

The problems faced by malay reservations



Malay Reservation Enactment only prevents Malay from losing their land to non-Malay, but fails to protect poorer Malay peasants from losing their land to richer Malay peasants and landlords. There is no prohibition to a rich Malay to own more than a piece of Malay reservation. This may render the wealth gap becomes further. And such situation is definitely not the genuine intention of the author of law.

Secondly, the existing law on Malay Reservations bars owners from entering into any deal, such as the sale and transfer, leasing or charging of such land to non-Malays, apparently to “protect” the land. However, this restriction does not in any way protect or safeguard Malay reservations from depletion through the convenient machinery of acquisition by a State. In Selangor, 9000 hectares of Malay reservation were “lost” through compulsory acquisitions under Land Acquisition Act 1960. Although the Federal Constitution requires States Authorities to replace every acre of Malay reservation taken away through compulsory acquisition, there is only one third of the 9000 hectares have been replaced, they failed to abide by constitutional duties.

4. 2 Consequences from the Statutory Restriction

As we discussed in the previous chapter, the Malay reservation is totally protected by the legislation, the Malay Reservation Enactments even have a stance higher than the National Land Code. The good intention of the author of the law is appreciated, but somehow there are people hold the opinion that the policy has obsolete and no longer fit into the present society’s circumstances. The strict legislation has become an empty shell, which looks protective from the outward appearance, but no effect in actual sense.

The Malay Reservation Enactment intended to protect the Malay from losing their ancestral lands to non-Malays, but worked against economic welfare. Although the Act proposed certain areas to be reserved for Malay ownership only and prohibited to transfer to non-Malay, the Act indirectly aggravated the problem of credit apply for Malay peasants because it depressed the value of the Malay land since it was not acceptable as collateral by non-Malays.[1]

4. 2. 1 Low Market Value

The legal restriction imposed on property and the land ownership is the major factor that has reduced the financing potential and the marketability of these areas. It is because the land designated as a part of a Malay Reservation could only be sold to Malay.

According to the general principle of economics, the market for a property or a piece of land is constituted by “ demand” and “ supply”. And, the price over a piece of land will increase dramatically when the demand is increasing. As an example, the land in Kuala Lumpur is much more expensive than the land in Perlis, the land in the town and city is more costly than the land in village. The price is generally controlled by the demand of the public.

The restriction imposed on Malay Reservation is described as a “ lock” to close the market of Malay property. The market of Malay reserved land become smaller and the price of land become inferior when compared to other land in the same area.

As a practical example, Kampong Baru which located at the central of Kuala Lumpur, the size of Kampong Baru is 125ha, and based on the valuation done on 55ha site in March 2007, its land was valued at between RM270 and RM350 per square feet for housing and RM500 to Rm600 per square feet commercial lots. In the meanwhile, the lands located around the Kampong Baru, which are not categorized as Malay reservation, are far more valuable as compared to Kampong Baru. According to news report, the land parcel located between Grand Millennium KL Hotel and the Pavilion KL mall would be acquired for approximately RM 7209. 80 per square feet.[2]The exaggerating contrast shows the different destiny over the same land.

Besides, according to Datuk Abdul Rahim Rahman, executive chairman of Rahim & Co Chartered Surveyors Sdn Bhd, the land and property value of Kampong Baru may go up by 100% or more with the redevelopment.[3]The land value is forecast to grow between RM1000 and Rm4000 per square feet post development.

Obviously, the prohibition against dealing has rendered the economic value of their properties suddenly depreciated when compared with the other freehold properties in the same area.

4. 2. 2 Restricted Access to Credit

The Malay reservation's owners have restricted access to credit, where there is only partial of the banks can take Malay Reservations as security. Only a limited number of agencies such as Bank Bumiputra (a wholly government owned bank) and the Agricultural Bank, could hold Malay Reservation as collateral for loans. The situation has not getting better after the list of bank

has been increased. Some of the banks with capacity are not willing to take Malay Reservations as security. The banks consider that when foreclosure proceedings are contemplated against defaulting borrowers, they will face difficulties when finding bidders for such property.

The pathetic truth is that, in pace with the restricted access to credit, the individual owners hard to get their loan from the bank to develop their own land. Overall, they can just grip firmly the property, but cannot generate profits from it. The Malay reserved land has become idle and undeveloped across the nation.

