

An Analysis on the Issues of the Frozen Estates in Kampong Bharu, Malaysia

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Abstract

Kampong Bharu, Malaysia which is categorized as Malay Reserve Land located in the 'Golden Triangle' and owned by Malays, is the most expensive Malay property in the country. However, it had been reported that there are more than RM60 billion frozen estates in Kampong Bharu alone. Although there are a lot of methods proposed to solve this issue, however, until now, the issue of frozen estates in Kampong Bharu still cannot be solved and the planning development has been pending until today. Therefore, this paper aims to analyse the constraints and issues preventing the estates in Kampong Bharu from being properly administered based on the qualitative and analysis through the relevant The research discovers a 20 years project, Kampong Bharu Detailed Development Master Plan (PITPKB) has been launched to carry out the development, but until now, the development has been pending since its earliest stage. In fact, Kampong Bharu Development Corporation Act 2011 (Act 733) was passed to implement policies, directives, and strategies about the development of the area of Kampong Bharu. Hence, the proactive efforts from the authorities to manage the frozen estates in Kampong Bharu must be done so that the productive elements of such estates would be activated to the advantage of the rightful beneficiaries and development of Kampong Bharu itself.

Keywords: Kampong Bharu, Frozen Estates, Kampong Bharu Development Corporation Act 2011 (Act 733), Kampong Bharu Development Corporation (KBDC).

Introduction

In the centre of Kuala Lumpur, Malaysia, there is a traditional Malay neighbourhood called Kampong Bharu. It is just one of several initiatives made to strike a compromise between

long-term residents' worries and the requirements of contemporary urban development (Ujang, 2016). However, it had been reported that there are more than RM60 billion estates classified as frozen estates in Kampong Bharu alone (Yusoff, 2019). Regarding Kampong Bharu, it appears that there is a proposal to redevelop the 122-year-old Kampong Bharu using a concept that won't need the people and landowners to relocate and that will give them the freedom to choose the type of development that best suits their needs. The Kampong Bharu Detailed Development Master Plan (PITPKB), a 20-year project, was started in 2015 and is scheduled to be finished in 2035. The estimated cost of development for this project, which is to be completed in three phases, is RM43.07 billion (Yusoff, 2019) and in which RM30 billion will be for construction (Aziz, 2015). The development, though, has only just begun. Nevertheless, despite the Government's commitment, there are still many obstacles to overcome because in addition to the heirs' problem, Kampong Bharu locals have expressed their displeasure with the various opulent projects in the area, which has made things more difficult for the authorities and developers. As a result, this study aims to analyse the problems with frozen estates in Kampong Bharu, Malaysia, and provide a workable strategy to enable the productive components of such estates to be activated to the benefit of the legitimate beneficiaries.

Methodology

This research will use qualitative research methods that include content and doctrinal analysis. Content analysis is by reviewing the relevant literature on issues related to frozen estates especially at Kampong Bharu, Malaysia, which requires library research. This includes studies covering all primary and secondary materials related to the frozen estates. Legislative texts, including statutes, codes, regulations, and recommendations, are used as the major legal sources for the data. The secondary legal sources from law committee reports, law journals, seminars, and textbooks. The data is also gathered from non-academic sources like newspaper articles and websites as well as scholarly sources like journals, papers, and textbooks. The Kampong Bharu Development Corporation Act 2011 as well as non-legal literature such textbooks, articles, newspaper clippings, conference proceedings, and seminar papers are examined as part of the doctrinal analysis that takes place in the interim. The finding from the analysis of the primary and secondary data will then be included in the recommendation for reform of the regulating framework pertaining to Kampong Bharu's development in order to manage the administration of frozen estates in Kampong Bharu.

Historical Development Kampong Bharu

Kampong Bharu, with total area of 307.73 acres located in Kuala Lumpur, Malaysia (Yusoff, 2019) and the only remaining urban village in the heart of the city. Due to its special land status and multiple land holdings, which make it challenging to totally turn the site over to interested parties for reconstruction, this Malay urban enclave is changing at a considerably slower rate. Developers are nonetheless interested in planning the area's renovation despite this restriction. When Kuala Lumpur was being transformed from a small tin mining town to a major city in the early 1900s, the Federated Malay States and Selangor were granted land by the Sultan of Selangor with the special restriction that only Malays could own the land and live in the area. This is how Kampong Bharu's history began (Ujang, 2016).

