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ISSUES AND CHALLENGES IN MANAGING LAND INHERITANCE: A STUDY AMONG SYARIE LAWYERS IN SELANGOR

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Abstract:

The high trend of unclaimed Islamic land inheritance properties has become a protracted and growing issue in the life of the community in Malaysia. Most of the problems of inheritance land management stem from the confusion or scramble of the heirs over the assets as well as the failure of the property owner to manage his property efficiently during his lifetime. The problem of estate management must be addressed immediately to improve the economy of Muslims in various aspects by liquidating and utilising the value of frozen assets that have not been claimed by the heirs of the deceased for a long time. Therefore, the issues and challenges related to the management of land inheritance property in Islam need to be put to an end. This research has three main objectives namely the first, to understand the concept of inheritance land in Islam. Second, to identify issues and challenges in the management of land inheritance property in Islam and the third is to analyse the best methods in managing Islamic land inheritance. The data obtained in this research is from in-depth interviews that have been conducted online to several syarie lawyers in the state of Selangor. The data that has been analysed is to evaluate and study the problematic factors of Islamic land inheritance management and the best management methods based on the experience of syarie lawyers in solving problems related to Islamic land inheritance property. Therefore, the results of this study can answer all the objectives that I have given to the respondents related to issues and challenges in managing Islamic land inheritance among syarie lawyers in Selangor.

Keywords:

Land Inheritance, Issue In Managing Land Inheritance, Faraid Issue, Islamic Law, Syarie Lawyer Issues

Introduction

Real estate management should be arranged systematically despite its look unnecessary. The problems will arise when someone passes away without any wills or instruction to manage the inheritance. In this modern world, the issues of real estate management can be easily accessed through the internet. As a result, we can see that there are over 40, 000 inheritance problems recorded. The even worst scene can occur when the heirs quarrel among them to take all the inheritance for their own good and not implement the obligations towards the inheritance before dividing it according to faraid. This situation can lead the heirs into hatred and cause destruction into the bond of the family. ('Ainan Husnaa Muhammad Saifullah, 2020).

There is no doubt people nowadays have awareness about the significance of the Islamic land inheritance management. There are various platforms that provide Islamic land inheritance management services which will manage inheritance and also give opinion on how to manage the inheritance. Unfortunately, according to the data, the increasing number of unclaimed inheritance properties was rapidly growing over the years. In 2009, a sum of unclaimed inheritance worth RM 40 billion increased into RM 42 billion in 2011. This number grew into RM 60 billion in 2013 and is expected to continue to increase each year. This enormous amount of assets was frozen and not managed or developed will become a great loss for the Muslims community (Zahari, 2015). Hence, this paper will explore the concept of Islamic land inheritance and discuss the issues and challenges in managing land inheritance in Hulu Langat with intention to come out with appropriate ways to manage inheritance using Islamic ways.

Problem Statement

Generally, inheritance is everything that belongs to the deceased during his life, then left to his heirs whether property, rights and what is included in his property after his death. The inheritance property included the land and any other property above the land. Issues of the inheritance will arise after the owner of the property deceased. The problem in the property distribution can arise in many situations and most of the cases happened because of their dispute. The quarrel among the heir could have erupted even before the person died. This situation was one of the problems that caused difficulties in the inheritance division ('Ainan Husnaa Muhammad Saifullah, 2020).

Next, the inheritance problems occur when the heir ignoring the inheritance division or the heirs did not appear as a volunteer person to manage the inheritance. This problem occurs because the inheritance must go through several steps before the division of inheritance. There are also several authorities and acts that control the inheritance that can bring confusion to the heirs and cause laziness into them to liquidate the inheritance (Noraini Nordin et.al 2012). The heirs did not want to go through the strict procedure and they could not bring the necessary document requested by the authorities. The negative attitude cause billion of assets own by the Muslim was frozen and did not been manage properly (Bibi Nur Adila Zulkafli, 2016).

Since 2020, the world has been attacked by a contagious disease called the Covid-19. The virus has caused numerous deaths and has disturb every single person's life in the world. The economic world was also affected by this disease and the result was many of the economic industries were forced to close to prevent the virus from spreading widely into the society (Siti Masayu Rosliah Binti Abdul Rashid & Fatimah Hassan, 2020). The division of inheritance in this situation can give a big impact to the heirs to help them survive in the pandemic time. The lack of knowledge of managing inheritance in this crucial time will only cause harm to the

other and give more burden to manage the inheritance. The goal of this research proposal is identifying the concept and the meaning of land inheritance in the Islamic view. Hence, it is significant for us to know the objective of this study to help the heirs gain a great knowledge and facts about the Islamic land inheritance management.

