

DEVELOPMENT OF WAQF LAND IN MALAYSIA: A CURRENT REVIEW IN STATE OF PULAU PINANG

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Article history

Received date : 1-3-2022

Revised date : 2-3-2022

Accepted date : 25-6-2022

Published date : 1-8-2022

To cite this document:

Anuar, N. A., Mokhtar, N. N., Sulaiman, M. A., Alias, M. N., & Zainol, N. N. (2022). Development of Waqf Land in Malaysia: A Current Review in State of Pulau Pinang. *Journal of Islamic, Social, Economics and Development (JISED)*, 7(46), 285 - 292.

Abstract: *In Malaysia, waqf matter is managed by an institution as a trustee such as State Islamic Religious Council. This council will plan and manage the waqf land according to specific deed, either for general or specific waqf deed as prescribed by the person who waqf the asset. However, waqf lands are still not being fully unutilized thus affecting the performance of waqf land development. A qualitative approach was conducted with four respondents in order to obtain to identify the current waqf land development in Pulau Pinang. The data received has been analysed through content analysis method. the research outcome shown the waqf development in Pulau Pinang had continuous development from Wakaf Seetee Aisah to Wakaf Seetee Aisah 2. The development is expected to have about 422 units of medium cost apartment, 150 units of low-cost apartment, 30 units of shop-offices, 15 units of stall centres, office blocks (4 storeys), surau and halls which estimated to cost about RM 120 Million.*

Keywords: *Waqf Land, Development, Pulau Pinang.*

Introduction

Waqf, (plural is called awqaf) is means either as a hold, prohibition or confinement to a thing or an asset (Mohamad et al., 2012). It is a protection of a thing from becoming a third person's belonging. In real estate, waqf could be in term of land that has been given by persons in order to develop or improve the land that will be beneficial to the public and economy of a country. Hence, waqf gives prior to these two meaning which are, preserving the land or an asset and maximizing the revenues on its beneficiary later (Puad et al., 2014). Waqf has also often been said as a charity done by a person or organization. In Non-Muslim countries, charitable activity or trusts is the most popular deeds in the act of giving. In United Kingdom, the revenues gained from charity activity reached £1985 million in the year of 2013 (Ali et al., 2015). In this urbanize era, the State Islamic Religious Council (SIRCs) in Malaysia has been developed by existing another waqf entities such as Jabatan Wakaf, Zakat dan Haji (JAWHAR), Yayasan Wakaf Malaysia (YWM) and SIRCs itself on its subsidiaries which are Perbadanan Wakaf for several states such as Pulau Pinang. Each entity will be empowering their obligation in administering the waqf assets with the best practices in realizing the prior purpose of having a waqf activity.

Undeveloped land was the problem usually occurred when talking about waqf land. According to Thaker & Pitchay in 2018, undeveloped or unutilised land issue can be observed where in most area of waqf land, the lands are seen to be left aside and left unattractive (Thaker & Ptchay, 2018). In addition, the lands also are being left aside without any development on it due waqf status, unlike conventional or common land. According to a research made, the management and administration issues in State Islamic Religious Council for every state can also impacting the waqf land development because they played major role in ensuring those waqf land under their administration can be well performed (Mokhtar & Ibrahim, 2011). There are State Islamic Religious Council who will be the trustee and manager in handling the waqf land either for development or any other purpose. As for instance, in Pulau Pinang, State Islamic Religious Council (SIRC) of Pulau Pinang has been established to undertake any waqf land and manage the land either for investment, research or development and authority towards the asset donated (Council, 2020).

Development of waqf land in Pulau Pinang that has been developed named "Wakaf Seetee Aisah". That development is a joint venture between SIRC of Pulau Pinang and UDA Holdings as developer, has developed for about 76 units of double storey terrace house and 21 units of commercial units at Seberang Jaya (Bernama, 2019). Thus, this research attempts to highlight on the current development held on waqf land in Pulau Pinang after the successful of Wakaf Seetee Aisah. Therefore, the objectives of the research is to identify the current waqf land development in Pulau Pinang. The research is expected to benefits Muslim community to be more concern on waqf land development as it is a good move or tool in Islam to enriched Islamic religious through waqf matters as well as contribute more awareness to community and indirectly can attract them to involve more in waqf matters.

