

Elements For Registration of Shariah High Court Order Granting A Declaration for Vesting of Hibah Properties At PTG Johor

¹Lokman Hakim Bin Tuan Kamaludin & ²Nasrul Hisyam Nor Muhamad

¹Graduate Candidate of Islamic Civilization Academic, Faculty of Social Sciences and Humanities, University of Technology Malaysia, 81310 Skudai, Johor Bahru, Johor, Malaysia,

²Senior Lecturer at Islamic Civilization Academic, Faculty of Social Sciences and Humanities, University of Technology Malaysia, 81310 Skudai, Johor Bahru, Johor, Malaysia

Corresponding Author Email: lokman75@graduate.utm.my

To Link this Article: <http://dx.doi.org/10.6007/IJARPED/v13-i1/20787>

DOI:10.6007/IJARPED/v13-i1/20787

Published Online: 18 February 2024

Abstract

The matter of registering of declaration for vesting of hibah properties in the State of Johor is subject to the elements and conditions stated in Circular No. 12/2019 issued by PTG Johor. The objective of this research study is to find out the management procedures, conditions and guidance related to the registration of the declaration for vesting of hibah properties at PTG Johor based on PTG Johor circular 12/2019. Research data was obtained through the library method by referring to legal statutes, circulars related to land and administration as well as relevant cases involving land legislation NLC 1965 and the GSA Act 1960. Structured and unstructured interview methods were also implemented to obtain information related to the research objective. The findings of this study show that the conditions and elements stated in PTG Johor's circular No. 12/2019 in guiding the registration of the declaration for vesting of hibah properties at PTG Johor are perfect, organized and legal in nature. Even so, the instruments and elements contained in PTG Johor circular No. 12/2019 are the essence of KTN 1965 itself.

Keywords: Hibah, Vesting Order, Circular, Registration Guide.

Introduction

Every declaration for vesting of hibah properties granted from Johor Shariah High Court (JSHC) is for the purpose of allowing the properties to be registered at District Land Office (PTD) or Johor Land and Mines Department (PTG). This is the desire and intention of every owner who seeks to obtain an order of declaration for vesting of hibah properties. Therefore, it is not surprising that every time, application to obtain declaration for vesting of hibah properties becomes an unisolated practice in Johor Shariah High Court (JSHC) itself and the numbers often increases.

On the other hand, even after having the declaration order, it does not mean that the order can continue to be implemented by PTD/PTG Johor. On the contrary, there are still

other requirements and conditions that need to be passed first before it can be registered. PTG Johor, as the party entrusted with the responsibility of ensuring the registration of a property title, is the party that responsible for its completion. Therefore, it has become a necessity for the PTG Johor to provide guidelines and procedures for managing related to the registration of declaration for vesting of hibah properties granted from JSHC.

This research is conducted as effort to broaden knowledge of related to the elements of real estate grant registration in the state of Johor. Lastly, this research is important due to the legal practitioners and property owners who want to implement grant registration. Thus, it is important for legal practitioners and every landlord who intends to register an order of declaration for vesting of hibah properties to understand these guidelines well, so that there are no consequences and refusal from registering.

Direction on Registration of Vesting of Properties

Previously, at the PTG Johor level there had never been any clear guidelines for the registration of vesting of hibah properties order (Tawil, 2022). Most applications filed for registration will be handled without any clear guidelines. All applications are managed at the discretion of PTD/PTG Johor Land Administrators only (Abdullah, 2023). As such, it is not standard and causes various problems that arise related to land legislation (Mohamadon & Ismail, 2022). It is also not denied that there are applications that are filed but not managed (KIV) at PTD/ PTG (Abdullah, 2023).

In the event that there is a drastic increase in the No. of applications for registration of vesting of hibah properties orders at PTD or PTG, PTG Johor sees the need to introduce specific guidelines and procedures for this purpose. These guidelines are expected to guide all administrators in ensuring that applications for registration of vesting properties orders to be dealt in the same standard manner and meet the requirements of NLC 1965. Therefore, a special circular was introduced by PTG Johor. PTG Johor circular No. 12/2019 which was introduced and enforced on 18 November 2019 is the second circular enforced in Malaysia related to hibah. However, this circular No. 12/2019 is unique and contains special details regarding the registration of vesting of hibah properties (Ismail, 2022) which must be followed.

Dato' Haji Mohammed Ridha Bin Dato' Haji Abd Kadir, Director of PTG Johor took the initiative to introduce the circular 12/2019 to guide the direction of all administrators in ensuring that every order of land acquisition from JSHC can be implemented. Besides that, this circular also ensures that the requirements and legislative will contained in NLC 1965 are guaranteed and followed according to the interpretation contained in the circular No. 12/2019.

Usage of Ptg Johor Circular No. 12/2019

The writer found that the effort carried out in developing this circular 12/2019 was a difficult job. In order to ensure that the circular is successfully produced, PTG Johor needs to understand and digest every provision contained in the NLC 1965, the appropriate legal form and basis and the existence of other laws that are related to hibah properties and vesting. This is intended so that the proposed circular is in accordance with the requirements of the registration of the declaration for vesting of hibah properties order and can be used as a guide

to all parties. In addition, PTG Johor also needs to think about any possibility that may arise as a result of its use.

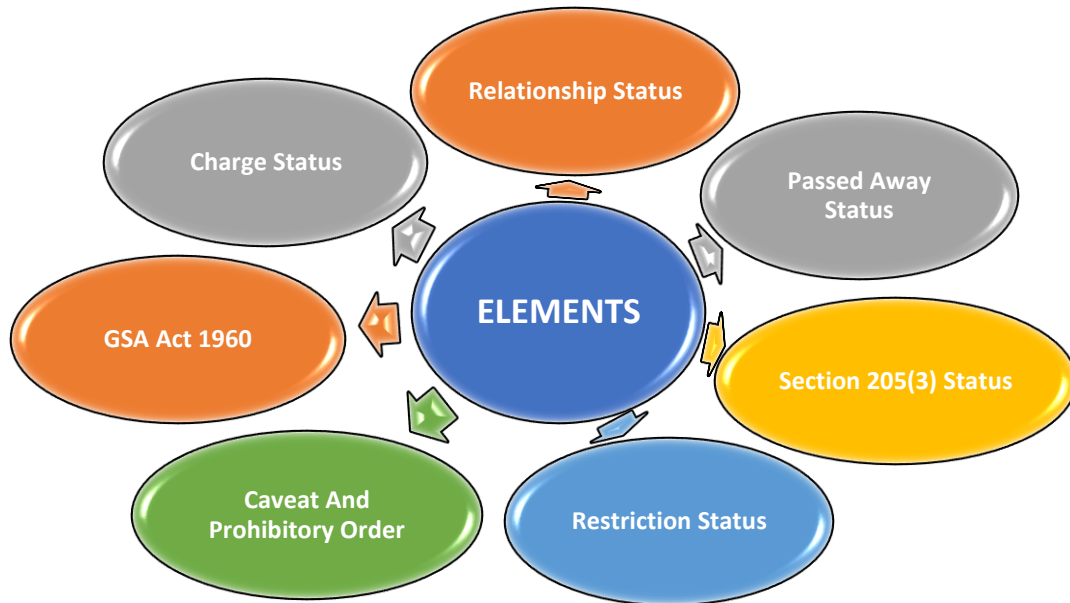
Every department circular is not a legal source and it can be challenged at the Court level. This can be referred to in the judgment of the case of *Maria Chin Abdullah v Ketua Pengarah Imegresen & Anor [2021]1 MLJ 750* which decided that circular is not legal and also the case of *Laguna De Bay Sdn Bhd v Majlis Perbandaran Subang Jaya [2014]7 MLJ 545*. PTG Johor took the position that circular No. 12/2019 should be developed and enforced at the Johor state level. However, in order to ensure that the circular is legal, PTG Johor uses the approach decided in the case, including *MBF Property Services Sdn Bhd [" No: 2"] v Madihill Development Sdn Bhd [1997] MLJU 309*; *Pontian District Land Administration and Others v Ossons Ventures SdnBhd [2009] MLJU 565/ [2009]6 MLJ 182* which ruled that the decision of the MMK is binding. Therefore, the summary of the decision of the Johor State Executive Council (MMK) No. 1461/2019 on 11.09.2019 related to vesting of hibah properties and has been made into the content of PTG circular No. 12/2019. This circular is a tool in advancing the summary of the decisions of the Johor State Executive Council (MMK). The summary of the MMK became the conditions contained in circular 12/2019 as a result of the MMK meeting itself. This is done with the aim of making this circular a legal, permanent and valid instruction at the Court level (Johari, 2019).