4. 3 Other Problems Faced by Malay Reservation’s Owners

A report made by Bernama on Feb 3 2009 shows that DBKL admitted that Malay reservation settlement is lagging behind the term of development, infrastructures apart from being plagued by poverty and unhealthy environment.

As mentioned above, the legislation restriction is actually not providing a comprehensive protection over the Malay reservation. Some of the problems remained unsolved and overlooked by the State authorities. The Malay reservation owners are still facing problems such as lack of incentive to develop, location and infrastructure issues, and multiple ownerships and size issue.

4. 3. 1 Location and Infrastructure Issues

Tracing back to the historical background of Malay reservation, most of the Malay reserved land were allocated at urban and remote areas. The geographical factor has rendered the Malays who stay on reserved land to

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work in agriculture. Many of them cultivated the land for farming. Due to that, their incomes are meagre and only sufficient to feed their family.

During the period where education was vigorously being emphasized in the whole nation, they are the community who was neglected. Some of them were just normal folks and did not know the importance of education. There is very little education institution around the area, most of the schools are simple, crude and lacked of facilities. The education level of youngsters was below the average.

As a consequence of poverty and lacking of education, the individual owners lack of capacity to develop their properties. On the other hand, the restriction imposed on the land is just like salt added to the injury, renders the land becomes not valuable.

Besides, most of the Malay reserved lands are facing the problem of substandard infrastructure and inadequate community facilities. For many of Malay reservation sites are in areas where infrastructures and services are minimal or non-existence.

According to the Kuala Lumpur Structure Plan 2020 done by Dewan Bandaraya Kuala Lumpur, most of the Malay reservations are facing the problem of substandard living conditions.[4]It is due to the ad-hoc additions and alterations have been carried out to existing buildings. To cater for the growth of extended families, single dwellings have been converted to multiple dwelling units. In addition dwellings have been converted to incorporate shops, workshops and light industries which are incompatible with the residential component. Buildings have been also expanded to

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occupy the full extent of their sites leaving little or no room for setback area. These haphazard developments have resulted in substantial living conditions. As a consequence of the haphazard development of the Malay reservation, the existing infrastructures are obsolete and inadequate. The provision of community facilities has also been inadequate due to the shortage of available land.

4. 3. 2 Lack of Incentives to Develop Malay Reservations

It is irony that even the government is also not paying too much attention on the Malay reservation development. Apart from restriction on dealing and alienation against the Malay reservation, there is actually limited protection over the reservation.

The government has neither implemented any development project nor given incentives to the individuals to develop their land. In fact, the lands are always being neglected and overlooked. The proposed revamp, even if it takes off the ground, will only address some of these problems. What is distressing is that despite promises made by several state authorities to Malay Reservation's owners to develop their land, these promises have remained just hot air. There is very clear that implementation programmes are vague and in most of the time absent.

To be noted, there are no follow up measures in assisting the Malay owners how to earn a better income from their properties. Owners of Malay reserve land do not enjoy any special privilege in matters of quit rents and other forms of revenue payable to the authorities. They get no special priority

when they wish to develop their agricultural lands into housing projects. Instead they face a restricted and shrinking market.[5]

The Kuala Lumpur Structure Plan which has been approved in 2004, proposed that implementation of comprehensive plans for redevelopment of Malay reservation and upgrading facilities to improve living conditions. However, 7 years have passed, no improvement has been seen. The living conditions in the village still remain the same.

4. 3. 3 Multiple Ownerships and Size Issue

Many Malay reservations plots have multiple owners, while some are of uneconomic size for cultivation or development. It is based on Malay inheritance laws and traditions, the property has multiple and fragmented ownership. The situation is become worsen because Malays having no written wills, not even those with substantial estate, as attested by many high-profile inheritance disputes.[6] Similar to other Malay Reserved Land, Kampong Baru is facing the same problem. There are approximately 12 owners on one 16, 000 square feet of land. Few years ago, UDA holding has conducted studies on the area, found out that a quarter acre is occupied by 72 owners. It means that there are between 4-10 owners for a housing plot on average.[7] Multiple ownership has significantly reduce the marketability of the land, because the multiple ownership is a factor that produces transaction cost particularly the time needed to get collective agreement and the opportunity to get better land value.

In addition, the holdings are small, averaging about 10, 000 square feet. The land is uneconomic size for cultivation or development. Development is

impossible unless pieces of land are amalgamated together. However, consensus is generally hard to be reached to achieve economic land size due to the different mentality and attitude towards development.