers (Lanka) Limited, and of No.4 Ramaniyasastry Mawatha, Colombo 5.

11. Kaji Ito, Director of Hotel Developers (Lanka) Limited, and presently of No. 315, Vauxhall Street, Colombo 03.

BEFORE: G. P. S. de Silva, C.J., Amarasinghe, J., Kulasinga, J.

COUNSEL: H. L. de Silva, P.C., with K. Kanagasiri P.C., with C. V. Vimalanathan and Ari Tittevelas and Harsha Cabral for petitioner.

Eric Amarasinghe, P.C., with L.A. Wickremasinghe, H. Soza and Anil Silva for 1st and 2nd Defendants petitioners-appellants-respondents.

L. C. Senewiratne P.C., with T. C. Beang, and S. D. Yoderas for 2nd Defendant Respondent.

ARGUED ON: 18 and 19 November 1992. DECIDED ON: 02 December 1992.

CUR. ADVULT AMERASINGHE, J.

Work on the construction of the Colombo Hilton Hotel commenced in 1981 and the hotel was opened for operations on 1 July 1987. Mitsui & Co. Ltd of Tokyo, the first defendant, and Taisei Corporation of Tokyo, the second defendant, were promoters, contractors, suppliers, financiers and shareholders of the hotel...

Hilton Hotel case

AG directed to prepare papers for settlement

by Chitra Weeraratne

Shareholder of Hilton Hotel, had earlier obtained an order from the Supreme Court...

Historic Supreme Court...

Plaintiff has a reasonable and real prospect of success even in the light of the defences, objections and submissions of the Defendants.

Therefore, what the learned District Judge was expected to do was to grant an order for the Plaintiff to prepare papers for settlement...

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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 Justices Dr. A. R. B. Amarasinghe and K. M. M. B. Kulatunga unanimously delivered a historic Judgment written by Dr. A. R. B. Amarasinghe...

keeping 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 Judgment, which would be of Public and Legal interest.

Hilton Hotel judgment in G'wealth Law Reports

The Supreme Court judgment in the Hilton Hotel Case has been given pride of place in the Commonwealth Law Reports and in the Law Volume for the year 1992...

Court restraining the first, second and third defendants from demanding claiming, etc. any moneys under contracts with the Hilton Hotel, on behalf of a Company in the right and in the interest of The Company, where in the reliefs claimed are for the benefit of the Company and its Shareholders.

Legal experts view Hilton Hotel case judgment as historic

By Zack Jabbar. Legal experts have described the Supreme Court Judgment in the Hilton Hotel case as historic...

Court of Colombo, be provided 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 Shibata and Associates, all of Japan, leave to appeal against the judgment of the District Court of Colombo on September 9, 1991.

Commission allows settlement with Japanese firms on rescheduled payments

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

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

Japanese companies write off Rs. 10.2 b

By Raw Laddawattay. Japanese companies have written off Rs. 10.2 billion in relation to the Hilton Hotel case...

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Hilton Hotel dispute settled

By T. Sabararam. 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.

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

By Raw Laddawattay. The Hilton Hotel dispute settlement with the Japanese consortium helps the government of Sri Lanka following the signing of the Hilton Hotel dispute settlement...

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SPC on frauds and irregularities Airbus, Hilton affair get top billing

By Raw Laddawattay. 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.

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