Element of PTG Johor Circular no. 12/2019

This entire of circular no. 12/2019 is specifically related to the management procedures and management of the declaration for vesting of hibah properties. PTG Johor circular no. 12/2019 was developed based on the instructions and approval of the Johor MMK dated 11 September 2019. The MMK meeting has considered the summary of the No. 1461/2019 meeting and agreed that a specific circular related to the implementation of vesting of hibah properties order granted by Shariah High Court in the Land Office should be created and included in the in PTG Johor circular No. 12/2019. This circular is named as "**Implementation of the Hibah Order and Imposition Fee Based on the Transfer Based on Hibah Order**"

This circular contains 19 paragraphs which are divided into 4 parts, starting with the purpose, background, state authority rulings and effective date. The matters and the elements emphasized in PTG Johor circular no. 12/2019 can be divided into 7 elements. All of the elements that touched upon are a series of problems that arose and faced following the registration of the vesting of hibah order. These elements and conditions can be formulated as the requirements of NLC 1965 itself. There are some basics that need to be understood that the elements stated in circular 12/2019 are not the conditions and basis of consideration taken into account during the hibah hearing conducted at JSHC.

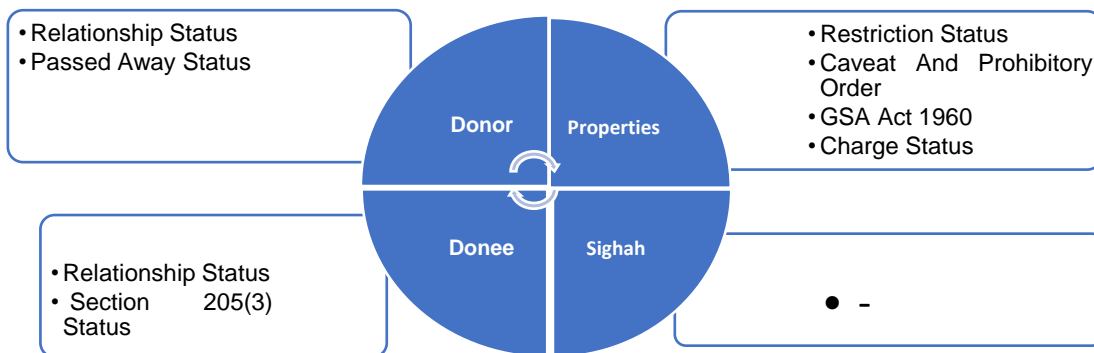
Chart 1 - Element of PTG Johor Circular No. 12/2019



Source: Circular No. 12/2019 PTG Johor (2019)

The relationship between the elements of circular 12/2019 and the hibah pillars can be divided as follows

Chart 2- Relevancy Between Elements and Hibah Pillar



Source: Circular No. 12/2019 PTG Johor (2019)

Each of these mentioned elements is a different matter and considered important by the circular No. 12/2019, then it is discussed one by one below. If any of these specified elements are not complied with, then the application for registration of declaration for vesting of hibah properties cannot be processed. Therefore, it is necessary to understand and refine each element mentioned. Even if the provisions of section 420 of NLC 1965 are stated by naming the Johor PTD or PTG for the execution of declaration for vesting of hibah properties issued from the JSHC, it still cannot be registered or executed. On the other hand, Johor PTD or PTG will check and ensure the elements stated in the circular of PTG Johor No. 12/2019 is complied with and in line with the application requirements of NLC 1965.

Element One: Relationship Between Hibah Donor And Donee

PTG Johor circular no. 12/2019 raised about the relationship status of hibah done and donor who have no relationship. This circular is concerned with matters related to the relationship between the parties and is of the view that it should only revolve around family relationships. On the other hand, if the giving of a hibah occurs between non-relatives, it is not a hibah recognized by this circular. Paragraph 2.2 of the Circular states: “.... PTG Johor found that the hibah was not based on love and donee did not have a family relationship.”

On the other hand, statistic findings show that giving hibah among non-family members is indeed practiced and happens at JSHC. Referring to the website of the Director of Johor Lands and Mines Office (2023) outlines and states that 'transfer by way of love and affection' is only recognized if family members in the context of giving grants. Even if this statement is not a legal provision, it is the holding of PTG Johor and of course this guide is used in the implementation of the registration of the vesting of hibah properties order.

The stance of PTG Johor through Paragraph 2.2 of the Circular is different from the approach practiced at JSHC. JSHC does not adhere to paragraph 2.2 in deciding a hibah properties case. This as quoted from the research conducted that hibah can be made to one's own beneficiary (Abdul Rashid & Ahmad, 2013) or do not specify the group receiving hibah (Abdul Rahman, Talib, Md Abdul Salam, Abd Ghani, Abd Rahman & Sarip, 2017) or without excluding any group (Abdul Rashid et al., 2013). JSHC holds that hibah can be given to beneficiaries or non-beneficiaries (Baharudin & Mohamed Said, 2017; Azhar, Hussain, Badarulzaman & Mohd Noor, 2014) because the concept of hibah is flexible and *syumul*.

The reality of this position is translated in the decision of cases including the case of ***Poolimahee Rajeswary @ Fatimah Binti Baba versus Meah Binti Hussain [JH XIX/I PART 1 p. 164-170]***. In this case there is a hibah properties and a house to an adopted child. In addition, the same situation can be referred to the results of several cases decided at the JSHC involving non-family members. Among them is case number ***01100-044-0660-2009*** which was decided on 25 August 2009 against the application of ***Nayi Bin Suratman*** as an adopted child (no official document of adoption by the National Registration Department) against the ownership of Mukim Tangkak, Johor owned by the Deceased Suratman Bin Ratiman (Presumption of died in 1967) and other cases that show that the JSHC does not weigh on questions related to family relationships.

JSHC also adheres to the general conditions as stated in the opinion (*ijtihad*) of scholars who emphasize the pillars and conditions of the donee. Among them must have the ability to own property whether *mukallaf* or not *mukallaf* (Muhamad, 2011; Muda & Said, 2015; Serji, 2017; Shapiee & Serji, 2018) and the guardian must receive property on behalf of the child donee or safih (Yusof, 2019). On the other hand, do not adhere to the stipulation outlined by PTG Johor circular no. 12/2019.

In addition, referring to the Johor Administration of the Religion of Islam Enactment 2003, JSHC does not have jurisdiction over the granting of hibah involving religious differences other than Islam, or the granting of hibah to non-Muslims. Referring to clause 74 EPAIJ 2003 outlines the scope of jurisdiction of JSHC is only limited to parties who are Muslim. This provision is in line with the regulations affirmed by PTG Johor circular no. 12/2019.

