

Development of Malay Reserve Land: A Study Case of Kuantan

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Abstract Malay Reserve Land is one of the sensitive issues amongst Malays. This is because Malay Reserve Land is the special right to the Malays since before Malaysia gained its Independence. The right was given only to Malays but not to other races. This right was mooted by the British in order to protect the Malay from being demolished from their own country. The objectives of this paper is to study the suitability of the development which had been carried out on the Malay Reserve Land. This is to guarantee that the momentum of the development that had been carried out on the Malay Reserve Land is on the same rate of the development which had been done on the surrounding non-Malay Reserve Land. This is important as the Malay Reserve Land have the right to grasp the same level of development as the non-Malay Reserve Land.

Keywords Malay reserve land, development, suitability

1. Introduction

Malay reservation land can be said to represent the lands within the boundary of state lands which according to law can only be owned by Malays and can only be transferred to Malays. According to Article 86(6) of the Federal Constitution states that Malay Reservation means land reserve for alienation to Malays or to the natives of the states in which it lies. Definition of Malays includes any person who described under the law of the state which he is resident, is treated as Malay for the purpose of the reservation of the land.

According to Article 160 of the Constituent of Malaysia under clause 2, Malay can be defined as a Malaysian citizen who is born to a Malaysian citizen who professes to be a Muslim, habitually speaks the Malay language, adheres to Malay customs, domiciled in Malaysia or Singapore and was born before Merdeka Day in the Federation or in Singapore or born of parents one of whom was born in the Federation or in Singapore, or was on that day domiciled in the Federation or in Singapore. As a result, Malay citizens who convert out of Islam are no longer considered as Malay under the law. Hence, the Bumiputera privileges afforded to Malays under Article 153 of the Constitution, the New Economic Policy (NEP), etc. are forfeited for such converts. Likewise, a non-Malay Malaysian who converts to Islam can lay claim to Bumiputera privileges, provided he meets the other conditions. A higher education textbook conform-

ing to the government Malaysian studies syllabus states: "The non-Malay thought that is when non-Malay embraces Islam, he is said to "*masuk Melayu*" (becomes Malay in Malay language). That person is automatically assumed to be fluent in the Malay language and to be living like Malay as a result of his close association with the Malays."

2. Problem Statement

Nowadays, we had heard lots of undeveloped Malay Reserve Land issues which are surrounded by the developing environment. These had been such a "havoc" issue in the community starting from the lowest group in the community such as farmers until to the top minister in the Parliament.

This had been concrete enough to show that the undeveloped Malay Reserve Land gives such a huge impact to the developed surrounding. There are several locations of Malay reserve land that has the potential to be developed such as Segambut which is located near Sri Hartamas area in Kuala Lumpur which is not used optimally and not well-developed. Some had questioned why there is no effort taken to develop the area.

This issue had been brought to the Parliament and had gathered the Ministers' attention. Therefore, there exists the need to carry out a study of the development progress of Malay Reserve Land in order to investigate the factors that might contribute to the undeveloped area of Malay Reserve Land although it is located in the strategic location.

2.1 Objectives of Study

To study the location and development on Malay Reserve Land based on its location.

2.2 Limitations of Study

The limitations of this study are the study area is only covered for the Malay Reserve Land which is located around 10 km radius from the town heart of Kuantan, Pahang Darul Makmur and the validity of the up-to-date information depends on the information given by the Pejabat Tanah dan Daerah Kuantan, Kuantan Municipal Council, Jabatan Penilaian Harta Daerah Kuantan, Jabatan Ukur dan Pemetaan Negeri Pahang Darul Makmur.

2.3 Assumptions

This study assumed that Malay Reserve Land area which is located near developed surrounding should have positive progress of development and it is well-develop as its surrounding area.

Besides, all Malay Reserve Land which had been taken for the development purposes had been replaced and gazetted as stated in law. There should be no Malays special right oppression that exists due to bureaucracy affairs. Finally, all the data gathered is relevant due to the time in which the information is taken.

