

TENANCY EXEMPT FROM REGISTRATION
UNDER THE MALAYSIAN TORRENS
SYSTEM

By

MAZELAN JAMALUDIN
DIPLOMA IN LAW
SCHOOL OF LAW AND ADMINISTRATION
MARA INSTITUTE OF TECHNOLOGY

TENANCY EXEMPT FROM REGISTRATION UNDER
THE MALAYSIAN TORIENS SYSTEM

By

MAZELAN JAMALUDIN

Submitted in partial fulfilment of the requirement
For the Diploma in Law.

At the school of Law, MARA Institute of Technology.

Shah Alam,

June, 1986.

TABLE OF CONTENTS

PREFACE

CONTENTS

TABLE OF CASES

TABLE OF STATUTES

BIBLIOGRAPHY

CHAPTER I

INTRODUCTION - INTERESTS IN ALIENATED LAND. 1

CHAPTER II.

THE NATURE OF TENANCY EXEMPT FROM REGISTRATION. 6

- A. WHETHER THERE IS A DISTINCTION BETWEEN "TENANCY" AND A TENANCY EXEMPT FROM REGISTRATION.
- B. GENERAL NATURE OF LEASES AND TENANCIES.
- C. TENANCY EXEMPT FROM REGISTRATION UNDER THE FORMER LAND CODE.
- D. CREATION AND EFFECT OF A TENANCY FOR LAND USED FOR THE CULTIVATION OF PADI.

CHAPTER III

MODES OF CREATION 16 1.

- A. WRITTEN OR ORAL.
- B. EXEMPT FROM REGISTRATION.

PREFACE

In the course of learning the land law of Malaysia particularly regarding the exempt tenancy. We realized that there is a scanty supply of available reading material. There is only a few of articles and books that provides a survey of the whole subject of tenancy exempt from registration in this country.

The main objective of this project paper is to explain the principles of tenancy exempt from registration as they apply under the Malaysian Torrens system. This project paper seeks to bring together the court pronouncements in these country in the area of exempt tenancy and extract relevant principles therefrom.

The underlying methods throughout the topics is to state the principle of law according to the statutory provision and illustrate them with cases. Researches had been done from various books, journals and articles.

The writer is very grateful to his colleagues and brothers for their constant help and encouragement, which endured him to complete this project paper.

Above all, the writer wish to extend utmost and sincere gratitude and appreciation for all the efforts put by his learned supervisor, Mrs. Subhan. Senior lecturer of law for reading the manuscripts and making many helpful suggestions.

MAZELAN JAMALUDIN
DIPLOMA IN LAW
JUNE, 1986.

CHAPTER I

INTRODUCTION

INTERESTS IN ALIENATED LAND.

The Law governing land tenure and dealings in West Malaysia is based solely on the torrens system, which was adopted from the Australian Torrens System but with very substantial modifications. Where it does not directly importing the English equitable concepts. In Australia, there exists a dual system of land law namely the common Law system of Land tenure imported directly from England as well as the torrens system devised in Australia.

Under strict torrens concept, Malaysian like its Australian and other counter parts is a system of registration of titles to and interests in alienated land. Alienated land here means, any land (including any parcel of a sub-divided building) in respect of which a registered title for the time being subsists whether final or qualified whether in perpetuity or for a term of years, and whether granted by the state authority under this Act or in the exercise of powers conferred by any previous land law, but does not include mining land. ¹

1. Section 5 (Interpretation) National Land Code 1965.