Element Two: Prohibition of Using Section 420 of NLC 1965

Next, paragraph 2.4. PTG Johor circular no. 12/2019 prohibits JSHC from using the provisions of section 420 of NLC 1965. This provision specifically relates to the implementation of hibah properties by JSHC or the Civil Court. In practice, the application at JSHC is to include the provisions prayer of section 420 of NLC 1965 as a way of implementation. The use of section 420 of NLC 1965 continues to be practiced until now because this provision is the only one authorized to JSHC, as explained under section 421A of NLC 1965. Similarly, JSHC is not given jurisdiction other than section 421A of NLC 1965 in the National Land Code 1965. With the application of section 421(A) of NLC 1965, JSHC can direct the Registrar or Land Administrator to register the vesting of properties without the transfer process as required under NLC 1965 (Abdul Rashid et al., 2013).

In the highlight, the use of section 421A of NLC 1965 is widely used in the JSHC or any Shariah High Court in Malaysia. The use of this provision can be found in the judgment of the case of *Salmiah binti Che Hat v Zakaria bin Hashim [2001]14 (1) & (2) JH 79*, *Ibrahim bin Haji Abu Bakar v Mohd Seh bin Mohd Ali and Abdul Razak bin Mohamad [2003]XVI(II) JH 189*, *Poolimahee Rajeswary @ Fatimah bt Baba v Meah bt Hussain [2005]XIX(1) JH 164* and *Wan Mahmud bin Wan Abdul Rahman & 3 others v Aminah binti Hj. Taib & 2 others [2004] XVIII(II) JH 331*. These cases involve vesting of hibah properties by the Shariah Court (Abdul Rashid et al., 2013).

Section 421(A) of NLC 1965 limits the power of JSHC only in the using of sections 417 and 420 of NLC 1965 only. This provision is the only given to JSHC. But there is another view that the JSHC also has jurisdiction over the section 344 of the NLC 1965 as long as it is linked to section 420 of the NLC 1965 (Abu, 2022 & 2023). This means that the JSHC does not violate its jurisdiction if it uses the provisions of section 420 of the NLC 1965. It is an action that coincides with the use of the provisions in the NLC 1965 as used by the Civil High Court (Muhammad Serji, 2022; Abu, 2023). On the other hand, PTG Johor stated in paragraph 3.7 of the circular that “The Hibah order from the Court should be used as a consideration for the transfer of ownership in Form 14A and not as a vesting order of s.420 of NLC”.

In clarifying this issue, reference is made to the case of *Bebe Sakimah bt Mohd Asrof v Pendaftar Hakmilik Negeri Perak [2021]7 MLJ 701* which discusses the same question about the conflict involving two types of law in a matter as said “**nothing in the NLC shall affect the provisions of any law**”.

Referring to paragraph 3.7 of the circular as quoted above, it is a stipulation that needs to be followed so that a registration of vesting hibah properties order can be registered. PTG Johor is also in the opinion that the use of section 420 of NLC 1965 in the order of vesting hibah properties from JSHC is not allowed. Prohibition of Paragraph 3.7 of PTG Johor circular no. 12/2019 only prohibits JSHC and not against the Civil High Court.

The prohibition of paragraph 3.7 of this circular also means that the status of the vesting hibah properties order granted by JSHC has no value in the view of the Johor PTG (Muhammad Serji, 2022). Section 420 of NLC 1965 cannot be included as a prayer in the order (PTG Johor, 2022). In considering the ruling of paragraph 3.7 of the circular, PTG Johor is worried that the use of section 420 of NLC 1965 in JSHC will open an escape room for *escapism* or not

complying with the transfer of ownership provisions under Section 215 of NLC 1965 by using form 14A.

The PTG Johor's stand in this matter is very clear and final. PTG Johor is the official responsible for managing land affairs in the State of Johor (Tawil, 2022; A. Rahman, 2022). Therefore, are the reasons stated in paragraph 3.7 of the circular the absolute right of PTG Johor to deny the use of the provisions of section 420 of NLC 1965? (Abu, 2022 & 2023; Abdullah, 2023). In addition, the use of the term 'worried' in paragraph 3.7 of the circular indicates the probability that it will happen, as a presumption and bad intentions. This shows that this has not yet happened and that it is based on mere assumptions and not on case studies (Abu, 2022 & 2023). Not to mention the assumption that escapism occurs is actually something abstract and PTG Johor itself is actually escapism when denying JSHC in using the provisions of section 420 of NLC 1965 (Abu, 2023). In paragraph 2.4, PTG Johor in the opinion that a change in land ownership can only occur in one of the following circumstances:

- [1] Transfer of ownership (Section 215 of NLC 1965) and using the form 14A;
- [2] Transmission by order of small estate unit
- [3] High Court Order under Letter of Administration;
- [4] Grant of Probate; *or*
- [5] Court order by using instrument 14A for registration purposes

The question is, whether the position in paragraph 2.4. of his PTG Johor circular binds JSHC from using section 420 of NLC 1965? On the other hand, the vesting of hibah properties order must use Section 215 of NLC 1965? Likewise, does the 'Court Order' in the above paragraph refer to both types of Civil High Court and Shariah High Court?

In order to see the answer to the question above, the writer is in the opinion that PTG Johor circular no. 12/2019 does not affect the jurisdiction of the JSHC to grant the hibah properties confirmation order. On the other hand, JSHC is only prohibited from using section 420 of the NLC 1965 and subsequently naming PTG Johor in the order as the executor of the order. This question is further elaborated by Wan Adnan & Buang (2019) saying that:

"....there is still **ambiguity in interpreting some provisions such as the provision of section 421A** of the National Land Code 1965 which is called the Shariah Court's distribution order is limited to the distribution order of matrimonial property cases only. This kind of **confusion causes the enforcement** of Shariah Court orders stunted in some Land Offices...."

Therefore, PTG Johor's circular ruling no. 12/2019 actually certifies the results of the study mentioned above. The content of this circular is clear and proves that it is not a 'confusion'. Furthermore, referring to Yeop Johari (2019) insists that:

"Even if referred to the Official Statement of Parliament (*hansard*) for the intention of enacting in section 421A of NLC where states: "This proposed new section 421A of NLC defines 'Court' under section 417 and 420 are including the Shariah Court. This is to enable the Registrar or Land Administrator to take action against any decision of the Shariah Court that is related to land registration matters"

In looking at this issue, the author quotes and refers to the views of Ismail (2017) & Yeop Johari (2019) who insist that the definition of 'court' for sections 417 and 420 of NLC 1965 has been expanded to include Shariah Courts after the amendment of NLC in 1992, the National Land Code Act (Amendment) 1992 [Act A832]. Amendment of NLC which includes new section 421A of NLC 1965, provides that the word "Court" including the Shariah Court for the purposes of sections 417 and 420 of NLC 1965. Sections 421A, 417 and 420 of NLC 1965 provide for that jurisdiction. Therefore, the order granted by the Shariah Court to the Registrar or Land Administrator is valid. This will support the insistence of Abdul Rashid et al. (2013):

"the provision awarded to the Shariah Court through the amendment of section 421(A) of NLC 1965 is a clear recognition of the Shariah Court."

Therefore, the view of Ismail (2014) coincides with the question above that:
"This decision or order includes those made by the Shariah Court."

In fact, through section 421A of the National Land Code 1965, the Shariah Court will be more prepared to make decisions in cases involving Muslim properties since it is the most appropriate forum because if problems related to properties through the Islamic property distribution mechanism are made in the Civil Court, it can cause problems (Abdul Rashid et al., 2013). It seems that the instructions of using the section 215 of NLC 1965 are difficult to use for the issuance of hibah orders. This matter is explained in the case of **ZMN v HAP [2018]3 SHLR 36**. Similarly, the view of Ismail (2014 & 2017) which is very relevant to the question above, insists that:

"It is clear that the jurisdiction of the Shariah Court is the same as the jurisdiction of the High Court of Malaya. Orders of the Shariah Court related to its jurisdiction must be enforced by the Registrar or Land Administrator..... The order of the Shariah Court, which is related to its jurisdiction, is the same as the Order of the High Court of Malaya and must be enforced by the Registrar or Land Administrator in accordance with sec 417 of NLC.