Literature Review

Real Estate Development

Development can be defined as a paradox, which it is a term showing a link between three principles (Oberle, Stowers, & Darby, 1974). The principles are the economics, sociology and ethics. In real estate context in Malaysia, real estate development is depending on the Malaysian Development Planning. It is an established policy used as guidance for framework of the

construction and development planning. This constitution has been practised in construction sector ever since late 1950s. Therefore, all practices and institutions developed under the policy are evolving from time to time since its establishment (Lee & Ging, 2017). Real estate development also is an importance factor that contribute in shaping the built environment (Heurkens et al., 2018). According to them, the real estate development actually shapes people's live and working environment. In addition, by developing real estate, it enables human activities around the area to evolve.

Waqf

Waqf, is an instrumental tool used in order to provides social and economic safety by its role and responsibilities (Sapuan, Nur Azni Mohd, & Hashim, 2017). It also been used to utilize the purpose of charity that has been ordered or specified by the founder who donated or waqf their belongings (Abdullah, Sukor, Ahmad, & Rahman, 2017). There are two types of waqf, which are specific waqf and general waqf. According to Dahlia & Haslinda in 2013, specific waqf also known as "waqf khas" is a situation where the donor will first declare the purposes of why did they waqf their assets for a purpose. General waqf or be called as "waqf am" is an open ended waqf whereby the "mutawalli" may use the assets for any purposes that suits the function of assets. The purpose will be general as long as it benefits the society and not against the Syariah principles. Meanwhile, according to Abdullah et al., (2017), waqf has two different elements of asset which are immovables and movables assets. Immovables waqf refer to any property or building consisting of land or houses and mmovables waqf usually are forms of things that can moved from one place to another. It may be a form of stationeries, things or books that be waqf by people. According to Kahf in 2003, main characteristics of waqf is pepertuity. Not only that, characteristics of waqf also referring to irrevocability, where it brings a meaning of lack of power by the waqif to revoke any of his donation. Waqf is considered as binding as soon as the declaration of donation was made and property is transferred from the owner to "ownership" of Allah (Ismail, Mohd, Ab, Nik Mohd , & Hakimi Mohd, 2015).

According to Yaacob in 2013, waqf can be categorized into few classes which are waqf khayri, family waqf, cash waqf and waqf istibdal. Waqf Khayri is similar with general waqf. The terms khayri refer to general where it is used for public purposed. Family waqf brings a meaning of a private waqf. The beneficiaries of this type of waqf usually through a hierarchy or already specified by the founder. In cash waqf, a donor called "Al-Waqif" has endowed a sum of cash instead of donor a real estate asset (Md. Shahedur Rahaman, 2011). Waqf istibdal happened when there is a necessity of a land to be converted between existing waqf assets with other assets (Yaacob, 2013). Waqf istibdal is very significant in ensuring the development of Islamic economy to keep develop onto a non-strategic land, waqf assets that has low values and low awareness towards the assets itself (Bahari, 2019).

Management and Trustees of Waqf Assets

Burns, Grant, Nettle, Brits & Dalrymple in 2006 defining management of land into two sectors which are, land administration and land management. Both of these terms functions as an instrument and worked together to help the person responsible managing the land until it become what it supposed to be onto the land (Burns et al., 2006). During earlier stage, whoever has an asset and wanted to waqf their respective assets will need to meet village head or "penghulu". Hence, they will be acted as a trustee towards the assets (Yaacob, 2013). A trustee or "mutawalli" also will be chosen by the waqif or founder to oversee and manage the trust given. Waqif will choose their own trustee and appoint anyone who can succeed to be as trustee in a situation where there is a death or incapacity of waqif later on after declaration was made

(Khatib, 2016). The trustee must be honest, competent and able to do the job efficiently as they do not only act to preserve the waqf asset but also need to manage and develop the waqf assets to sustain the recipients' benefit at all cost (Abdullah et al., 2017).

In Malaysia country, State Islamic Religious Council or SIRC is established and been appointed as the trustee of waqf assets (Hassan & Rashid, 2015). The aims of SIRC's establishment is to give helps and assist the founder and beneficiary on matters related to waqf. Besides, SIRC's also functioned to give advice about the conditions and rules related to Islamic matter and custom of Malay too as well as developing the policy making. In Malaysia, Selangor, Malacca and Negeri Sembilan has an establishment of law statutes known as enactment of waqf. Whilst in other states, they have their own provisions in their respective Islamic Law, including the Federal Territories of Kuala Lumpur, Putrajaya and Labuan too (Mahamood, 2014).

