

Jakarta elite fight over New Hope sale

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The bitter dispute is another stumbling block for foreign investment. Andrew Burrell reports from Indonesia.

Australian company New Hope Corporation's planned \$490 million sale of its stake in Indonesia's biggest coalmine could be scuttled by a bitter legal dispute involving some of the country's richest businessmen over control of the mine.

In a dramatic move, lawyers for Indonesian tycoon Sukanto Tanoto, who launched the legal case, alleged on Friday that the planned sale by New Hope was illegal and warned they would sue all parties to the deal if it proceeds.

With Indonesian President Susilo Bambang Yudhoyono beginning an historic visit to Australia today, the case again throws the spotlight on the country's corrupt legal system and uncertain climate for foreign investment.

Mr Yudhoyono's advisers say he plans to push for more Australian investment in Indonesia during his two-day trip to Canberra and Sydney.

New Hope, a listed company owned by Washington H. Soul Pattinson, announced in February it had reached a conditional agreement to sell its 41 per cent stake in the Adaro coalmine in Kalimantan and a 50 per cent stake in a bulk shipping terminal for \$US378 million (\$490 million).

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The sale is scheduled to be approved later this month by New Hope shareholders, who are expecting to have \$200 million of the proceeds returned to them. New Hope's managing director, Jakarta-based businessman Graeme Robertson, said he did not believe there was any risk to the sale proceeding because New Hope was not directly involved in the legal matter.

But analysts in Jakarta say the escalating court battle that has entangled the intended buyer of New Hope's shares, businessman Edwin Soeryadjaya, has put the deal in jeopardy.

The dispute centres on an allegation by Mr Tanoto, a Chinese-Indonesian tycoon, that the forced sale in 2002 of his 40 per cent stake in Adaro for \$US44 million to Mr Soeryadjaya was illegal and well below market prices.

Mr Tanoto had held the Adaro stake through his Singapore-based company Beckett.

The shares were relinquished after a Beckett-controlled company, Asminco, defaulted on a \$100 million loan from Deutsche Bank in 1997, due to low coal prices at the time.

Asminco, which was then controlled by Mr Tanoto as well as Mr Robertson and his Indonesian business partner Hashim Djojohadikusumo, had pledged its Adaro

shares as collateral for the loan.

Mr Robertson said he had no involvement with Asminco after 1997.

In 2002, Deutsche Bank obtained an order from the South Jakarta District Court that validated the sale of those shares to Mr Soeryadjaya.

Three years later, with coal prices at a record high, Mr Tanoto suddenly challenged that order in the Jakarta High Court, which issued a shock ruling on February 25 that the original share sale was legally flawed.

Mr Tanoto is a prominent Soeharto-era player in Indonesia's pulp and paper industry who ran into debt problems in the late 1990s.

He is now demanding that his original shares be returned, or that he be compensated. Deutsche Bank is appealing the verdict to Indonesia's Supreme Court.

Two weeks before the verdict, a consortium led by Mr Soeryadjaya announced it had obtained financing of almost \$US1 billion to fund the purchase of New Hope's stake and to launch a major expansion of the mine.

The financiers are two major foreign investors: Singapore's state investment company Temasek Holdings and US-based Farallon Capital Management.

Analysts in Jakarta expect Temasek and Farallon to be reluctant to proceed with such a major financing until the legal case has been resolved.

"It would be a brave person who'd pay that sort of money while this court case is running," said one analyst. "They will want to hold off."

Temasek could not be reached for comment.

Mr Tanoto's lawyer, Lucas, who uses only one name, said that under the terms of the High Court ruling, New Hope was prevented from selling its Adaro shares to a third party without the consent of Mr Tanoto.

He said Mr Tanoto had a pre-emptive right to buy the New Hope shares.

Mr Robertson said the case involved a dispute between Indonesian parties and therefore would not affect New Hope's plans to sell its stake to a group of businessmen who had "excellent reputations".

He said the overturning of the court order three years after it was issued would only worsen Indonesia's reputation by drawing attention to its weak legal system.