Regardless of the practitioner's view and the decision of the case described above, the position of the Johor State Executive Council on 11.09.2019 which considered the Meeting Summary no. 1461/2019 translated through paragraph 3.1 of circular 12/2019, establishes that the life hibah order must be implemented under section 215 of NLC 1965.

Paragraph 3.1. of this circular clearly put the hibah order as a transaction under Section 215 of the NLC, which is transfer of ownership. Subsequently, the status of JSHC hibah order position with the status of consideration for the transfer of ownership only needs to be stated in Form 14A and not as a vesting order under section 420 of NLC 1965. This is fixed as stated in paragraph 3.7. of the same circular. With that, this ruling must be followed to facilitate the registration of declaration for vesting of hibah properties.

Element Three: The Donor of Hibah Passed Away

The issue of the status of hibah donor who passed away also dealt with in the Johor PTG circular no. 12/2019. The Johor State Executive Council in paragraph 3.8 of the circular decided that "For the Donor who passed away, the parties need to apply to the Civil High

Court or the Small Estate Unit according to their respective jurisdictions to obtain an order for the distribution of the hibah property ...”

The overall statistics of hibah cases show that most of the cases involving hibah donor who passed away (Dio, 2023). Therefore, based on the provisions of paragraph 3.8 of PTG Johor circular no. 12/2019 is to certify the practice that has been practiced in relation to hibah donor who passed away. At the same time, it shows that the decision of the Johor State Executive Council (MMK) does not recognize the declaration for vesting of hibah properties order can stand alone or can have a direct effect based on sections 417, 420 and 421A of NLC 1965.

On the other hand, the question that arises from the ruling of paragraph 3.8 of PTG Johor circular no. 12/2019 is whether the Small Estate Unit has the jurisdiction to receive and certify the declaration for vesting of hibah properties order granted by JSHC? The Small Estate Unit is not provided with any provisions to certify declaration for vesting of hibah properties order granted by JSHC as a distribution order. On the other hand, the act of accepting and certifying is based solely on the discretion of the estate administrator.

Even if, in this case, paragraph 3.8 of PTG Johor circular no. 12/2019 suggests a solution if there is a situation where the donor of hibah passed away and the property has not yet been managed. So, the action that can be taken is to make management through a distribution order based on the value of the property. The applicant in the action can submit the declaration for vesting of hibah properties order granted by JSHC as an additional document and apply it to be made a distribution order.

Element Four: Compliance with Section 205(3) of NLC 1965

Serji (2017) explained that NLC 1965 recognizes only four main types of dealings, namely transfer, lease, charge and easement. Section 205(3) of NLC 1965 is provided to prevent any dealings that does not comply with it. On the other hand, the dealing must comply with the conditions and situations specified specifically in the provision.

Therefore, through section 205(3) of NLC 1965 stated in paragraph 2.3 of the circular. This provision needs to be given clear attention if the property specified in the vesting of hibah order granted by JSHC is less than two-fifths of a hectare (or 0.4 hectares, equivalent to 0.988422 acres), then it cannot be registered and is in breach of the requirements of paragraph 3.2 PTG Johor circular no. 12/2019.

Paragraph 3.2 lists the hibah as one of the types of dealings under NLC 1965, but does not explain the justification. Section 205(1) of NLC 1965 asserts that dealings contained in NLC 1965 are only as stated in sections 14, 15, 16 and 17 of NLC 1965. On the other hand, hibah dealings are not included as one of the specified types of dealings. However, Muhammad Serji (2017) is of the view that hibah is equivalent to a transfer dealing due to the similar dealings situation. Section 5 of the NLC 1965 defines "dealing" means any transaction with respect to alienated land effected under the powers conferred by Division IV, and any like transaction effected under the provisions of any previous law , but does not include any caveat or prohibitory orders.

Therefore, the resolution of paragraph 3.2 of PTG Johor circular no. 12/2019, against the declaration for vesting of hibah properties which is subject to section 205(3) of NLC 1965 by making the declaration for vesting of hibah properties as a dealing is a complication. Although in fact paragraph 3.2 of the circular does not clearly classify the declaration for vesting of hibah properties whether it is categorized as a sale or purchase dealing or otherwise.

Even if any ruling is stated in paragraph 2.3 or 3.2 of the circular and it is already in force, this ruling does not affect the donor of hibah. On the other hand, they are confident that there is still a solution for the implementation of the registering of declaration for vesting of hibah properties order that they have obtained. Therefore, they only adhere to the declaration for vesting of hibah properties order from the JSHC, which focuses on the question of perfect ownership of the property and the declaration for vesting of hibah.

Section 52 of NLC 1965 explains the categories of land under NLC 1965, that for the purposes of this Act there shall be three categories of land use, to be known respectively as agriculture, building and industry. All land owners must use the land in accordance with the land use category and express conditions mentioned in the title (Official JPPH Portal, 2003).

Referring to case judgments and eShariah statistical data, the researcher found that more agricultural properties are declared as hibah in JSHC than other land use categories (eSyariah Statistics, 2020) in addition to building category land. In addition, even if the land has an agricultural or building status, most donors do not specify the amount of the donee of the hibah. But on the contrary, it depends on their intention and desire as a mere giver.

This can be seen as happened in the case of *Zainudin Bin Said v Zaini Bin Said, Zaiton Binti Said And Md Fadil Bin Said* (Case no. 01200-044-0587-2020) or *Zulkurnain Bin Abd Samad v Norliza Binti Abd Samad, Rosnizah Binti Abd Samad and Kamarul Azlan Bin Abd Samad* (no. 2301-H0601-331-0008) Therefore, it was also found that paragraph 3.2 of PTG Johor circular no. 12/2019 was not used as a reference in the hearing and granting of the declaration for vesting of hibah properties order at JSHC. However, for donor and donee of hibah, it is sufficient for them if they are able to obtain a declaration for vesting of hibah properties order during their lifetime, even if it cannot be registered while the donor is still alive.

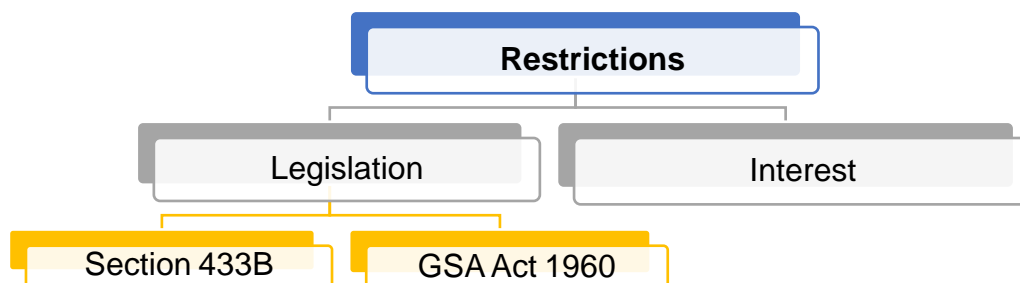
Element Five: Restriction of Interest/ Ownership Law

Apart from the elements *mentioned* above, this circular also touches on the question of restriction of interests under section 120 of NLC 1965 and legal restriction of section 433B KTN 1965. It is important that these two statuses are refined in the order declaration for vesting of hibah properties order. One or both of these types of title restrictions are clearly stated on the first page of the title grant for the attention of each owner.

With the existence of one or both types of ownership restrictions, it has an effect in implementing the declaration for vesting of hibah properties order. If it is registered, there is a conflict with the purpose of the restriction of ownership that has been set by the State Authority (PBN).