- a) To study the concept of the Islamic land inheritance
- b) To identify the issues and challenges in the Islamic land inheritance management.
- c) To analyse the best method in managing land inheritance.

Methodology

The result and discussion of this study comes from the data obtained during the distribution of questionnaires to the syariah lawyers in Selangor. A number of five syariah lawyers has become the contributor of this study with their consent to become our respondent and answering the questionnaire regarding Islamic land inheritance management in Selangor. The questionnaire was categorised into two parts, which are demographic profile and questions for answering the objectives of this study. This chapter is divided into two sections, the first section will explain about the demographic of the respondent such as gender, age and occupation. The other section will focus more on the main questionnaire of this study to meet the study goals and objectives. The diversity of answers obtained from the R (respondents) indicates that every human being has different experiences and opinions even in the same field.

Table 1: Thematic Analysis

Items	Theme	R 1	R 2	R3	R 4	R5
What is the concept of land inheritance in Islam?	Knowledge	✓	✓	✓	✓	✓
What are the examples of land inheritance in Islam?	Knowledge	✓	✓	✓	✓	✓
What are the critical issues and challenges regarding land inheritance in Shariah Court?	Awareness	✓	✓	✓	✓	✓
Based on the answer above, what are the factors that caused those issues and challenges?	Understanding	✓	✓	✓	✓	✓
What can you suggest to better improve the land inheritance management in Shariah Court?	Awareness	✓	✓	✓	✓	✓
Based on your experience, what is your advice for the community to boost the awareness regarding land inheritance management?	Awareness	✓	✓	✓	✓	✓

From the table 1 above, the table describes the questions themes based on the data collected from respondents. The data shows a The analysis of the questions themes would help the researcher to have an overall view from the data collected in section A. Primarily, the data collected had two types of gender participate in fulfilling the questionnaire, which are male and female. The data has shown that the female lawyers have more interest in fulfilling the questionnaire than male. According to Ramizah Wan Muhammad (2017), her study has concluded that there are no prevention of women to be a syarie lawyer in Malaysia. Therefore, there was an increasing number of female syarie lawyers in 2017. The recognition of female syarie lawyer was allowed because they have the qualifications to be an Islamic lawyer but has been barred from holding the post of judge on Hudud and Qisas matters.

Secondly, the respondent's age between 40 to 49 years old is the highest participation recorded in fulfilling the questionnaire. Meanwhile, the other rate of age shows a similar pattern of respondent's participation. This happened because the questions in the questionnaire need a true understanding and experience to answer it. Therefore, the respondent's age between 20 to 39 years old was lack of experience in handling cases regarding Islamic land inheritance. For the respondent's age between 50 to 59 years old, they indeed have an adequate amount of knowledge and experience in handling the Islamic land inheritance cases but the questionnaire had been distributed to the respondent using the online platform that caused difficulties for them to fulfil it. The old generation lacked skills in using modern technologies especially during the age between 50 to 59 years old.

Results and Discussion

Objective 1: To Study The Concept Of The Islamic Land Inheritance

This section shows the database analysis of part B of the questionnaire, which is the notion of the respondents about the conception of Islamic land inheritance. Their level of notion was measured by utilising a lengthy reply section that has been supplied under the question to make definite the reply is fully detailed by the respondent in the questionnaire. The questions in part B of the questionnaire represent the first objective of this study, which is to study the concept of the Islamic land inheritance. The table 2 below contains the respondent's answer for each question in questionnaire of part B.

Table 2: Data Analysis for Part B

No	Respondent's Answer
1	Inheritance based on the rules of faraid.
2	Land left by the deceased without a will inherited by his surviving heirs.
3	Land inherited from the deceased to the heirs recognized under Islamic law.
4	Land owned by the family.
5	All property acquired by the deceased during his lifetime, and then left to his heirs.

