



The devolution of the inheritance management toward the beneficiaries in Klang Valley, Malaysia

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Abstract

Aim: This paper assesses the degree of knowledge regarding the allocation of property management assets upon death in the Klang Valley region of Malaysia. The researcher hopes to identify the root causes of the public's difficulties with the three estate and property distribution methods recognized by Sharia law: the afraid, the wasiat, and the hibah.

Method: Four (4) estate management agencies in Malaysia (Majlis Agama Islam Selangor [MAIS]), As-Salihin Trustee Berhad [ASTB], Amanah Raya Berhad [ARB], and Wasiyyah Shoppe Sdn. Bhd.) were interviewed for this study to collect primary data.

Findings: The findings of this study indicate that the procedure of dividing property through inheritance was not carried out because of a lack of understanding regarding inheritance in the community and a lack of knowledge regarding the inheritance of a property that occurred. Problems as large as those affecting the global economy can be exacerbated by a cascade of cases that increase and indirectly withhold assets. To ensure future social and economic relations and to prevent further complexity and confusion in estate management, it is evident that a mechanism must be put into place.

Implications/Novel Contribution: Similar to "grant" (donation) and facts in Malaysia, the research is significant because it provides a level of public understanding and information about property management in the event of death.

Keywords: Inheritance management, System management, Malaysia

Received: 15 November 2019 / **Accepted:** 10 January 2020 / **Published:** 13 April 2020

INTRODUCTION

The term "inheritance" refers to the assets left behind by a deceased person that can be claimed by their living relatives and heirs (Abdullah, 2010; Boniface, 2016). Whatever the case may be, some formalities must be met to inherit these properties, and doing so correctly will help avoid any complications that may arise when the property is eventually distributed. During the owner's lifetime, this study aims to pinpoint the most pressing issue with property distribution. Also of interest to the researcher is determining how best to assist the beneficiary or property owner in making informed decisions about property planning. Multiple methods of property and inheritance planning, including forgery, wills, and grants, are permitted in Islamic law. The word "grant" refers to one of the most crucial tools in Islamic law-based estate planning. To rephrase, "Grants" refers to transfers of property during the grant provider's lifetime, while "evidence" refers to transfers of property that occur after the testator's death. Both of these tools are supported by Islam, and if used properly and in accordance with Islamic guidelines, they can help people avoid conflict and the temptation to accumulate wealth. There are many kinds of needs that a grant can help with. There's a theory that if people make a will and trust themselves, they'll be on the "Faraid" path. However, in Islam, these instruments are used to determine time and location, contrary to popular belief. Therefore, this study aims to investigate how well the general public in Malaysia understands the concepts of "grant" (donation) and evidence.

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LITERATURE REVIEW

Minors as Beneficiaries of Direct Gifts

At the point when property is left legitimately to a minor recipient, for example, through joint responsibility for or a payable-on-death account, the minor won't have the lawful position to assume responsibility for it. Similar remains constant for legacies got by means of a last will and confirmation or from an intestate homewhen the perished kicked the bucket without a will, or a living trust was drafted inappropriately, so its terms were not respected. For this situation, state law figures out who ought to get the decedent's bequest and in what measures. Ordinarily, the nearest kinfolk will acquire the property. The domain will possibly go to increasingly inaccessible family members if there is no companion or kids. What befalls a minor's legacy in these cases relies upon the laws of the state where the minor lives and the estimation of the inheritance ([The Balanace, 2019](#)).

UTMA, UGMA and 529 Accounts

On the off chance that the estimation of property left to the minor isn't noteworthy, generally \$20,000 or less, state law may permit an intrigued grown-up, for example, the minor's parent or grandparent to demand that the minor's legacy be put in a record set up under the state's Uniform Transfers to Minors Act or Uniform Gifts to Minors Act.

These records can hold the assets for the youngster until they arrive at the period of dominant part18 in many states, however in some cases 21. Additionally, a few states permit an intrigued grown-up to demand that the property is set in a 529 record to help the minor. This is a duty advantaged investment funds plan for future school costs. In certain states, a parent can actually accept the board of extremely limited quantities, for example, endowments of \$5,000 or less, in the interest of their minor youngster. The parent would not need to use such a record ([Maziyar, 2018](#); [The Balanace, 2019](#)).

Conservatorships for Minors as Beneficiaries

On the off chance that the estimation of the advantages left to a minor is more than can be set in an UTMA, UGMA or a 529 record, or if the laws of the state where the minor lives don't approve these kinds of records, for acquired resources, a court-directed conservatorship must be set up to support the minor. The court-delegated individual agent or agent of the home will document an appeal mentioning that a conservator is selected in the interest of the minor to deal with the legacy when a probate home has been opened. In the event that there is no probate domain, for example, if the minor being named as the recipient of a life coverage strategy or retirement account, at that point an intrigued grown-up can document the appeal. An adjudicator will at that point conclude who to name as the minor's conservator in the wake of hearing declaration from every single intrigued individual, now and again including the minor on the off chance that they are over a particular age, generally 12 or 13. The specific age is controlled by state law. As a rule, the kid's parent is picked except if the two guardians are expired or in any case resolved to be improper. The named conservator will assume control over administration and control of the minor's legacy until the minor turns into a grown-up. Guardians leaving legacies to their minor kids can evade a great deal of this trouble by naming a conservator in their bequest plans ([The Balanace, 2019](#)).