According to reports, there are 1355 parcels of land owned by 5,300 registered landowners in Kampong Bharu. Around 18,732 persons made up the whole population of the

seven villages that make up Kampong Bharu (Yusoff, 2019). The status of property ownership and the absence of infrastructure and community services to allow extensive expansion are the main obstacles to the area's development (Ujang, 2016). Despite sporadic construction and alterations to homes and buildings, Kampong Bharu nevertheless retains much of its original appearance. Its distinctive personality has been developed by local cuisine and delicacies, small-scale businesses, and traditional Malay homes. The 122-year-old Kampong Bharu is now flanked by skyscrapers, contemporary high-rise residential structures, and office buildings as Kuala Lumpur grows (KBDC, n.d).

An effort to redevelop the site reappeared in 2012, backed by the Malaysian government. The Kampong Bharu Development Corporation (KBDC) was founded on April 1, 2012, following the passage by the Parliament of the Kampong Bahru Development Corporation Act 2011 [Act 733] on December 7, 2011. In 2014, a Comprehensive Development Master Plan was created, the planning process was started, and the KBDC asked the Kampong Bharu community members for their approval of the proposed reconstruction (KBDC, n.d).

The KBDC's mission is to develop and change real estate to improve living conditions while balancing the need to protect the area's historical assets, culture, and legacy. The plan is anticipated to create a new economic and cultural enclave for the city, whereby the government envisions Kampong Bharu becoming a new Malay urban centre, which could increase the social and economic status of the Malays. The plan has the goal that no landowner or heir of the land will be left behind in this development beyond 2020. According to the Kampong Bharu Development Corporation Act 2011 and the rules governing it, KBDC fully commits to providing a high-quality and engaged delivery system with transparency, professionalism, integrity, and quality to make sure that no landowner or inheritor is marginalised and left behind in the development of their property in accordance with the guidelines and rules outlined by the Kampong Bharu Land Development Guideline.

Issues of Frozen Estates in Kampong Bharu

As it is concerned about Kampong Bahru located in the city center of Kuala Lumpur, lots of issues are to be discussed. But the main issues that critically must be discussed is the redevelopment issue. Unfortunately, this issue of redeveloping Kampong Bahru cannot be discussed or settled until the core issue which circle the Kampong Bahru, i.e. the frozen estates are settled.

Multiple Ownership

Land development in Kampong Bharu is facing a key challenges of multiple ownership. It is reported that there are 1355 small parcel of land which are owned by 5,300 registered landowners (Yusoff, 2019). This land condition need to be immediately solved if the owners wants to sell their land because the longer this condition attached on land, the more problem will be encountered, particularly to optimize the potential use of the land. A huge effort is required to obtain unanimous agreement among the landowners that contribute to the hesitance of the landowners to sell off the land. In addition, multiple ownership discourages uses of the land because every owner has his own interest, strategies, perspectives, actions and also behaviour. There is also a case where the landowners failed to reach a unanimous consent with regard to the price of the land which defeat the sale of the land. Thus, difficulties

of obtaining consensus from all landowners is the main factor for the landowners' refusal to sell or develop their land (Omar, Othman, Wardata, Djojomartone, n.d).

Although the value of each owner's precise share of the land may have altered, all owners still have the same management rights over the land, including the ability to pay quit rent and get development clearance. Conflict would arise when co-ownership of the land is divided due to disagreements on how to handle the situation (Taha et al., 2015). In fact, prior attempts to modernise the Malay reserved settlement have fallen short because it is challenging to obtain the owners' and beneficiaries' cooperation (Yusoff, 2019).

Multiple ownership can affect the land from the aspects of land development, economic value and social relationship. Due to co-owners' behaviour and the presence of small shares in multiple ownership, this results in the existence of idle land in terms of land development. This situation will also create dispute and conflict among the co-owners which may result in land abandonment. Besides that, land development in Kampong Bharu is uneconomical because of the small size of lots with multiple ownership. According to reports, the lot with the most occupants measures 809.345 square metres and is owned by 141 persons (Sulong & Taha, 2016). When co-owner increasing, the difficulty will also be increasing as one person will have to face abundant of co-owners. Lack of co-operation among owners is also a problem for multiple ownership in Kampung Bharu which course disruption to local development planning made by Kuala Lumpur City Hall (DBKL). Because multiple ownership reduces the value of the land and makes it more difficult to receive loans from financial organisations and lease land to business owners, it may also make it more difficult to generate a proper income from the property. Land development will be halted if social ties between co-owners are broken. The co-ownership crisis can occasionally last for centuries (Sulong & Taha, 2016).

