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CHALLENGES HEIRS FACED IN CLAIMING INHERITANCE PROPERTY IN PERAK TENGAH

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Abstract:

Unclaimed inheritance property is still one of unresolved issues in Malaysia. It is pertaining to the accumulation of unclaimed asset over the years and become serious problem to the nation. The aim is to identify challenges from the heir's perspective in claiming the inheritance property. In order to achieve this aim, three objectives are being set, namely: to identify the challenges heirs faced during inheritance claiming process; to outline the existing process and guideline by JKPTG, and to identify the line chart of successor and their portion according faraid. The method used to obtain the data is by using quantitative analysis, and were analyze by using SPSS software. The questionnaire is given to the registered heirs under JKPTG Perak Tengah that comes for hearing session at Land Office in Seri Iskandar, Batu Gajah and Ipoh. The findings of this study is divided by 5 main factors, which is knowledge, procedures, costs, family problems and mentality. The result shows most heirs do not have understanding about the portion of each heirs therefore often leads to disputes among them. Thus, there is need to educate the heirs to be more concern about their actual roles in managing the deceased property administration.

Keywords:

Asset administration, assets distribution, heirs, claiming inheritance property.

1.0 INTRODUCTION

Inheritance is what a deceased person left behind to the heirs around him. Inheritance supposed to be the main thing that unites a family, as to embrace what have left to them by the deceased but instead it becomes the reason to broken family and later on to move to more serious problem such as unclaimed inheritance property. As many as RM60bil unclaimed assets until 2016 (The Star, 2016). The claiming process is not as easy as it seems. It is actually by the way of Faraid, is time consuming, complicated and costly (Buang, 2008). This issue is not something new in Malaysia. This is proven by increasing trends of unclaimed asset each year. The properties or asset should be governed in the hands of its rightful heirs. The heirs are sometimes mentioned in the will, sometimes they are not. There is actually a brief definition given in the Probate and Administration Act. A person is said to die "testate" if he leaves behind a valid will; if not, he dies 'intestate'. A person is said to have died intestate even when he left behind a will, if he didn't name his executor (Marican, 2008).

2.0 LITERATURE REVIEW

2.1 Heirs

According to Dr Hj Abdul Aziz Hassan (2014), heirs is define as a legal person entitled to the property rank or rank of another on that person's death. The first rank in Faraid is Ashabul-Furud'. It is those whose shares are specifically stated in the Quran. Second is 'Asabah' which means those who are entitled to the balance of the deceased estate but whose shares are not specifically stated; and lastly 'Dhawil-Arham'. The residual third group who are blood-relations but who do not belong to either groups first or second.

2.2 *Inheritance property*

Kamus Dewan, Fourth Edition (2014) defined estate as inheritance asset which has been left by a deceased person as mentioned in the (Probate and Administration Act 1959). Generally, estates can be classified into testate and intestate estates (Azmi F.A.M.B, 2016). Testate estates means estate that is disposed of by a person through his will. While intestate estates refers to the estate of a person who dies without leaving a will but dies intestate as to some beneficial interest in his property includes moveable, immovable, small and non-small estate.

There are many previous study on inheritance property from multiple angle and perspectives. Here are few studies focuses from heirs perspectives. Mohd Fauzi Bin Mohd Yusoff (2004) has identified few factors from heirs' perspectives which are heirs' attitude of heirs being ignorance of claiming timing, lack of understanding of the process and its cost. Md Ghazali Ibrahim (2008), listed out factors for delayed distribution of estate which is multiple names of heirs in one small lot of land, heirs disputes such as rightful heirs and delay of distribution process. Siti Mashitoh Mahamood (2008) examined several reason behind unclaimed estate, that is no heir left behind, absence of knowledge, no nominees and also lack of contact (person to ask regarding the matter). Kamariah Dzafrun Kamarul Baharin (2009) explained few causes of delayed distribution which is family disputes, attitude, lack of knowledge and lengthy process.

3.0 METHODOLOGY

This study use quantitative approach by distributing questionnaires to heirs that registered in JKPTG in Perak Tengah. Initially, Perak Tengah covers 5 district which is Ipoh, Batu Gajah, Kg Gajah, Seri Iskandar and Kampar. But due to time constraint, this study only covers three Land Office which is in Batu Gajah, Ipoh and Seri Iskandar. Total number of respondents are 60 heirs.

4.0 ANALYSIS AND FINDINGS

Factor 1: Knowledge of heirs. The highest understanding among the heirs are the meaning of Faraid which is 59% of respondents. While the knowledge of portion of inheritance distribution in the family is understand by only 13% of the respondents. This shows a lot of people have no idea about the portion of inheritance in faraid and only know on the surface which is the meaning of faraid. Thus, many should be done to create the awareness about faraid knowledge.

Factor 2: Inheritance procedure. The result shows 53% of the heirs agree that claiming inheritance procedure is too complicated. While 50% agree that untraceable documents is one of the challenges they are facing. Overall, heirs need to have innitiatives to know about inheritance procedure. In this era, many trustable platforms existed, such as JKPTG website for citizen to access. If confused, the heirs should have initiatives to ask from the Land Office staff or experienced officers in this field.

Factor 3: Cost factor. It shows majority of 59% of the respondents agreed the inheritance's fees is too high. Meanwhile, 47%, of the heirs said they having high cost transportation problem. The fees is calculated according to the total value of inheritance, the higher the value, the higher the fee. Heirs mostly feels like this is a burden for them as the net value to be distributed among them will be lesser than before.

Factor 4: Family related family. The highest agreed challenges are unknown heirs come to claim the inheritance property, which takes up to 42% of the repondents. This could resulted from secret weddings male family members tends to hide. This leads to sudden news about step families. This could leads to more disputes,not only of the portion of distribution but internal family fights as well.

Factor 5: Mentality. Under mentality factor, 17% of respondents saying they agree that mentality of early discussion about inheritance distribution indicates that the family members is greedy. While 44% of the respondents disagree. Another is mentality where elder always wanted most of the wealth, where only 5% of respondents were agree with this factor and another 43% are disagree to it. Hence, findings found that this mentality is wrong due to way too much gap between respondents that are agree and

disagree to it. Hence, both mentalities are denied by the heirs. Only few agree that it is still a challenge to them. Thus, it can be concluded that the mentality of heirs has improved.

5.0 CONCLUSION

As a conclusion, the most challenging factor in this research are the cost factor which the fees is too high. This agreed by 59% of the respondents, which also mark up the highest percentage among all factors. Heirs should be more proactive of handling this situation. Above all, be more preparing. Heirs usually take things easily and only search about inheritance when the family almost dies. Everyone should know death comes with no sign, thus making it a crucial knowledge. At least one person in the family should have the information of the reliable and knowledgeable person to ask regarding inheritance, then all heirs should know about it.

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