METHODOLOGY

A qualitative case study of multiple agencies was used as the method of this research to gain insight into the experiences and needs of knowledge about the management of the property before death, which is related to "grant" (donation) and evidence in Malaysia. The qualitative semi-structured interviews were used on four (4) estate management agencies in Malaysia namely the MAIS, As-Salihin Trustee Berhad, ARB and Wasiyyah Shoppe Sdn. Bhd.

RESULTS AND DISCUSSION

In this section, the findings of this study are summarized and is consistent with the objectives of the study presented. The first objective of this study is to identify and understand the underlying problems in the management of the immovable property in accordance with Islamic law before or after the property owner died. This is achieved

through in-depth interviews with the management of the MAIS by providing a series of questions to them. To meet the objectives of this study, the authors have conducted interviews with the management of the MAIS in Section 10 in Shah Alam to collect information about property ownership transaction (Harun, 2011; Hasan, Zain, Rahman, & Mustapha, 2009).

Officials interviewed Ustaz Indra Syahril who served as Property Manager MAIS. Based on research conducted by them, cases that have been referred was still rising slowly, in which they estimated the increase in cases is 10% per year. Method for division of property that is often used is the Faraid methods. With the help of the officials accredited MAIS, the beneficiary will receive the views and the amount of each division. Although the campaign made every year, but this problem still occurs. Observation and previous cases, the problems in the distribution of the estate is made due to the lack of knowledge regarding the management of the estate. As such, they have no consciousness and also did not know the actual distribution process in accordance with Islamic law. The importance of this cannot be denied because according to the Daily News on 30 September 2012, it shows an increase in unclaimed property reaching as high as RM45 billion. This clearly shows that the problem of property management is very disturbing and there should be a proactive mechanism to address these issues (Mustafa, Tasir, Jusoh, et al., 2018).

The second objective is to get more response like what the researchers have gained in interviews with private agencies such as As-Salihin Trustee Bhd. The purpose of obtaining information from private consultants to learn about their experiences in solving the problem of the division of the estate. The findings of the consulting company, they faced major problems in the distribution of inheritance with the heirs of the deceased. The major problems consist of refusal to cooperate with the heirs of the insufficient number of beneficiaries and dissatisfaction with the number of divisions that have been set by the owner of the property (the deceased) (Rashid & Ahmad, 2013).

Most beneficiaries who come to claim their rights, lack of understanding regarding the different concepts of distribution of Inheritance, Grant and Will. However, the official consultant will explain to them that had been entrusted to them by the deceased. According to Mrs. Aizatul Nazmin Binti Azizan as Business Development Officer at consulting company As-Salihin Trustee, the results of their descriptions often heirs will receive as contained trust that was created by the deceased. As a third-Yadi will process and deliver all parts that are eligible according to agreed (Kamarudin & Almaamun, 2013; Sitiris & Halim, 2010; Zuhayli, Shabuni, & Adil, 2009).

CONCLUSION, RECOMMENDATIONS AND IMPLICATIONS

In conclusion, this study is based on an overall analysis made throughout the duration this study is carried out. To identify the the main problem in the management of immovable property in accordance with Islamic law through interviews with related agencies such as Majlis Agama Islam Selangor (MAIS) and As-Salihin Trustee Berhad. Both agencies recognized that people still lacked knowledge regarding the management of estates. According to As-Salihin officers, based on a study conducted, the difficulties in the process of division of property is mostly attributable to the beneficiaries themselves and not the management of the agency. Combining the lack of knowledge and attitude of beneficiaries who are not cooperating is the root of the problem that left subdivision estate unresolved.

However, cases whereby awareness of solution to this problem do exist and it increases, but the increase of cases referred to the agency of MAIS and As-Salihin were quite low where an estimated increase of cases per year is only 10% -15%. While the work was in full-swing campaign, the response from the public was not encouraging. Additionally, the parties have provided and suggested variety of methods, including creating brochures, lectures, in-radio advertising and others. Most beneficiaries are less interested in connection with the management of the estate, whereas science is necessary to know all ages because every family must have assets that need to be inherited by the heirs. Authors can also determine the level of public understanding of the nature of the distribution of inheritance, especially to Muslims in terms of Inheritance, Grant and Will. The feedback received from both agencies is that their understanding is poor and they only familiarize themselves with the general concepts and do not understand how the concept of distribution of the estate is necessary and important.

In addition, the authors also choose a selection of volunteering candidates who chooses the type of distribution of the estate either through Faraid, Wills or grants. According to MAIS, most property owners choose the type of estate distribution Faraid because they thought that type is good distribution of inheritance. Inheritance

is a concept according to God's command while according to As-Salihin, some property owners will prefer the Faraid method. Authors concluded that Muslims in particular have little knowledge regarding the management of the estate either for those who owns a property or otherwise because they only equip themselves with the general knowledge of the existence of the types of division of property but never in complete understanding of the whole concept of inheritance.