When there is one or both types of restrictions on ownership, the application for the registration of the declaration for vesting of hibah properties order becomes prohibited. PTG Johor is not likely to be able to implement the declaration for vesting of hibah properties order until it is settled first

Chart 3- Division of Restrictions dan legislation



Source: Circular No. 12/2019 PTG Johor (2019)

1. Restriction of Interest

Restrictions in interest of title are defined as limitations or resistance to the rights of the landlord. This restriction of interest is provided for the purpose of controlling the interest in the land and it can be set for period of forever time or for a specific period of time. (Official PTG Selangor Portal, 2022). Restrictions on the interest of a property are clearly stated in the title. PTG Johor has a jurisdiction to set any type of conditions or restriction of interests as stated in section 120 of NLC 1965, when a piece of land is approved for the title.

This provision empowers PTG to impose any reasonable restrictions on their position. The basis of consideration in this regard is reasonable. Paragraph 3.3 of the circular explains that "In accordance with the provisions of Section 215 of the NLC, any hibah property transaction from the donor to the donee is subject to restrictions of interest as per Section 120 of the NLC 1965 and related to it stated in the title document".

2. Legal restrictions

Referring to PTG Johor circular no. 12/2019, there are two types of legal restrictions that are clearly mentioned in it. Both are the types of restrictions provided for in NLC 1965 and GSA 1960. The presence of one of these legal restrictions is an obstacle for PTG Johor to implement the declaration for vesting of hibah properties order from the JSHC. This is in line with the decision in the case of *Nadarajan a/l T Kuppusamy & Anor v Foo Pang Lui & Ors (as administrator of the estate of Foo Chee Meng, deceased) [2020]9 MLJ 67* which asserts that "the land contains restrictions of interest it could not be transferred without the approval of the State Authority."

a) Section 433B of NLC 1965.

Section 433B of the NLC 1965 provides for restrictions of a legal nature. Legal restrictions under section 433B of the NLC 1965 provide for ".....the imposition of restrictions of a legal nature for the acquisition of properties in the State of Johor by foreigner (paragraph 2.6 pekeliing). The imposition of this interest restriction is applicable to all types of properties owned. Therefore, the donor of the hibah needs to resolve the issue of restriction of interest that exists in the property first.

In understanding the requirements of this section 344B, *Official Johor Land Administration Portal (2022)* have interprets Foreign interest as an interest of individuals, groups or parties that act together. In the same reference, the Official Johor Land Administration Portal (2022) and PTG Johor Circular No. 2 of 2014 dated 10 February 2014 also explains the types of properties that cannot be owned by foreign interests. The above ruling is in line with the meaning and purpose of paragraph 3.3 of PTG Johor circular no. 12/2019 which stipulates that "In accordance with the provisions of Section 215 of the NLC, any hibah property transaction from the donor to the donee is subject to the restrictions Section 433B of the NLC 1965 and related to it stated in the title document". This determination is clear and consistent with the application of the provisions relating to restrictions and it is clearly detailed in the title of ownership.

Therefore, a registration of declaration for vesting of hibah properties order cannot be completed and registered if the objection of section 433B of NLC 1965 occurs. But in overcoming this matter, what are the alternatives and solutions that need to be done?

What is the alternative set by PTG Johor whether in this circular or otherwise, about how to treat a hibah application that has restriction of ownership. Therefore, as a solution, paragraph 2.6 of the circular provides a solution as stated "All types of land title where there is a restriction of ownership interests need to make an **application for permission to loosen the restrictions of interest.**"

Therefore, the donor or the parties must make an application to loosen the restriction of interest before registering the implementation of the hibah properties order at PTG Johor with reference to the following procedure is stated in customer service charter no. 5 (Official Johor Land Administration Official Portal, 2022).

Referring to the case of *Chiharu Yabe (Zaugg)(P) & Anor v Land Registrar of the Federal Territory of Kuala Lumpur [2002]4 MLJ 198*, the Appellants are Japanese citizen. They want to own a piece of land in the Kuala Lumpur. Therefore they made an application for approval as required by section 433B(1)(b) of NLC 1965. But their application was not approved and the aggrieved are now appealing under s 418 of NLC 1965. Likewise in the case of *Jalaludeen a/l Abdul Aziz v Thrumalingam a/l S Rajadurai & Anor [2002]1 MLJ 237* affirmed that "...considering s 433B (1)(b) of National Land Code 1965 ('NLC ') the ownership of land ownership by non-citizens, the plaintiff was required to obtain the prior approval of the state authority. The plaintiff was not successful in getting the required approvals...."

Based on the reference case above, if there is a registration of a declaration for vesting of hibah properties order that involves restriction of interest or legislation, it cannot be registered. On the other hand, the parties must first make an application for permission to loosen the interest restrictions or approval for legal restrictions.

b) Land Act (Group Settlement Areas) GSA 1960.

Other than above legal restrictions, there are also issues or constraints regarding the declaration for vesting of hibah properties order of the GSA 1960 (Land Act/ Group Settlement Area). The privilege and existence of GSA 1960 is stated in the case of the *Lembaga Tanah Persekutuan (Felda) v Ramli bin Abdul Rahman & Ors and another appeal [2014] MLJU 342/*

[2014] 4 MLJ 347 "The GSA was an Act of Parliament enacted specifically for the developing and ownership of rroup settlements. Therefore, the GSA was a specific law on the developments and ownership of land."

A GSA 1960 declaration for vesting of hibah properties order granted by the JSHC is actually subject to the necessity, requirements and conditions accrued in the right of ownership. Explanations related to the status, limits of ability and ownership rights are explained in ***Armugam a/l Letchumanan v Tenaga Nasional Bhd [2011]5 MLJ 279*** "....still state land vested and administered by Felda and not handed over to individual holders who occupy the area in anticipation of obtaining ownership..."

In the case of ***Suhaimi bin Sulaiman (representative for the estate of the plaintiff Sulaiman bin Yakoob, the deceased) v Ahmad Shukri bin Laidin and others [2022] MLJU 1271*** and also ***Abdul Aziz Bin Yahya Dan Anor v Ibrahim Bin Sidek [2011] MLJU 81*** decided:

..... In the "Restriction of Interest" of the Property it is clearly stated -
 "(i) This endowed land cannot be sold, mortgaged, charged, leased or transferred in any way whatsoever, including the use of any letter of agreement that aims to release/ sell this land without the permission of the State Governor."

Putrajaya Court of Appeal Judges, Badhariah Sahamid, Lau Bee Lan and Azizah Nawawi JJCA affirmed in the case of ***Ambikamurali a/p PV Govindan v Kannan Deban a/l PV Govindan and Another Appeal [2021]4 MLJ 459:***

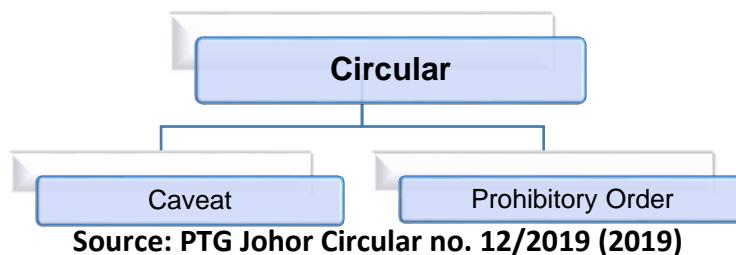
(2) From a reading of Hansard, it was clear that the legislative intent of ss 14, 15 and 16 (GSA 1960) was there shall be one single proprietor for a holding and **the provisions prohibited the sub-letting, the subdivision or fragmentation of the holding in any circumstances. ..."**

Johor PTG's stand on the issue of an application for vesting of hibah order from the JSHC is not easy, and if it involves properties under the Land Act (Group Settlement Areas) 1960. Therefore, the Johor State Executive Council (MMK) action in made a decision in paragraph 3.5 of the circular which states "Hibah Orders are also subject to legal restrictions such as the GSA under the Land Act (Group Settlement Area) 1960" is in line with the application requirements of the NLC 1965, the GSA Act 1960 and the law referred to together. This means that the legal restrictions that exist will ensure whether the order declaring the vesting of hibah properties can be implemented or otherwise and efforts must be made by the owner to obtain approval or permission in advance from the Johor State Government.