The concept of land inheritance has to be understood to prevent any issues among heirs such as the quarrels during the inheritance process. The knowledge of the inheritance process can increase the awareness of wills and asset management during lifetime so the property does not fall into the wrong hands. Therefore, the understanding of Islamic land inheritance is necessary and needs to be analysed by this study. From the table 2 above, the findings of the study shows that every respondent have their own opinion regarding the concept of land inheritance in Islam. The analysis of the respondent's answer for part B shows a similar definition regarding the concept of Islamic land inheritance. For instance, the study concluded that the entire respondents have a true understanding regarding the concept of Islamic land inheritance. The answer given by the respondents has been agreed with the other scholar, who also said a similar concept. According to Norazila Mat Hussain and Nasrul Hisyam Nor Muhamad (2013), the division of land inherited in Islam is a part or shares and brings benefits to the heirs. Meanwhile, the other scholar said that the Islamic land inheritance is any property left by the deceased in either the form of land or other materials that is allowed by the Islamic law to be inherited by the heirs (Viki Ainun Najib & Kami Hartono, 2019). Overall, the study can conclude that the concept of the Islamic land inheritance was any land recognized under Islamic law that was left by the deceased and will be inherited to the heirs through will or based on rules of faraid.

Objective 2: To Identify The Issues And Challenges In The Islamic Land Inheritance Management

In this section, the study shows the database analysis of part C of the questionnaire, which is the notion of the respondents about the issues and challenges of Islamic land inheritance management. Their level of notion was measured by utilising a lengthy reply section that has been supplied under the question to make definite the reply is fully detailed by the respondent in the questionnaire. The questions in part C of the questionnaire represent the second objective of this study, which is to identify the issues and challenges in the Islamic land inheritance management. The table 3 below contains the respondent's answer for each question in questionnaire of part C.

Table 3: Data Analysis for Part C

No	Respondent's Answer
1	Layers of heirs. Estates that remained not administrated after a prolonged period following the death of the registered proprietor. Ownership in land that is not registered.
2	Syariah courts only have jurisdiction to issue faraid certificates.
3	The heirs do not follow the actual division in the distribution of the inheritance and most are confused as to the nominee and the heirs who are entitled to the inheritance.
4	The reluctance of heirs to cooperate.
5	Incomplete documents.

Based on the table 3 above, the study has gathered several issues and challenges in the Islamic land inheritance management through the answers given by the respondents. The analysis of the study clearly shows that there are various factors that caused those issues and challenges that happened during the inheritance distribution processes.

The first issues and challenges in managing the Islamic land inheritance was the reluctance of cooperation and layers of heirs. Generally, an heir is a person who is entitled to receive an inheritance from the deceased. The determination of the heirs and the rate of acceptance are sourced from the Qur'an, Sunnah, Ijmak of companions and ijtihaad. The division of inheritance must comply with the tenets and conditions of the inheritance, as well as the category of heirs and the rate (Muda, 2016). The management problems arise when it is necessary to find all the heirs after a prolonged period of deceased to enable the administration of the inheritance. According to scholars, the problems of layers of heirs can become much worst when disputes between heirs may be continuous, where upon death, the disputing heirs still do not want to improve their relationship ('Ainan Husnaa Muhammad Saifullah, 2020).

Secondly, the issues and challenges regarding the jurisdiction of syariah court in handling the inheritance cases. The syariah court did not have full power in handling the inheritance but only had jurisdiction to issue faraid certificates (Mariam Saidona, 2009) This issue was the main reason why the heir neglected their responsibilities in handling the inheritance. According to scholars, they said that the existing system or laws of management and administration of Islamic inheritance are unclear and ineffective because there are many institutions that have power and authority regarding inheritance. Specifically, the management and administration of Muslim inheritance divides powers into four main agencies, namely the Civil High Court, the Small Estate Office, the Department of the Director General of Lands and Mines (JKPTG), Amanah Raya Berhad and the Syariah Court. Therefore, the existence of various agencies in the management and administration of the Muslim's inheritance has caused confusion among the heirs (Rahman, 2018).

The difficulties in handling the division process of inheritance caused the arising of third issues, which is that heirs do not follow the actual division in the distribution of the inheritance and most are confused as to the nominee and the heirs who are entitled to the inheritance. According to research, there are also cases that the heirs try to falsify the identities of the other heirs for their own benefit. This will certainly make the process of division of the inheritance more difficult because the management needs to find the real heirs who are eligible to receive the faraid share ('Ainan Husnaa Muhammad Saifullah, 2020).

Fourthly, the heirs failed to bring a complete document to claim the inheritance. These documents include death certificates, heirs' identity cards, faraid certificates issued by the Syariah Court and also the deceased's asset documents which include all his property including bank books, unit trusts, salaries and others ('Ainan Husnaa Muhammad Saifullah, 2020).

Objective 3: To Analyse The Best Method In Managing Land Inheritance.