3. Literature Review

According to article written in The Sun Daily dated 17 December 2014 stated that Malay Reserve Land area in Pahang has risen from 8.8% (before independence) to 12.1% until 31st December 2013. According to the article, Menteri Besar Datuk Seri Adnan Yaakob said the area covers 436,910.4 hectares of the 3.6 million hectares total land area in the state.

Survey and Mapping Department Malaysia of Negeri Pahang Darul Makmur, stated that all Malay Reserve Land will be enclosed by the Malay Reserve Enactment. As the other normal land, Malay Reserve Land's owner will have the title of the land and the plan of that particular land. The plan of the Malay Reserve Land is called the "Gazette Plan" instead of Certified Plan for the normal types of land. This gazette plan will only shows the shape of the Malay Reserve Land, the lot number for neighboring piece of land, the title of the plan, the scale of the plan, standard sheet number, survey file number, the number of the gazette plan, the area of the Malay Reserve Land and the statement that certified the land is fall under Malay Reserve Land categories.

According to the list of Malay Reserve Land provided by the Mapping and Survey Department Malaysia of Negeri Pahang Darul Makmur, there are 109 pieces of lands with the total area of 38,915.3812 ha of Malay Reserve Land throughout Kuantan. The 109 pieces of Malay Reserve Land are located in all the six "mukim" in Kuantan. On the other

hand, there are 126 pieces of land which had been eliminated from the list of Malay Reserve Land. All these 126 pieces with the total area of 6636.9405 ha had been applied to be eliminated from the list of Malay Reserve Land.

3.1 An Overview of Kuantan

Kuantan is the state capital of Pahang Darul Makmur, and it is the largest state in Peninsular Malaysia. Geographically, Kuantan is located near the river mouth of Kuantan River and faces the South China Sea. According to history, Kuantan is said to have been founded in the 1850's. The word "Kuantan" was mentioned by Abdullah Abdul Kadir (Munshi Abdullah) circa as *"On Thursday night came a boat from KUANTAN. Then they told the ship's crew there's a pirate ship at Tanjung Tujoh, forty of them and at Pulau Kapas, and as well at Pulau Redang; it was spotted by two Kuantan boats and they set off..."* In its early days, Kuantan is known as Kampung Teruntum. It was called Kampung Teruntum as it was situated at the mouth of the Sungai Teruntum which is located in front of the current hospital and it was established by Haji Senik and his followers in the 1850's. Early primary economic activities included fishing and small businesses. The main evidence of the establishment of the village is the cemetery that is situated near Taman Esplanade in front of the current Hospital Tengku Ampuan Afzan.

Kuantan's population is approximately 607,778 based on Department of Statistics Malaysia 2010 census. The population is composed of 55% Malay, 34% Chinese, 10% Indian and 1% other races. The urban area of Kuantan city is located mostly in the mukims of Kuala Kuantan and Beserah. The center of this district is Kuantan Town which is also the State Capital and the administration center of the Pahang Darul Makmur. The other main residential areas are Indera Mahkota and Jaya Gading. There are also small residential areas such as Balok, Gambang, Beserah, Tanjung Lumpur and Sungai Lembing.

The total area of Kuantan is 296,000 ha. It is located on the East of Pahang. Kuantan shared its boundary with Terengganu Darul Iman on the North, with Jerantut and Maran district on the West, Pekan district on the South and with South China Sea on the East. There exist 6 "Mukim" in Kuantan namely Mukim Kuala Kuantan, Ulu Kuantan, Sungai Karang, Beserah, Ulu Lepar and Penor. The locations of the district as shown in "Figure 1".

The total area of Malay Reserve Land in Kuantan is 38,915.3812 hectares which are located in all the six "mukim" of Kuantan. This 38,915.3812 hectares of Malay Reserve Land consists of 109 location of Malay Reserve Land.



Figure 1: Location map of Mukim distribution in Kuantan

3.2 Malay Reserve Land

Malay reserve land refers to that special category of land situated within the territorial boundaries of each state in Peninsular Malaysia which can only be owned or held by Malays. The States Authority, in exercising of its disposal powers under National Land Code, has the power to alienate such lands only to Malays and the definition and interpretation of "Malay" depends on the State legislation. Dealing in respect of such lands, such as transfers, leases, charges and easements can only be transacted amongst Malays and any attempt by non-Malays in dealing with such Malay reserve lands will be held null and void.