Element Six: Caveats And Prohibitory Order

PTG Johor circular no. 12/2019 also touched upon the question of the existence of caveats and prohibition orders in the properties specified in the declaration for vesting of hibah order. With the existence of caveats or prohibition orders against properties, it shows the existence of obstacles to dealings and the existence of claims against ownership rights. At the same time, it becomes an obstacle and a constraint for PTG Johor to implement the registration of the declaration for vesting of hibah properties order that is applied for.

Chart 4- Elements of PTG Johor Circular no. 12/2019.



1. Caveat

A caveat is defined as a registered caveat as interpreted under Section 5 of the NLC 1965. It is also meant as an obstacle from carrying out any dealing and non-dealing against a property (Official Petaling District and Land Office Portal, 2023). Caveat is also meant as a warning or caution (Official Batang Padang District and Land Office Portal, 2021). Because of that, caveats play a role and function as a mechanism that prevents the registration of a dealing under the NLC 1965 to protect the interests of certain parties (Official PTG Johor Portal, 2022). This definition is in line with the affirmation in *Summer Crystal Properties Sdn Bhd v. Mohd Yasir bin Mansor and one anor [2020]10 MLJ 674*:

[29] This court referring to *Score Options Sdn Bhd* emphasized the purpose of the caveat as follows

A caveat is a creature of statute namely, the NLC and hence it can only be lodged by a claimant who has a caveatable interest under the NLC. The purpose of a caveat is to protect an interest in a land, or a right to an interest in that land and to preserve the status quo of the land pending the enforcement of such interest or right. **[Emphasis added]**

In order to ensure that a property specified in the order of granting a grant must be free from any Registrar's caveat, private caveat, lien holder's caveat and/or Trust caveat. Paragraph 2.7. PTG Johor circular no. 12/2019 touched on and asserted that the effect of the registration of the declaration order for real estate grants can actually overcome transaction obstacles such as caveats and prohibition orders.

Next, the action is described as having an impact on the interested parties who include obstacles to the transaction if the process to cancel the caveat and prohibition order is not made in accordance with the requirements of NLC 1965. Since the purpose of entering a caveat is not a desire of the property owner and of course it becomes an obstacle to the registration of the declaration for vesting of hibah properties order, there are legal conditions that allow the caveat to be set aside, which are:

1. The applicant can file an application under section 321(3) of NLC 1965, which is related to the registrar's caveat. Because it is continuous forever until it is canceled by the registrar himself on his own motion or application from the land owner or by order of the Court or section 327 of NLC 1965.
2. The applicant can also make an application under section 326 of NLC 1965 for the purpose of cancelling the existence of a private caveat.

However, apart from the two situations mentioned above, section 327 of NLC 1965 allows the owner to remove any caveat that exist on his land. In the case of ***Kredin Sdn Bhd v Asia Vest Equity Sdn Bhd Dan Satu Lagi [2000]7 MLJ 472*** stated that "Section s.327(1) of the Act clearly provides that any person or body that is difficult due to the existence of a private caveat may at any time apply to the Court for an order for its removal, and the Court (acting, if the circumstances so require, ex parte), may make such order on the application as it may thinks just."

The Court's consideration to aside caveat was to look at the reasonable grounds, stated in ***Kosma Plantation Berhad & Anor v Asmad Bin Sulaiman [2002] MLJU 780***, stated "The grounds of the petition stated are the statements in Form 19B by the Defendant rather than grounds which in legally terms that can give interest on land that can support any private caveat (*no caveatable interest*) ..."

Another case explaining the same point, ***Safaruan bin Mohamad v Kamaludin bin Ibrahim & Anor [2008] MLJU 83***, affirmed the stand on the interpretation of Section 327(1) of NLC 1965 with reference to the judgment in the case of ***Chng Sin Poey & Sons Sdn.Bhd. v Quek Lian Meng [1979]1 MLJ 98, 100*** Syed Othman J has stated:

"The expression 'such order....as it may thinks just' appearing in our provision [referring to section 327 (1)] envisages a power to make variety of orders in conformity with what was right and fair and should carry it the power to vary or amend an existing endorsement of a caveat if the court considers such endorsement is not right and fair. To say that the expression should be confined to a choice between 'removing' and 'not removing' a caveat was to restrict the intent."

With the existence of caveat, this means that the implementation of the declaration for vesting of hibah properties order cannot be continued. On the other hand, the caveat needs to be put aside first in the manner and method mentioned above. Every existing caveat is temporary except the registrar's caveat. However, the owner still has a method to reject it to ensure that the registration of the declaration for vesting of hibah properties order can be completed.

2. Prohibitory Order

In addition to the use of the above caveat, there is another term that is an obstacle used against property, which is a prohibitory order, provided under Section 334 of NLC 1965. A prohibitory order is defined as "an instruction made by a court that has jurisdiction, pursuant to court rules, to prohibit the judgment debtor from carrying out any dealings in relation to the land or interest in the land, as mentioned in the order." The prohibitory order only involves cases of judgment debt, which is arrears in the payment of outstanding debts recognized by the court. Therefore, if declaration for vesting of hibah properties order is related to the property prohibitory order, it cannot be registered.

According to section 335 of NLC 1965, the prohibitory order ineffective until entered by Registrar. This affirmation can be seen in the judgment of Faiza Tamby Chik H in ***Wong Wee Chin @ Wang Wee Chin Vs Choong Foong [1994] MLJU 76***. Amongst its apparent effect is,

the prohibition of making a registration of land dealing cause paper or also being prohibited from entering a claim for tenancy benefits. In addition, existing prohibition orders are causal in nature and cannot be entered arbitrarily.

The same principle can be seen in the decision of Siti Norma Yaakob, Abdul Malek Ahmad JJCA and Mohd Noor Ahmad J in the Court of Appeal (Kuala Lumpur) in the case of ***Manilal & Sons (M) Sdn Bhd V District Land Administrator, Kulim & Anor [1997]3 MLJ 573***. In addition, a prohibitory order has its own time period and will expire. Abdul Aziz J in the High Court (Ipoh) in ***Mook Meng Sun v Lo Aa Kau & Ors [2002]2 MLJ 193*** (See also the view of judge Edgar Joseph JR J in the case of ***Ban Hin Lee Credit Sdn Bhd V Utama Computer Center Sdn Bhd & Ors [1991]2 MLJ 327*** explaining the same) decided that:

Held, dismissing the Plaintiff's application:

(1) According to s 338(1) of the NLC, a prohibitory order shall 'lapse at the expiry of six months from the date on which it was made'. The six-month period will expire after the last day has passed, that is, on the day after the last day. Therefore, the issue that need to be determined is what is the last day for the six month period in this case. The interpretation statute applied to NLC is s 36(b) of the Interpretation and General Clauses Ordinance 1948, now s 105(b) of the Interpretation Act 1948 and 1967 ('the said Act') (see pp 197E-H).

Therefore, even if a property has a declaration for vesting of hibah properties order from the JSHC, it still cannot be registered unless it is free from any prohibitory order. But there is a way to set aside the prohibitory order. Nallini Pathmanathan JC, explained in ***Bank Bumiputra Malaysia Bhd & Ors v Safuan Holdings Sdn Bhd & Ors (Allied Bank Malaysia Bhd, intervener) [2010]7 MLJ 185***

The intervener argued, by citing s.344 of the National Land Code ('NLC'), that the prohibitory order should be set aside since the interests of the Plaintiffs did not overriding the Plaintiffs' interests. The intervenor's equity or rights as an equity chargee.