Federal Government of Malaysia has formed a department called "Jabatan Wakaf, Zakat dan Haji" or known as JAWHAR in 2004. This department, under Prime Minister's Department is establish in aiming to harnessing the waqf asset potential, zakat and mal (Ahmad, Muhammad, & Kamaruzaman, 2012). JAWHAR is not an authority, however it is actively work as a complimentary agency in ensuring the development of waqf, zakat and mal are well facilitated, as well as undertaking the waqf development projects that been funded by Government. JAWHAR has established one new department known as "Yayasan Wakaf Malaysia" or YWM under them to assist them and harness the resources of waqf as well as complementing the SIRC's' effort in achieving a great waqf land development.

Issues in Waqf Land Development

The estimated total size recorded by SIRC's are about 8,861.13 hectares in Malaysia but according to Sohaimi (2018), there are still about 99.28 per cent of the estimated waqf land remain undeveloped. State Administration of Islamic Law Enactment has given the authority to SIRC's to act on behalf of the waqf assets. However, in some states, there are a lot of waqf land that are still registered under individual titles, committee or qariah. Thus, this add up some issues pertaining waqf land development as SIRC's is unable to trace the waqf land's identity and lead to undevelop land due to applications is not fulfilling the local authority's requirement (Ismail et al., 2015). Once a waqf assets is given, it will never be transferred, donated as gift or inherited unless for some exceptions. As the characteristic of waqf is permanence of rules and conditions implied by founder, this situation actually give impacts to the waqf land development as trustee needs to comply with the rules before deciding to develop it (Omar et al., 2014). On the other hand, this condition may limit and reduce the process on developing waqf assets in the market. According to Kader and Dahlan (2006), it stated that trusts on waqf matters is omitted in National Land Code. Hence, with the absence of waqf matters and provisions in the act, any development or endorsement on the waqf matters cannot be made as no evidence can supports the action (Sanek et al., 2017). In Malaysia, there are many issues of encroachment and illegal occupation in waqf land. SIRC's faced lots of problems in getting the illegals occupants to vacate the waqf land. Hence, this actually has led to become an issue as the development of waqf land cannot be made successfully (Ismail et al., 2015).

Methodology

In this research study, the researcher aims to use interview session in obtaining the data for the study. Interview is defined as a qualitative approach that requires only small number of individuals as respondents and aimed to see their perspectives and opinion on a certain matter (Boyce, 2006). In this study, the secondary data will not have any limitations and will be

gathered as much as it is essential to be used in measuring the performance of waqf land development in Pulau Pinang. By having interview session as the technique for data collection, the researcher will need to conduct an interview session with the practitioner from State Islamic Religious Council (SIRCs) of Pulau Pinang. Appointment with the respondents is made either through face-to-face session, emails or telephone interview.

In this research, the researcher has expected to use five (5) sampling respondents as targeted respondents, however during the interview session only four (4) of the respondents available for answering the interview made by researcher. To be added, this research justified that respondents chosen in this study is purposively chose due to their expertise in waqf development field in Pulau Pinang. Not only that, all of them are the one who in charge in waqf land development of all waqf land in Pulau Pinang as they are working under SIRCs of Pulau Pinang. In this research study, researcher collected the data from interview sessions technique conducted and tape all the recorded audio of semi-structured interviews during the interview session. Besides audio recording, researcher also at the same time listing out points, opinion or perspective from respondents. After that, the recorded interviews are converted and transcribed by the researcher through content analysis method. Qualitative content analysis is an analysis that involve quote interpretation from analysed text into a conclusion, unlike quantitative which commonly using frequency and statistical.