This section shows the database analysis of part D of the questionnaire, which is the notion of the respondents about the best appropriate method in managing Islamic land inheritance. Their level of notion was measured by utilising a lengthy reply section that has been supplied under the question to make definite the reply is fully detailed by the respondent in the questionnaire. The questions in the part D of the questionnaire represent the third objective of this study,

which is to analyse the best method in managing land inheritance. The table 4 below contains the respondent's answer for each question in questionnaire of part D.

Table 4: Data Analysis for Part D

No	Items
1	Take a short course in estate management.
2	Give full powers to the syariah courts such as powers to the small inheritance division and the civil high court to determine and implement the division of the inheritance of Muslims
3	The Syariah court only has the jurisdiction to determine the share of the heirs only and the remaining inheritance land management matters are managed in the inheritance division of the land office and district of each state.
4	Provide hibah.
5	Accelerate the management of inheritance land division so that the issue of multiple deaths can be avoided.

From the table 4 above, the result of this study has shown several suggestions on how the society can manage their Islamic land inheritance at the time ahead. The findings from the respondents sharing regarding the issues and challenges of managing Islamic land inheritance showed the society's awareness of Islamic land inheritance is still at an alarming rate. Researchers hope that the findings of this study can help the society to choose the best method in managing their Islamic land inheritance.

Firstly, in order to increase the awareness regarding the management of Islamic land inheritance they must take a short course in the inheritance management. The significance of this course was to gain the basic knowledge about the inheritance process such as the layers of heirs and rate of heirs division. This information was very important to prevent any misunderstanding among the heirs and to make the division process run smoothly. In addition, the heirs with the knowledge of the Islamic inheritance management will not dispute the determination of fararid percentage that has been released by the syariah court.

Secondly, the government must upgrade the functions of the syariah court by giving full powers to the syariah courts such as powers to the small inheritance division and the civil high court to determine and implement the division of the inheritance of Muslims. The jurisdiction of the syariah court regarding the Islamic inheritance matters are still at unsatisfactory levels. The Syariah court only has the jurisdiction to determine the share of the heirs only and the remaining inheritance land management matters are managed in the inheritance division of the land office and district of each state (Azman Ismail, 2013)

Thirdly, the society must accelerate the management of inheritance and division. In Malaysia, the act of division of property immediately considered property madness and viewed obliquely in society. This negative perspective must be eliminated to prevent the issue of multiple deaths of heirs from happening. Muslims also can use another alternative to accelerate the inheritance division process by implementing wills or providing hibah. Therefore, the management of Islamic land inheritance needs to be managed wisely during our lifetime.

Conclusions

The result of this study has found that the understanding of Islamic land inheritance management among syarie lawyers in Selangor was at a maximum level. This fact based on the result of the data analysis clearly showed that the syarie lawyers have experiences in managing cases regarding the issues of Islamic land inheritance. The entire respondents also have shared several suggestions to enhance the society's awareness regarding the management of Islamic inheritance. Therefore, to enable an efficient land inheritance management the Muslims must gain basic knowledge of the Islamic inheritance process. Through this study, hopefully researchers can give society a solution on how to solve their land inheritance cases. There are many suggestions and recommendations regarding the management of the Islamic land inheritance by the professional respondent of this study. The respondents of this study were the syarie lawyers, which are the authority's body in handling cases regarding the Islamic inheritance processes. The first recommendations by the professional respondents is that it is better to take note of the properties collected by the family members themselves so that the division of inheritance land is easy to do. This matter was very important to sum up all of the deceased's property in order to enable the faraid process to run smoothly. The division of inheritance among the heir must be implemented as soon as possible to prevent any other unexpected issues. According to research, heirs that neglected their responsibilities at instantly managing the inheritance have high possibilities to lose the important documents of the deceased. The document such as the death certificates, heir identity card and asset document will give a great impact to the division of inheritance ('Ainan Husnaa Muhammad Saifullah, 2020).

Besides, the society must deepen their knowledge related to Islamic inheritance and division of inheritance as well as the system of inheritance as outlined by the Islamic law (Abdul Nasir Zulkifli et.al, 2018) This is because the society needs to know the place of jurisdiction in managing the administration of the inheritance of the deceased and the scope of each institution. This important information of inheritance can reduce consuming time and accelerate the division process. According to research, the administration of Islamic inheritance encompasses a process that spans various stages of the process through various procedures and unexpected problems may arise at each stage (Muda, 2016). The lack of knowledge regarding the Islamic land inheritance can destroy the heir's relationships and create even worse scars among them. Therefore, knowledge was very important not only in Islamic inheritance management but also any other knowledge regarding Islamic religions.

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