Therefore, how important is the issue of the existence of caveats and prohibitory orders against a property to be taken seriously, the Johor State Executive Council took a decision in paragraph 3.4 of the PTG Johor circular bil. 12/2019:

"..... that hibah orders are subject to dealing barriers such as caveats and prohibitory orders. Any registered caveats should continue to be effective and any transfer of ownership of the hibah property must be free from any registered caveat or have the prior permission of the caveator. The Hibah Order also needs to comply with the enforceable prohibitory order."

Justification for the existence of paragraph 3.4 of PTG Johor circular no. 12/2019 is very important at the level of land administration in PTG Johor. However, not all declaration for vesting of hibah order are related to the existence of caveats and prohibitory orders in property. It is even a practice in the trial at the JSHC to require an official/ private search to be attached. In addition to being able to see the position of perfect ownership by the owner,

other matters including the existence of caveats and prohibitory orders in the properties named in the application.

Element Seven: Charge

Furthermore, the charge issue was also touched on in the PTG Johor circular no. 12/2019. The status of the existence of a charge is important in determining the completeness of property ownership or ownership rights to enable the owner to take any action against the property owned.

Referring to section 5 of the interpretation of the NLC 1965 interprets charge to mean "a registered chargee". It is a short and concise interpretation, so to better understand the meaning of charge refer to Yusof (tt). He has given the meaning of charge as "a dealing (performed by) the owner of owned or leased land to hand over the land (or transfer his interest in the owned land) to another person (institution) as a security (guarantee) for the repayment of a loan, annuity or any periodic payment."

This interpretation means that only the interest in the land or the lease is transferred and not the ownership rights are transferred. On the other hand, the property owner still holds the right to the property even if it is charged. Because of that, there is an assumed liability that does not authorize the owner to do any transaction. This can be referred to the case of *Lim Chuan Eng Sdn. Bhd. v. United Malayan Banking Corporation & Anor [2010]9 CLJ 637*.

The assertion of this rule can be referred to PTG Johor Circular bil.10/1986 and reject any charge made by a party that is not recognized in the circular. This rule covers any type of land ownership under the administration of PTG Johor. In *Mystique Bay Sdn Bhd v. Suziana bt Abd Samat [2017] MLJU 1873*, Judge Azimah Omar explained that:

[28] It is the decision of this Court that the Defendant is indeed bound by the charge registered on the property.....

Therefore, the issue of charge is synonymous with the issue of ownership of a property and becomes an object that can be highlighted as collateral for ownership or a financial amount. Hence, the intention of the circular maker regarding this matter is clear and understandable. Referring to paragraph 3.6 of PTG Johor circular no. 12/2019, stated that if there is a registered charge, the applicant must obtain permission from the charge holder first (Buang, 1993 & Yeop Johari, 2019). As such, this view is in line with the stance of Rahmat (2009); Azhar (2018) that property from financial institutions and having takaful protection can be donated provided it is agreed by the chargee.

This means that the declaration for vesting of hibah properties order must be free and absolute. Said & Wanayub (2021) concluded that the Judgment in the case of *Eng Ah Mooi & Ors. v. Overseas Chinese Banking Corporation Ltd. [1983]1 MLJ 209*, clearly shows that the transfer of property that is still in charge is prevented due to the interest of the property that is used as security for the bank.

Mujani et al (2012) added that as long as the property is still in charge status, without permission from the bank, then any transfer of ownership of the property is void. In paragraph

3.6 of this circular, two things attract the writer's attention, namely the assertion related to 'registered chargee' which is made a condition. This means that any kind of unregistered lien is not subject. It is because what was refined by the trial judge, including by Judge Azimah Omar H at the Shah Alam High Court, in the case of *Mystique Bay Sdn Bhd v. Suziana bt Abd Samat [2017] MLJU 1873 [Supra]*.

In addition, paragraph 3.6 of this circular also asserts on "permission from the chargee" as a main condition. Meanwhile, most of the reported cases related to the existence of a charges are by doing actions to discharge of charge. Because the action to obtain the permission of the chargor is an action that is less acceptable by the chargor. On the other hand, the use of charge instruments is a bank practice involving loan financing (Bank Negara Malaysia Shariah Resolution, 2010). In the research of Mujani et al (2012) concluded with confidence that there is still no financial institution bank allowing chaged properties to be transferred.

In fulfilling the demands of paragraph 3.6 of this circular, the action that can be taken to fulfill the condition is the action of releasing the charge in the positon. However, any charge release must first obtain the written consent of the Land Authority and it is stated in the express conditions. This question was raised in the case of *Malayan Banking Berhad v. Saharudin Bin Ismail [2009] MLJU 1174*. Therefore, the necessary action is for the interested party to release the charge because as long as the charge is in effect, it becomes an obstacle in any transaction that is carried out.

In exploring the needs and importance of paragraph 3.6 of PTG Johor circular no. 12/2019 can be concluded, actually there are too many issues that can be raised. In fact, how could paragraph 3.6 of PTG Johor circular no. 12/2019 lists all the issues raised in relation to the charge issue. Since the scope of the charge is too wide. However, from the entire reading of the circular, it can be understood that the MMK's desire for the enactment of provisions stated in paragraph 3.6 of the circular is final and must be complied with by PTD or PTG Johor when accepting the application for registration of the hibah properties order. But on the other hand, the issue related to this charge has a different position at the JSHC level and it is reasonable to ensure that the registration of the declaration for vesting of hibah properties order can be implemented.

Conclusion

Based on the entire explanation above, it is clear that the function carried out by PTG Johor in developing circular no. 12/2019 is important. The content of the circular is in accordance with the requirements and provisions contained in the NLC 1965 and the GSA Act 1960. The act of registering the declaration for vesting of hibah properties granted by JSHC is absolutely subject to the requirements of this circular. Therefore, before the effort to register the declaration for vesting of hibah properties order, then the elements and conditions that are apparent and contained must be followed first.