Case Study

State Islamic Religious Council (SIRCs) of Pulau Pinang is established under authority of “Seksyen 4, Undang-Undang Pentadbiran Ulama 1959” which is mainly to advise the royal highness matters involving Islamic religion. The function of SIRCs in Pulau Pinang is to ensuring society in Pulau Pinang living in a peace, pious and following Islam religion in their daily life. Apart from that, in context of development, SIRCs of Pulau Pinang also is functioning to develop, enhance, and promoting the economic growth and social as well as society well-being by following syariah’ compliance. In SIRCs, there are many sub-Unit. One related unit on waqf development matter is coming from Property Development Unit. This unit is functioning as to ensure all the waqf land is being developed either under general waqf or specific waqf. Waqf land development in Pulau Pinang is chosen as case study in this research due to its’ successful development of Wakaf Seetee Aisah, showing that the development held previously has a positive and significance impact towards waqf land development in Malaysia. In fact, it already have a performance to be observed and measured based on the reports and observations compared to other waqf land in Malaysia. Therefore, in this research, the study aims to make an interview with the expertise or professionals from that unit as they are deemed to be knowledgeable in giving out pertinent information and opinion related to study that has been undertaken.

Findings

An analysis is made through qualitative approach to find the best findings and interpretation on the study taken. During the interview session, a semi-structured interview was conducted with the respondent who exercised the waqf land development, solely Wakaf Seetee Aisah since first it was developed. The first respondent was an officer which hold a position as Administration Assistant Officer (Asset Management) from Waqf Property and Land Development Unit of State Islamic Religious Council Pulau Pinang. The interview took about an hour session. the second session held was with the second respondent which hold a position as Administration Assistant Officer, similar with first respondent, coming from the same unit in SIRCs of Pulau Pinang. The third respondent also coming from similar unit in SIRCs Pulau Pinang. However,

these respondents hold different position with the other two respondents, where this third respondents works as Executive Officer (Authority) while the last respondents hold a position as a Site Engineer in the same unit as the others too.

The findings obtained based on all the research objectives were illustrated into cross-cases content analysis. The findings were divided according to the responses from respondents that coded as R1, R2, R3 and R4 (R is Respondent).

Analysis of Finding based on Objective

From the content analysis made, the research conducted found out that the current waqf development held right now is continuation of Wakaf Seetee Aisah 1, named Wakaf Seetee Aisah 2. According to R1, Wakaf Seetee Aisah 2 at Seberang Jaya is the current waqf development that being developed near Wakaf Seetee Aisah. R2 also added similar statement with R1 saying that the the current development developed by MAINPP near Wakaf Seetee Aisah was Wakaf Seetee Aisah 2. To be added, R2 has given a slide containing information regarding this current development of Wakaf Seetee Aisah 2. Below here is the information gained by R2:

Table 1: Data on Current Development Held By R2

Name of Development	::	Wakaf Seetee Aisah Fasa 2
Lot	::	3117,252,200
Location	::	Mukim 4, Seberang Jaya, Seberang Perai Tengah, Pulau Pinang
Component	::	422 units of medium cost apartment, 150 units of low-cost apartment, 30 units of shop-offices, 15 units of stall centres, office blocks (4 storeys), surau and halls
Cost	:	RM 120 Million
Financing	::	Joint venture with UDA Sdn Bhd

This data can be supported by statement made by R3 where, that provides similar data as R2. R3 stated that the current waqf development nearest Wakaf Seetee Aisah is Wakaf Seetee Aisah 2. To be added, it is stated that in that development there will be 150 units of low-cost houses, 422 units of medium houses, Wakaf Setee Aisah 2. There is 150 units of low-cost houses, 422 units of medium- cost houses, 30 units of shophouses and 4 unit of shop offices.

Meanwhile, R4 mentioned that the waqf land development now is in ground field phases and at the end of the year 2020, the ground field is already completed. In addition, the structure phase was expected to be started early year 2021.

To sum up, all the respondents stated the similar opinion about the current waqf development which is “Wakaf Seetee Aisah Fasa 2” in Seberang Jaya Pulau Pinang and the development was expected to starts its structure phase during early year 2021.

Conclusion and Recommendations

For objective of this study which is to identify current waqf development in Pulau Pinang, it can be concluded that the waqf development developed for this time being is Wakaf Seetee Aisah Fasa 2. This is one of a continuation of development from Wakaf Seetee Aisah 1 to another phase of development with the same joint venture with UDA Holdings Sdn Bhd. The

results of this study has to recommend for a new study to be continued to look up the issues may exist in the Waqf development in Seetee Aisah 2 project.

Acknowledgment

The researchers gratefully acknowledge financial support from the Malaysian Ministry of Higher Education under FRGS-RACER project :no Project No 600- IRMI/FRGS-RACER5/3(022/2019) /RACER/1/2019/SS08/UITM/2.

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