Development Issues

The fear of losing their Malay identity is another factor in Kampong Bharu's landowners' reluctance to engage in development. The residents of Kampong Bharu were not happy with the Kuala Lumpur City Hall (KLCH) development plan initiated in 1975, since it did not prioritise preserving the settlement's character and history. As a result, the plan was never implemented. As a result, the Kampong Bharu Development Corporation (KBDC) in 2014 created a Comprehensive Development Master Plan that included preservation of identity and legacy as one of its integrated strategies (Ujang & Aziz, 2016).

Land in Kampong Bharu is also facing the issue of low purchase value due to the fact that it can only be purchased by Malays (King, 2020). The Sultan of Selangor gave the Malays the property in the early 1900s, but with the restriction that only Malays could own it and live there (Ujang, 2016). Thus, lowering the potential demand for the land as the land owners are prevented from selling their lands to the non-Malays. It is argued that lower potential land demand leads to lower land prices. Differences in land valuation on the open market are caused by the existence of small plots that are owned by a lot of different people and are located in different places. Consequently, the process of land amalgamation is necessary before engaging in a land redevelopment project on this type of land. All landowners must be contacted and agreements must be made as part of the amalgamation process. A larger plot of property that can be developed without requiring plot amalgamation is probably worth more than a smaller one (King, 2020).

Apart from that, the issue of trust create a problem in the development of land in Kampong Baru, According to a survey, many are reluctant to develop their land since they are victims and susceptible to fraudsters. In certain cases, a corporate figure was successful in convincing landowners to mortgage 44 parcels of land for development. Instead, such person used this land as collateral for another enterprise (Alhabshi, 2010).

Malay Practices of Inheritance

At the past, the Malays congregated in Kampung Baru, clearly not by default but as a result of deliberate colonial planning. The community, which was established in 1897 and covered 101.02 hectares, was known as the Malay Agricultural Settlement (MAS) (equivalent to 874 parcels) (Alhabshi, 2010). In 1965, the Selangor State Government agreed to grant the ownership of the land to 838 occupiers of the said area. The Kampung Baru area expanded by 61.93 hectares or 153.04 acres with the creation of the Federal Territory of Kuala Lumpur in 1974. Non-MAS (Malay Agriculture Settlement) area is the term used to describe the most recent addition to Kampung Baru. Thus, Kampung Baru had a total area of 162.95 hectares in 1974. The total area is currently 153.35 hectares after the Kuala Lumpur City Hall (KLCH) took over roughly 9.61 hectares to build a by-pass from Jalan Tuanku Abdul Rahman to Jalan Raja Abdullah (Alhabshi, 2010).

It is asserted, however, that the impact of inefficiencies in the management and administration of this estates affects the nation's economic activity and real estate growth. The issues in Kampong Bahru might due to the facts that previously, the original owner of the said plot of land divides their land equally to their heirs and there are owners whom died and the change of name in the title deed was not done. This has caused the overlapping ownership over a small plot of land. So long as the *faraidh* issue has not been settled, the change of name in the title deed cannot be done. Furthermore, in order to resolve the *faraidh* dispute, the actual heirs must be found, which seems to be quite hard and impossible for Kampong Bahru. The fact that the portions are divided into smaller plots due to Islamic inheritance law has actually made the situation more complicated (Ng, 2010). According to reports, the land office's records indicate that some of the titles have not been given to the deceased's heirs because it has been difficult to resolve disputes among them or track down missing or unidentified heirs. If the transfer was ultimately completed, dividing the land would be also impossible if it were too tiny to allow for such a division (Shafie et al., 2015).

Apart from that, when the owner died no will or *wasiyyah* has been written and this have caused much difficulties to the distribution of property to the heirs. Apart from that, the act of delay in settling the distribution of property between the heirs is a major concern (Sulong, 2012).

