

KELANTAN LAND SETTLEMENT ACT 1955 (Revised 1991)

ACT 460

Preamble

An Act to provide for revision of registers, recording of interests in land, settlement of claims, determination of owners, possessory title to land, and issue of documents of title to land, in areas from time to time declared in the State of Kelantan.

1. Short title and application.

(1) This Act may be cited as the Kelantan Land Settlement Act 1955, and shall apply to the State of Kelantan.

(2) Save as hereinafter expressly provided, nothing in this Act shall be deemed to apply to State land or land reserved for a public purpose.

2. Interpretation.

(1) This Act shall be read and construed together with the National Land Code and with the Small Estates (Distribution) Act 1955:

Provided always that where there is any conflict between this Act or of any rule thereunder and either of the said laws or of any rule thereunder this Act or any rule thereunder shall prevail.

(2) In this Act unless the context otherwise requires-

"claimant" means a person who claims-

(a) to be a proprietor; or

(b) to have any interest in land in a Settlement;

"Code" means the National Land Code;

"District Officer" means a District Officer or a Land Administrator of a District in which there is for the time being a Settlement Area and, except in sections 15 and 16, includes an Assistant District Officer or an Assistant Land Administrator, unless otherwise provided;

"holder of a possessory title" means a person to whom a document of possessory title has been furnished in accordance with section 8;

"Majlis" means the Majlis Ugama Islam dan Adat Istiadat Melayu constituted by section 4 of the Kelantan Council of Islamic Religion and Malay Custom Enactment 1966; and

"Settlement Area" means an area declared by notification under section 3 to be a Settlement Area.

3. Notification of Settlement Area.

(1) The Ruler in Council may by notification in the Gazette declare any area within the State to be a Settlement Area and shall in such notification call upon every claimant to appear at such time

and at such place as the District Officer may in the manner prescribed direct and to submit his claim.

(2) For a period of six months from the date of such notification no person shall transact any dealing in land in such area and the registration, other than in pursuance of an order made under this Act, of all transfers, transmissions, charges, caveats or dealings in such land shall be suspended:

Provided that from time to time the Ruler in Council may extend the said period for so long as is deemed necessary:

Provided further that the foregoing provisions of this subsection shall not apply to-

(a) an interest in any land registered pursuant to an order made under section 7; or

(b) land held under a possessory title pursuant to an order made under section 8 which has become an indefeasible title under section 10(1)(e),

where the period for an appeal has expired and no appeal is pending against such order.

(3) A copy of such notification shall be posted at such place of public resort and at such other places as may be prescribed.

3A. (Added by Kelantan Enactment 12/79 and repealed by Kelantan Enactment 8/82.).

4. Investigation by Settlement Officer and recording of claims.

(1) The District Officer shall give notice in the Settlement Area of the date, time and place when and where the Settlement Officer will attend for the purpose of recording claims.

(2) The Settlement Officer shall on the date notified proceed to record claims from claimants in the manner prescribed and may record a claim on behalf of any person, whether present or not, who appears to him to have a claim to any interest in land.

(3) After recording the claims the Settlement Officer shall deliver the record to the District Officer who shall within the Settlement Area notify the date, time and place of inquiry into the claims.

(4) The District Officer shall in so far as may be practicable cause all claimants to be notified personally of the date, time and place of inquiry and of such particulars of any adverse claim as the District Officer may think necessary to enable justice to be done.

5. Duties of District Officer at public inquiry.

(1) The District Officer shall at a public enquiry ascertain who is in possession of land, who is the registered proprietor, who is entitled to be registered as proprietor, whether any person has a registerable interest therein, and the extent of the land over which any interest is exercisable.

(2) The claimant may appear in person or by an agent authorised in writing or appointed before the District Officer, and shall produce to the District Officer any instruments affecting the land or interest which he claims.

(3) In relation to wakaf land the representative of the Majlis appointed in writing by the Majlis may appear.

(4) No advocate or solicitor shall be entitled to appear on behalf of any party in any proceedings before the District Officer under this Act, except with the permission of the District Officer, who may grant or withhold such permission in each case as he thinks fit.

