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

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Abstract

Inherited estate is an inherited property upon the existence of a person who dies leaving behind property to those who are still alive. However, in the cases of claiming inherited estate, it should follow the same procedures that have been established for routine estates. This paper presents the finding of a study done to evaluate the level of awareness in Malaysia, Klang Valley’s community in terms of the division of inheritance of property management. In line with the purpose of this study, the researcher wants to assess the cause of the problem with the general public in the management of their estates and property distribution types available in the Sharia which is the faraid, wasiat, and hibah. Primary data were gathered through a semi-structured interviews that were used on four (4) estate management agencies in Malaysia namely the Majlis Agama Islam Selangor (MAIS), As-Salihin Trustee Berhad, Amanah Raya Berhad (ARB) and Wasiyyah Shoppe Sdn. Bhd. Based on the findings of this study, knowledge of the community and the lack of understanding in regards to inheritance of property that occurred resulted in the failure in carrying out the procedure of division of property through inheritance. A string of pending cases increases and indirectly withheld assets which in turn contributes to the problems as big as the global economy. This clearly showed that a mechanism needs to be exercised so that the community has some form of guidance in managing estates to avoid complication and confusion alongside ensuring social and economic relations in the future.

Keywords: Inheritance management, System management, Malaysia

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INTRODUCTION

Inheritance is the inherited property which the deceased has left for it to be inherited by those who are still alive (Abdullah, 2010; Boniface, 2016). Anyway, in order to inherit these properties, there are procedures that need to be followed as it is to make sure there are no flaws during the process of dividing inherited property. The main purpose of this research is to identify the main problem in the distribution of property during the lifetime of the property owner. The researcher also wants to review the beneficiary or property owner to choose the most suitable method in planning their properties. In Islamic property, planning, more than one type can be used by property owners and inheritance such as fraud, wills and grants. "Grant" is one of the important instruments in estate-planning based on Islamic law. In other words, "Grants" is the giving of property occurring during the life of the grant provider, while evidence is a gift of property that occurred after the death of the testator (Ambikai & Ishan, 2016; Djumadi, 2018; Hussin, Rashid, & Yaakub, 2015). Both of these instruments are encouraged in Islam; if it is done properly and in accordance with Islamic requirements, then it could avoid disputes and the pursuit of wealth. Grant can also be a support to the needs of different types. There is the notion that by making grants and will then the person is on the "Faraid" accuracy. This perception is not accurate because these two instruments actually focus on time and place in Islam. Therefore, this research attempts to study the level of awareness and public knowledge about the management of the property before death, which is related to "grant" (donation) and evidence in Malaysia.

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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 home—when 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 part—18 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).

METHOD

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 Faraaid 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 & Alma’amun, 2013; Sitiris & Halim, 2010; Zuhayli, Shabuni, & Adil, 2009).

CONCLUSION

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 officer’s, 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 Faraaid, Wills or grants. According to MAIS, most property owners choose the type of estate distribution Faraaid 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 Office’s 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.

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REFERENCES