The word "Malay" according to Article 160 of Constitution of Malaysia can be defined as a Malaysian citizen born to a Malaysian citizen who professes to be a Muslim, habitually speaks the Malay language, adheres to Malay customs, and is domiciled in Malaysia or Singapore. As a result, Malay citizens who convert out of Islam are no longer considered Malay under the law. Hence, the Bumiputera privileges afforded to Malays under Article 153 of the Constitution, the New Economic Policy (NEP), etc. are forfeit for such converts.

Malay Reserve Land is also included in the Constitution of Malaysia. According to Chapter 4 which is focused on the Land subject, the Article number 89 describe about the Malay Reserve Land. Article 89 of Chapter 4 of the Constitution of Malaysia stated that:

(1) any land in State which immediately before Merdeka Day was a Malay reservation in accordance with the existing law until otherwise provided by an Enactment:

- (a) Passed by a majority of the total number of members of the Legislative Assembly and by the votes of not less than two-third of the members present and voting; and
- (b) Approved by resolution of each house of Parliament passed by a majority of the total number of members by that House and by

the voices of not less than two-thirds of the members voting.

According to Shaikh Mohd Nor Alam Sheikh Hussein and Basiran Begum in their article entitled "Malay Reservation: Meeting the Challenges of the Millennium" state that Malay reservation lands can be said to represent lands within the boundary of a state which at law can only be owned or transferred to a Malay. This general concept embraces the Malay holdings in Terengganu and the Malacca customary lands. In a more specific sense, a Malay reserved land is defined in Article 89(6) of the Federal Constitution which reads *"In this Article 'Malay Reservation' means land reserved for alienation to Malays or to natives of the state in which it lies: and 'Malay' includes any person who, under the law of the state in which he is resident, is treated as a Malay for the purposes of the reservation of the land."*

The prohibitions against all types and forms, of whatever duration, of leases cannot stand the scrutiny of this methodology. Fixed term leases or even long term leases do not technically involve the permanent devolution of ownership rights over land because leases by definition are 'terms of years'. Another equally absurd provision is the definition of 'Malay' which appears inconsistently in every Enactment. The Malay property market is proportionally related to the economic wellbeing of Malays and as such it is necessarily restrictive both in terms of quantity and quality. By further restricting the class of 'eligible Malays' to own Malay reservations, the Malay property market has placed on itself an enormous, albeit, unnecessary constraint.

4. Methodology

4.1 Site Selection

The area that will be included in this research is only Malay reserve land which had been developed and located in 10 km radius from the town heart of Kuantan. It is because one of the objectives is to study the suitability of the development that had been carried out on the Malay reserve land based on its location.

In addition, any Malay reserve land which is located outside Kuantan town will not be taken into account to be considered as study area. Besides, other factor that needs to give attention is the status of the Malay reserve land. What is meant by the status of the Malay reserve land is, only the developed Malay reserve land which is located in the town of Kuantan will be taken into account as a study area. This is because one of the objectives in this dissertation is to study the suitability of the development on Malay reserve land based on its location.

4.2 Data Collection

The information related to Malay Reserve Land was obtained from Pejabat Tanah dan Daerah Kuantan, Negeri Pahang Darul Makmur; Survey and Mapping Department Malaysia of Negeri Pahang Darul Makmur; Kuantan Municipal Council; and Jabatan Penilaian Negeri Pahang Darul Makmur.

Among the information that can be gathered from this government organizations are; the list of the Malay Reserve Land location, the status of the Malay reserve land whether it had been developed or still undeveloped, the types of development being carried out on the land, the location plan of the Malay Reserve Land, the land value and other related information. All these information can be gathered by doing research on the data and information kept by the departments mentioned above.

4.3 Data Selection

The measurement of the 10 kilometres radius from the town centre of Kuantan was made based on the topography map of Negeri Pahang Darul Makmur Daerah Kuantan with scale of 1: 90,000 which was obtained from the Mapping and Survey Department Malaysia (JUPEM of Kuantan).