References

- Abdul Rahman, N. S., Talib, H., Abdul Salam, M. N. Z., Abd Ghani, N., Abd Rahman, N. S., & Sarip, M. M. (2017). Pengurusan Harta Dalam Islam: Perspektif Hadiah (Hibah) Di Dalam al-Umm Karya Imam Al-Syafi'i. *Journal Of Management & Muamalah*, 7 (1), 27 - 41. <https://jmm.kuis.edu.my/index.php/jurnal/article/view/64>
- Rahman, A. N. (2023). *Pemakaian Pekeliling PTG Johor bil. 12/2019* [Interview].
- Abdul Rashid, R. & Ahmad, NH. (2013). *Pengurusan Harta Melalui Hibah: Kepentingan Dan Manfaat Dari Pelbagai Aspek Untuk Kemajuan Ummah*. *Jurnal Hadhari: An International Journal* 5(1): 91-104. <http://www.ukm.my/jhadhari/>.
- Abu, J. (2022). Diskusi Pemahaman dan Penyelesaian Kes Hartanah Strata dan Akta Tanah GSA 1960. *Paperwork In Diskusi Pemahaman & Penyelesaian Kes Hartanah Strata & Akta Tanah Kawasan Penempatan Berkelompok 1960*. Putrajaya: Aras 5 JKSM. 2022, September 21.
- Abu, J. (2023). Pemakaian Perintah Mahkamah Di Pejabat Tanah. *Paperwork In Webinar Bidang Kuasa Dan perintah Mahkamah tinggi Syariah Dan Pemakaiannya Di Pejabat tanah Serta isu-isu Berkaitan*. 2023, October, 4.
- Abdullah, D. (2023). *Pemakaian Pekeliling PTG Johor bil. 12/2019* [Interview]
- Abdullah, M. A. (2012). *Sejarah Pentadbiran Dan Pembangunan Tanah Di Negeri Johor Dari 1900 Hingga 1970*. Ph.D Thesis. Bangi: Fakulti Sains Sosial Dan Kemanusiaan Universiti Kebangsaan Malaysia.
- Abdullah, M. F. (2023). *Pemakaian Pekeliling PTG Johor bil. 12/2019* [Interview].
- Azhar, A. (2018). *Amalan Hibah Di Syarikat Amanah: Satu Kajian Kes Di As-Salihin Trustee Berhad*. *Jurnal Sultan Alauddin Sulaiman Shah*. 5(1): 11-29. <https://repo.uum.edu.my/id/eprint/24507> & <http://jsass.kuis.edu.my/index.php/jsass/article/view/79>
- Azhar, A., Hussain, M. A., Badarulzaman, M. H., & Noor, M. F. (2014). *Hibah Komersial: Satu Tinjauan Terhadap Prosedur Dan Amalan di Malaysia*. Sintok: Universiti Utara Malaysia. <https://oarep.usim.edu.my/jspui/handle/123456789/11585>
- Buang, S. (1993). *Undang-undang Tanah di Malaysia*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Dio, M. Z. (Pengarah Kanan (Kehakiman) JKSM. (2023). *Bidangkuasa Mal Mahkamah Tinggi Syariah*. Webinar Bidang Kuasa Dan perintah Mahkamah tinggi Syariah Dan Pemakaiannya Di Pejabat tanah Serta isu-isu Berkaitan. 4 Oktober 2023 jam 9.30 pagi Anjuran Bahagian Pengurusan Dan Perundangan Tanah (BPPT), JKPTG.
- Ismail, A. A. (2014). *Bidangkuasa Mahkamah Syariah Dalam Pentadbiran Tanah*. *Jurnal Pentadbiran Tanah*. Putrajaya: Jabatan Ketua Pengarah Tanah dan Galian Persekutuan, 4(1): 25–48.
- Ismail, A. A. (2017). *Bidangkuasa Mahkamah Syariah Dalam Pentadbiran Tanah*. <http://Mahir-Al-Hujjah.Blogspot.Com/2017/03/Bidangkuasa-Mahkamah-Syariah-Dalam.Html?M=1>. Retrieved 2020, November 24.
- Ismail, A. A. (2022). *Perintah Mahkamah Syariah Berkaitan Dengan Hartanah*. *Seminar Pemakaian Perintah Mahkamah Sivil & Syariah Di Pejabat Tanah*. Bangi: Bangi Convention Centre. 2022, October 8.
- Ismail, Z. (2022). *Pemakaian Pekeliling PTG Johor bil. 12/2019* [Interview].
- Jabatan Kehakiman Syariah Malaysia. (2020). *Statistik eSyariah*. Putrajaya. Johor Administration of the Religion of Islam Enactment 2003. Malaysia National Land Code 1965 (Act 828).

- Mohamadon, N. A. (2022). *Pemakaian Pekeliling PTG Johor bil. 12/2019* [Interview].
- Yusof, M. S. (2019). *Muamalat Hibah Harta Tak Alih Bercagar dan Isu-Isu Pelaksanaan di Mahkamah Syariah. Paperwork In Seminar Jabatan Kehakiman Syariah Selangor*. 2019, September 20.
- Said, M. N. L., & Wanayub, W. A. A. (2021). Pelaksanaan Hibah Harta Bercagar dalam Industri Perancangan dan Pengurusan Harta Orang Islam. *International Journal of Islamic Thought* . 19: 89-101. <https://doi.org/10.24035/ijit.19.2021.199>.
- Muda, M. Z., & Said, M. N. L. (2015). Signifikan Hibah Sebagai Instrumen Perancangan Harta Orang Islam Di Malaysia. Paperwork In Prosiding “*Undang-Undang Islam Menelusuri Globalisasi*” *Persidangan Antarabangsa Fiqh Semasa & Perundangan Islam 2015 (PAFSPI 2015)*. Indonesia: Hotel Allium, Batam. 2015, Dcember 19.<https://www.coursehero.com/file/122606379/perkembangandancabaranpelaksanaanundang/>
- Serji, M. R. (2017). *Hibah Hartanah: Isu Dan Konflik Dalam Perundangan Di Malaysia*. 3rd *Muzakarah Fiqh & International Fiqh Conference (3rd MFIFC)* Shah Alam, 15 November 2017. 118–131. <https://www.researchgate.net/publication/322592796>.
- Serji, M. R. (2022). *Pemakaian Pekeliling PTG Johor bil. 12/2019* [Interview].
- Mujani, W. K., Abdul Rashid, R., Hussain, W. M. H., & Yaacob, N. I. (2012). *Gift inter-vivos for charged property*. *Medwell Journals, The Social Science* 7(2): 196-199. https://www.researchgate.net/publication/303749424_Gift_Inter_Vivos_as_a_Way_of_Estates_Planning_for_Secured_Landed_Property_in_Malaysian's_Banking_System
- Muhamad, N. H. (2011). *Hibah dalam Undang-undang Islam: Prinsip dan Amalan*. Johor Bahru: Penerbit UTM Press.
- Official Portal Jabatan Penilaian dan Perkhidmatan Harta (JPPH). (2003). <https://www.jpjh.gov.my/v3/ms/>.
- Official Portal Pentadbiran Tanah Johor. (2022). Halaman web <http://210.19.13.233/index.php/bahagian/pendaftaran/pindahmilik-longgar-sekatan>
- Official Portal Pentadbiran Tanah Johor (2022). *Pekeliling PTG Johor Bil. 2 Tahun 2014*; <https://ptj.johor.gov.my/index.php/pekeliling-2#bil-12-3>.
- Official Portal Pejabat daerah dan Tanah Petaling. (2023). <https://www.selangor.gov.my/petaling.php>
- Official Portal Pentadbiran Tanah Selangor. (2021). <https://ptg.selangor.gov.my/index.php/pages/view/550>
- Official Portal Pejabat daerah dan Tanah Batang Padang. (2021). <http://pdttapah.perak.gov.my/images/linkdownload/Sistem-Kaveat-Dibawah-Kanun-Tanah-Negara-1965.pdf>
- Rahmat, N. H. (2009). *Perancangan Harta mengikut Undang-Undang Islam menggunakan Konsep Hibah*. *Sarjana Thesis*. Jabatan Pentadbiran Tanah. Skudai: Universiti Teknologi Malaysia.
- Resolusi Syariah Bank Negara Malaysia. (2010). Edisi Kedua. http://www.bnm.gov.my/microsites/financial/pdf/resolutions/shariah_resolutions_2nd_edition.pdf. [Retrieved 2020, November 20].
- Shapiee, R., & Serji, M. R. (2018). *Isu Dan Konflik Perundangan Dalam Hibah Hartanah Di Malaysia*. *Journal of Muwafaqat*. Kolej Universiti Islam Antrabangsa Selangor. Faculty of Syariah and Law. 1(1): 84-101. <https://www.researchgate.net/publication/327792321> & <http://Journal.Kuis.Edu.My/Muwafaqat>.

Tawil, O. (2022). *Pemakaian Pekeliling PTG Johor bil. 12/2019* [Interview].

Wan Adnan, W. A., & Buang, A. H. (2019). *Pelaksanaan sulh dalam Kes Melibatkan Tuntutan Hartanah Orang-Orang Islam di Mahkamah Syariah di Malaysia*. *Journal of Shariah Law Research* vol. 4 (1) 27-54.

DOI: <https://doi.org/10.22452/http://doi.org/10.22452/JSLR.vol4no1.2> &

DOI: <https://doi.org/10.33102/mjssl.vol9no1.270>

Johari, Y. A. S. (2019). *Perintah Mahkamah Syariah Daripada Tafsiran Kanun Tanah Negara. Paperwork In Konvensyen Peguam Syarie Zon Utara 2019*. 2019, August 22.

Yusof, M. F. (tt). *E-Book-Fathi-Yusof-Undang-Undang-Tanah-Di-Malaysia*. <https://www.coursehero.com/file/76366503/E-Book-Fathi-Yusof-Undang-Undang-Tanah-Di-Malaysiapdf/>.