In addition, lack of cooperation of the heir with the agency (executor) has also contributed to the rising problems of the management of the estate itself. This kind of attitude will slow the process of division of property that must be completed and will take some time. In that same interview, the researcher asks the comments and suggestions for improvement on this issue in the future. Comments and suggestions provided by the agency (MAIS & As-Salihin) is addressed to the public, especially residents of Klang Valley. Among the proposals are:

a) Increase their knowledge in the management of the estate and awareness of Islam, regardless of age.

Out of the proposals submitted by the agency, it was found that the public should increase the level of knowledge in the management of the estate and the awareness of Muslims on the management of their estate to avoid their assets from being withheld. This will occur when beneficiaries fail to resolve the problem in terms of relevant information, entitlement of beneficiaries and so on. In addition, the management shall provide understanding to the public from time to time on the concept of division of property either through the media or electronic media. It is very important to prevent mishaps when it comes to the division of inherited property due to different opinions and beliefs in Islamic law which would then leads to a bigger problem such as conflicting ideology regarding the concept of inheritance in Islam.

b) Increase the following programs and promotion agencies (MAIS, As-Salihin, ARB and Wasiyyah Shoppe) on the estate.

This is because, some Muslims refused to get involved with Majlis Agama Islam Selangor Offices or the As-Salihin to register their property and fill out forms and hand-over related documents. To facilitate their work with the agencies, property owners and heirs must be present in any exhibition selected by such agencies as hypermarkets, carnival and so on so that information regarding the concept of inheritance and inherited properties is made easily accessible to the public.

Acknowledgement

The authors wish to acknowledge the generous support from the Universiti Teknologi MARA (UiTMs) Institute of Research Management and Innovation and the Faculty of Architecture, Planning and Surveying, Malaysia.

REFERENCES

- Abdullah, A. T. B. (2010). *Implementation of faraid property distribution: Its position and implementation in accordance with the law and practice of Malaysia*. Retrieved from <https://bit.ly/3dBOXsU>
- Ambikai, A., & Ishan, Z. (2016). Comparative analysis of law on tort of deviant behaviors in Malaysia and India. *Journal of Advances in Humanities and Social Sciences*, 2(4), 243-249. doi:<https://doi.org/10.20474/jahss-2.4.5>
- Boniface, A. E. (2016). Animals: objects or sentient beings? A comparative perspective of the South African law. *Journal of Advances in Humanities and Social Sciences*, 2(3), 143-155. doi:<https://doi.org/10.20474/jahss-2.3.3>
- Djumadi, A. H. B. (2018). The urgency of harmonization between investment law in Indonesia and international law in capital investment disputes resolution. *Journal of Advances in Humanities and Social Sciences*, 4(3), 154-160. doi:<https://doi.org/10.20474/jahss-4.3.4>
- Harun, W. A. H. W. (2011). *Managing property: The basis of property distribution*. Kuala Lumpur, Malaysia: PTS Media Group Sdn Bhd.
- Hasan, N. M., Zain, R. M., Rahman, M. F. A., & Mustapha, I. (2009). The use of a neutron backscatter technique for in-situ water measurement in paper-recycling industry. *Applied Radiation and Isotopes*, 67(7-8), 1239-1243. doi:<https://doi.org/10.1016/j.apradiso.2009.02.020>
- Hussin, R., Rashid, R. A., & Yaakub, N. I. (2015). A preliminary study on compulsory acquisition of waqf land in

- Malaysia. In *Proceedings of the International Conference on Waqf*, Bangkok, Thailand.
- Kamarudin, M. K., & Almaamun, S. (2013). Analysing the knowledge and practice of hibah (inter vivos gift) within the contextual form of islamic estate planning in Malaysia: Variations across control variables. *Procciding Perkem VIII*, 3, 1280-1290.
- Maziyar, S. (2018). Institutional arbitration versus Ad Hoc Arbitration: Chinese And Iranian perspectives. *Journal of Advanced Research in Social Sciences and Humanities*, 3(4), 148-153. doi:<https://doi.org/10.26500/jarssh-03-2018-0404>
- Mustafa, Z., Tasir, S. F., Jusoh, N. A. M., et al. (2018). The concept of aurah: Islamic dressing code and personal grooming according to fiqh law. *Academia Journal*, 7(2), 56-70. doi:<https://doi.org/10.24191/e-aj.v7i2.4682>
- Rashid, R. A., & Ahmad, N. H. (2013). Property management through change: The benefits and benefits of aspect missions for men's provision (grants wealth management: The important and benefit from various aspects for ummah development). *Hadhari Journal: An International Journal*, 5(1), 91-104.
- Sitiris, M., & Halim, A. (2010). The claim of separatory property in the case of death. *Kanun*, 22(1), 26-46.
- The Balanace. (2019). *What happens to the inheritance of a minor beneficiary*. Retrieved from <https://bit.ly/3co4P06>
- Zuhayli, W., Shabuni, M. A., & Adil, A. R. B. M. (2009). *The law of inheritance of property and faraid science*. Kuala Lumpur, Malaysia: Pustaka Azhar.