According to the base map obtained from JUPEM, out of 109 locations of Malay Reserve Land throughout Kuantan, there were only 20 locations which included within the area set with limit of 10 kilometres radius from town centre which will be considered as the study area for this project. Out of the 20 locations which are included in the study area, 18 of it are in the Mukim of Kuala Kuantan. The balance of the location is in the Mukim of Beserah.

Therefore, 10 kilometres radius from the town centre is almost covered all the location of Malay Reserve Land in the Mukim of Kuala Kuantan. While in the Mukim of Beserah there are only 2 locations of Malay Reserve Land area that are included in the study area as the Mukim of Beserah, located towards the East of Mukim Kuala Kuantan.

4.4 Data Analysis

The measurement of the 10 kilometres radius from the town center of Kuantan was made based on the topography map of Negeri Pahang Darul Makmur Daerah Kuantan with scale of 1: 90,000 which was obtained from the Mapping and Survey Department Malaysia (JUPEM) of Kuantan.

The analysis regarding the development of Malay Reserve Land was conducted by looking at the percentage of development that had been conducted based on the data obtained from Unit Perancang Bandar, Majlis Perbandaran Kuantan. The summary of development in Mukim Kuala Kuantan and Mukim Berserah can be conclude as in the following pie chart.

4.5 Map Preparation

The base map used is digital map obtained from JUPEM Kuantan for the purpose of locating the Malay Reserve Land location which falls in the radius of 10 kilometres from the town heart of Kuantan. The map making process is carried out by the assistance of the MapInfo Professional software version 7.0.

5. Result and Discussion

5.1 Result

Based on the study, out of 109 piece of land with Malay Reserve Land title in Kuantan District, there were only 36 locations which fall within the 10 kilometres radius from town centre. Out of the 20 locations which are included in the study area, 18 of it were located in the Mukim of Kuala Kuantan and 2 of them were located in the Mukim of Beserah. The distribution of Malay Reserve Land which include in the radius of 10 kilometres from the city centre can be shown in Figure 2.

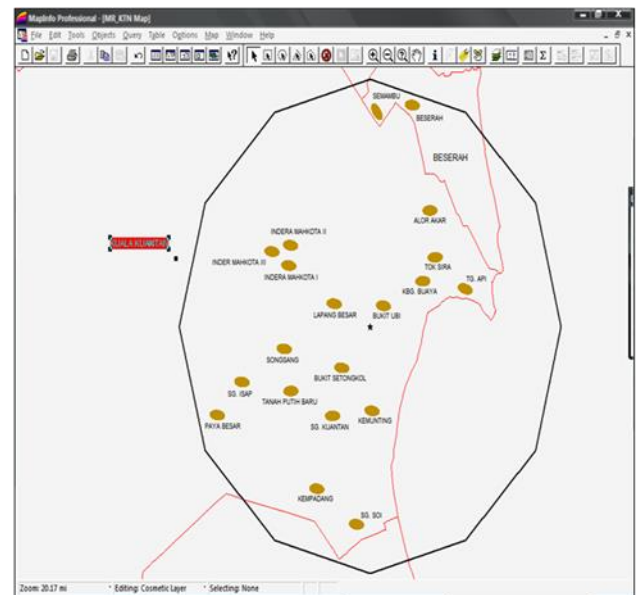


Figure 2: Distribution of Malay Reserve Land

The development of Malay Reserve Land can be shown in Figure 3 and 4. The chart shows percentage of types of development conducted on Malay Reserve Land for overall Mukim Kuantan and Mukim Berserah.