6. Land forming part of small estates.

(1) Notwithstanding section 8, where in the opinion of the District Officer any land within the Settlement Area forms part of a small estate of a deceased proprietor who died intestate not more than six years before the date of hearing the District Officer may proceed to distribute the estate under the Small Estates (Distribution) Act 1955.

(2) When exercising within a Settlement Area the powers of a Collector under the Small Estates (Distribution) Act 1955 the District Officer shall be deemed to be the Collector of the district where the greater part of the property is situate for the purposes of section 4(2) of the Small Estates (Distribution) Act 1955.

7. Proprietor in possession.

Whenever the District Officer is satisfied that the person in possession of any land at the date of the enquiry is or holds under a person in occupation of State land under approved application in expectation of registration of title in accordance with the law in force immediately before the commencement of the Code, the District Officer shall make a finding to that effect and, in the manner prescribed, make an order, which shall be presented to the Registrar, directing the registration of the interest so found:

Provided that, where the interest so found is the interest of a person who is or holds under a person in occupation of State land approved application as aforesaid, the Registrar shall on the presentation of the order register the title for which the application was approved and an interest corresponding to the interest of any person found to be holding under the applicant.

8. Persons other than the person in possession.

(1) Whenever the District Officer is satisfied that land in a Settlement Area is registered in the name of a person and that another is in possession thereof otherwise than holding under the proprietor the District Officer shall make a finding to that effect and, in the manner prescribed, make an order, which shall be presented to the Registrar.

(2) Whenever the District Officer is satisfied that the person in possession entered into possession as tenant, chargee or otherwise than as owner, by leave or licence of or on behalf of any person not being the proprietor who claims to be entitled to such land or any interest therein he shall make a finding to that effect and, in the manner prescribed, make an order, which shall be presented to the Registrar.

(3) Upon receipt of such order the Registrar shall furnish the person in possession or, where appropriate, the person under whom or by whose licence the person in possession entered into possession, with the appropriate document of possessory title.

9. Powers of District Officer.

(1) In making an order under section 7 or 8 the District Officer may require-

(a) any proprietor of land exceeding ten acres in area held under Land Office title to receive a Registry title in respect of the land in place of the Land Office title; or

(b) any proprietor of land not exceeding ten acres in area held under Registry title and not being town or village land to accept a Land Office title in respect of the land in place of the Registry title.

(2) Where it appears to the District Officer that there may have been a breach of express conditions imposed under or conditions and obligations implied by virtue of the Code or a previous land law, he may by order direct the Registrar before furnishing, issuing or reissuing any document of title, subject to any direction of the Ruler, exercise the powers conferred on the State Authority by section 124 of the Code.

10. Effect of possessory title.

(1) Where a possessory title has been registered-

(a) no suit, action or proceeding under the Code or otherwise may be brought by any person to establish any claim to ownership of or interest in the land if such claim existed prior to the date of the registration of possessory title unless such suit action or proceeding is commenced before the expiration of eighteen months from the date of such registration;

(b) if any such suit, action or proceeding as is referred to in paragraph (a) any judgment or order is given for the recovery of the registration as proprietor of the land in favour of the proprietor or person entitled to be registered as the proprietor of the land the subject matter of the suit, action or proceeding, the interest therein of the holder of the possessory title and of his successors and all interests created thereunder shall cease from the date of registration of the judgment or order:

Provided that he shall be deemed to have been entitled to the revenues of such land until the date of such registration unless the Court or Officer making the order shall otherwise direct;

(c) if in any such action or proceeding a judgment or order is given or made in favour of the person claiming any other registerable interest in land such interest shall be registered against the possessory title in accordance with such judgment or order;

(d) subject to section 12, a minor or person under disability may, within three years of his ceasing to be a minor or to be under a disability or within 25 years of the registration of the document of possessory title, whichever shall be the shorter, bring an action or proceeding under the Code to establish his interest in such land:

Provided that if the action is brought after the expiration of eighteen months from the date of registration of the document of possessory title a bona fide purchaser for value of land from the holder of a possessory title who has no notice, express or implied, of the claim of any minor or

person under disability to any interest in such land shall take such land free of the interest of any minor or such person therein;

(e) subject to the right of the proprietor or person entitled to be registered as proprietor or entitled to any other registerable interest in land to obtain a judgment or order in accordance with the provisions of the previous paragraph the holder of the possessory title or his successors shall be deemed to be the owner of the land and upon the expiration of the said period shall have an indefeasible title to the land within the meaning of section 340 of the Code;

(f) any minor or person under disability who has suffered loss by operation of the proviso to paragraph (d) shall be entitled to recover from the vendor the value of the purchase price or other consideration received by the vendor from the purchaser if action is brought within the period prescribed in paragraph (d).

(2) Save as by this Act otherwise provided, a possessory title shall be treated in the same manner as any other title for the purpose of the Code or any other written law.

11. Power of District Officer to impose conditions on possessory title.

Subject to any direction of the Ruler, upon the issue of a document of possessory title there shall be imposed such express conditions or restriction of interest conformable to law and there shall be reserved such rent in respect of such land in accordance with the practice under the Code as the District Officer may order.

12. Minors and persons of unsound mind.

Where any claimant or any person who is considered by the District Officer to be a necessary party to any proceeding under this Act is or appears to the District Officer to be a minor or person of unsound mind the District Officer may by an order in writing, appoint some suitable and proper person to be the guardian of such minor or person of unsound mind for the purposes of all proceedings under this Act and all such proceedings shall be as effective and binding upon all persons concerned as if such person had not been a minor or person of unsound mind.

13. Power of District Officer to waive fees, etc.

(1) The District Officer may waive any fee to be charged or paid in respect of any act done, service rendered, or decision made in relation to land in the Settlement Area save as may be prescribed in relation to appeals.

(2) The District Officer may waive any estate duty or estate duty fee payable upon an order or grant issued, in relation to a small estate in a Settlement Area.

14. (Repealed).

[Repealed by P.U. 438/1966]

15. Termination of notification of Settlement Area.

When it becomes no longer necessary that this Act shall apply to a Settlement Area the District Officer shall issue a notice to be published in the Gazette that the area has ceased to be a Settlement Area.

16. Appeals.

(1) Any person aggrieved by an order made in pursuance of this Act may appeal to the District Officer and thereafter to the High Court in the manner prescribed by section 418 of the Code.

(2) Nothing in this section shall affect the right of any person to institute any suit or proceedings or to bring any action under section 10.

(3) No appeal to the High Court shall operate as a stay to the registration of interests under an order made by the District Officer.

17. Rules.

(1) Notwithstanding section 30 of the Small Estate (Distribution) Act 1955, the Ruler in Council may after consultation with the Minister charged with responsibility for lands make rules applicable in a Settlement Area to carry into effect the objects of the Act and to prescribe anything required to be prescribed therein.

(2) The Ruler in Council may make rules for carrying into effect the objects of this Act and in particular for all or any of the following purposes:

(a) to prescribe the powers vested in any other officer by the Code which may be exercised by the District Officer and to specify which power, if any, shall be exercisable only by the District Officer and to specify which power, if any, shall be exercisable only by the District Officer personally;

(b) to provide for the issue of notices and the manner of service either personal, or substituted and the determination of matters in the absence of the parties;

(c) to establish the procedure to be followed upon the hearing of claims to **land** and to compel attendance of persons and delivery of documents at any place or before any officer;

(d) to prescribe the forms to be used and the orders to be issued to give effect to the decision made;

(e) to provide for the periods to elapse between issue of notice and date of hearing; and the time for appeal to the District Officer;

(f) to provide for the hearing of appeals by the District Officer and the payment of fees thereon;

(g) to provide for the records to be kept of anything done under the powers conferred by this Act;

(h) to give effect by registration to the orders made;

(i) to ensure the survey of the area and the provisions of plans; and

(j) to prescribe anything which under this Act is to be prescribed.