Discussion and Proposed Recommendations

It is submitted that the frozen estates refer to situations where the decedent has passed away but the title to the property has been preserved through the payment of yearly rent by the decedent's heirs or by someone else who has no legitimate claim to the property and hasn't handled the estates. The frozen estates only refer to freehold land and the rent of the estates is payable by the beneficiaries. Although the beneficiaries can still cultivate on the land or occupy the building that has been erected on the land when the owner is still alive, but they cannot exercise the rights of owner as stated in Section 92 of National Land Code 1965, inter

alia are the rights to sub-divide the land, the right to the building, the right to effect any dealings and the right to dispose of the land. The beneficiaries also cannot exercise the right of the owner if they want to erect or develop a new building on the land as Section 21 of the Town and Country Planning Act 1976 provided that an application for planning permission in respect of a development shall be made by the owner of the land to the local planning authority. As a result, as the planning permission cannot be applied, this frozen estate causes lots of sub-standard housing accommodation phenomenon. Therefore, the estates will be permanently frozen until they are administered, and this form of frozen estates cannot be traced by the government as there is no system available in Malaysia that can track such estates (Yusoff, 2019).

According to the Kampong Bharu Detailed Development Master Plan (PITPKB), the amount of frozen estates, derived from the estimation of the non-administered lands in Kampong Bharu as gross value from the redevelopment of Kampong Bharu within the period of 20 years, i.e., until 2035, is RM61.23 billion and consists of 300.73 acres (Yusoff, 2019).

The KBDC was established through the provisions of the Kampong Bharu Development Corporation Act 2011 [Act 733] which serves as the coordinating agency in the redevelopment of Kampong Bharu. The main objectives in establishing the KBDC are:

1. To become the Kampong Bharu Redevelopment area's leading proponent and facilitator for the implementation of efficient and effective policies, directives, and strategies;
2. To offer a range of service initiatives for development and practical advisory services in the area's redevelopment or improvement;
3. To encourage, stimulate, and promote activities for economic, commercial, and industrial growth through strategic alliances and partnerships that benefit the landowners and inheritors of Kampong Bharu land;
4. To guarantee expert management in financial management and development; and
5. To guarantee that all aspects of development are based on the preservation of Malay culture, heritage, and Islamic virtues.

It is suggested that the Land Acquisition Act of 1960 be used to force landowners to sell their property to the corporation in order to develop Kampong Bharu. In this situation, the functions of the Kampong Bharu Development Corporation shall be to promote private sector investment in the development either of infrastructure and utility services; residential areas; educational facilities; health care facilities; social, cultural and tourism, and art activities; and sports and recreational facilities.

It is also proposed that the beneficiaries or KBDC can setting up a corporation for each family having land in Kampong Bharu. Through the establishment of a company, all estates such as land and buildings are consolidated and their value is distributed through shares to each heir. This consolidation also increases the economic value of real estate as it is easier to develop. In this way, the descendants of the original settlers were able to retain ownership and reap benefits for the long term.

In order to increase public awareness of how to manage and distribute Islamic inheritance, the government is also urged to review the current educational policies on Islamic studies and broaden the scope of the law awareness programme to include all

Malaysian students enrolled in secondary schools and universities in Malaysia (Noordin et al., 2013). In an effort to streamline Malaysia's estate administration procedure, it is also urged that administrative agencies take the lead in establishing mediation. It is acknowledged that mediation is one of the alternative dispute resolution (ADR) methods that employs forbearance and a friendly approach to handling disagreements, and it is considered that mediation can resolve disputes in the administration of estates (Nasrul et al., 2019).

Conclusion

In conclusion, despite information that the reconstruction of Kampong Bharu under its detailed master plan will have an estimated RM61.23 billion gross development value, the problems with frozen estates in the city have not yet been resolved. Therefore, the respective parties must be responsible to establish and take an initiative and progressive steps so that this estate can be liquidated and benefit the rightful beneficiaries, country, and the public at large. It is suggested, among other things, that the Land Acquisition Act of 1960 be used to develop Kampong Bharu, and that the Kampong Bharu Development Corporation's roles be those of the main proponent and facilitator of private sector investment in Kampong Bharu's development.

Contribution

This paper originates a study for issues of the frozen estates in Kampong Bharu, Malaysia. It is submitted that the frozen estates would cause loss to the beneficiaries as well as to the country. Therefore, the respective parties must be responsible to establish and take an initiative and progressive steps so that the frozen estates in Kampong Bharu can be liquidated and benefit the rightful beneficiaries, country, and the public at large.

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