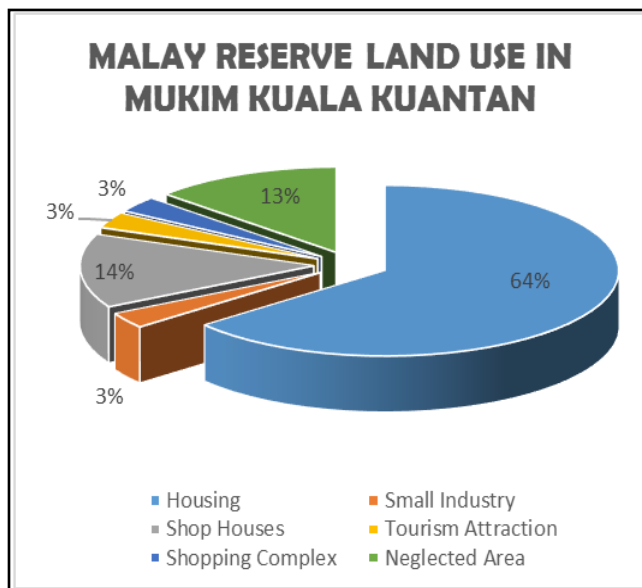


Figure 3: Malay Reserve Land Use in Mukim Kuala Kuantan

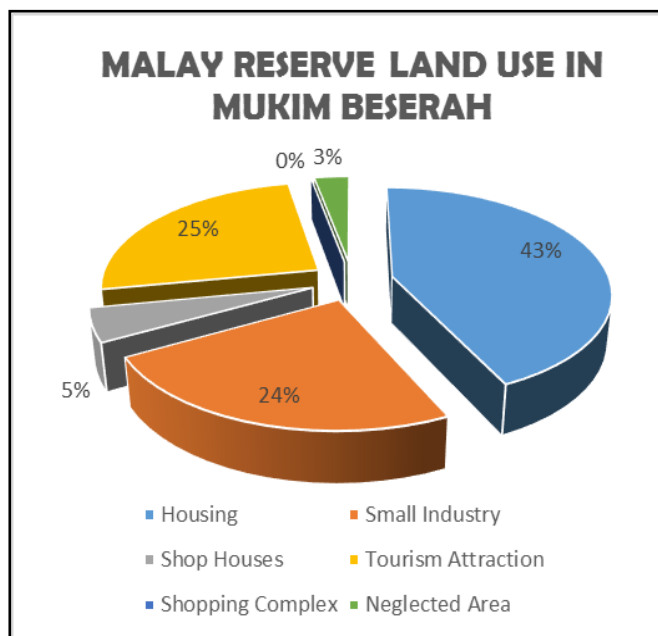


Figure 4: Malay Reserve Land Use in Mukim Beserah

5.2 Discussion

Based on pie chart in Figure 3 and 4 which refers to the Malay Reserve Land Use in Mukim Kuala Kuantan and Mukim Beserah respectively, most of the Malay Reserve Land had been well developed. Housing development takes the highest percentage of the land use. Majority of the housing area was developed by the state government's house developer, named PASDEC (Singkatan pada ???).

The small industry were located in Tanjung Lumpur for Mukim Kuala Kuantan and in Beserah. The small industry were related to fish crackers and other types of fish products.

There is also batik painting and handcraft conducted in the small industry.

Tourist attraction also takes place in the land use percentage as there exists a private own chalet and homestay. Besides, some of the beaches also located near the Malay Reserve Land especially in the Mukim Beserah. Hence, the private own chalet and homestay will be the major tourist attraction.

Based on Figure 3, neglected area with percentage of 13% in Mukim Kuala Kuantan were being abandoned by the owner. Based on the data from Pejabat Tanah dan Daerah Kuantan, all 13% neglected area has its own land title. In the other hands, by referring to Figure 4, there is no neglected area in Mukim Beserah as all the Malay Reserve Land owner in Mukim Beserah were fully utilized their land either by running a small industrial estate or make them as tourist attractions.

6. Conclusion

As a conclusion, there only 20 pieces of Malay Reserve Land include within the 10 kilometres radius from the city centre out of 109 Malay Reserve Land for the entire Kuantan.

The Malay Reserve Land covered in this study had been well-developed whether by housing, shop houses, shopping complexes, small industry or tourist attraction. The development that occurred on Malay Reserve Land was just the same par as the development that occurred on its surrounding.

From the data obtained and analysis conducted, there are equal developments on Malay Reserve Land and on non-Malay Reserve Land. The developments on Malay Reserve Land are on the same speed as its surrounding area.

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