



17th ASEAN Valuers Association Pre-Congress

LAND ADMINISTRATION IN MALAYSIA

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K U A L A L U M P U R

Outline of presentation

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- i. The land administration organizational structure in Malaysia
- ii. Organisation of Land Administration at the Federal Level
- iii. The power of State Authority
- iv. Land titles
- v. Conclusion

Land Administration in Malaysia

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- The land administration organizational structure in Malaysia demarcates the power to manage land to the State Authority as **land is a State matter** pursuant to the Federal Constitution of Malaysia.
- The Federal Constitution of Malaysia 1957, the supreme law of the country, prescribes two-tier governmental structure that is the Federal and State Government.

..The Federal Constitution of Malaysia

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- The Constitution delineates and demarcates the sphere within which the two levels of government operate in terms of matters relating to land.
- The Ninth Schedule of the Federal Constitution determines the powers of both the Federal and State governments.

The role of the Federal government

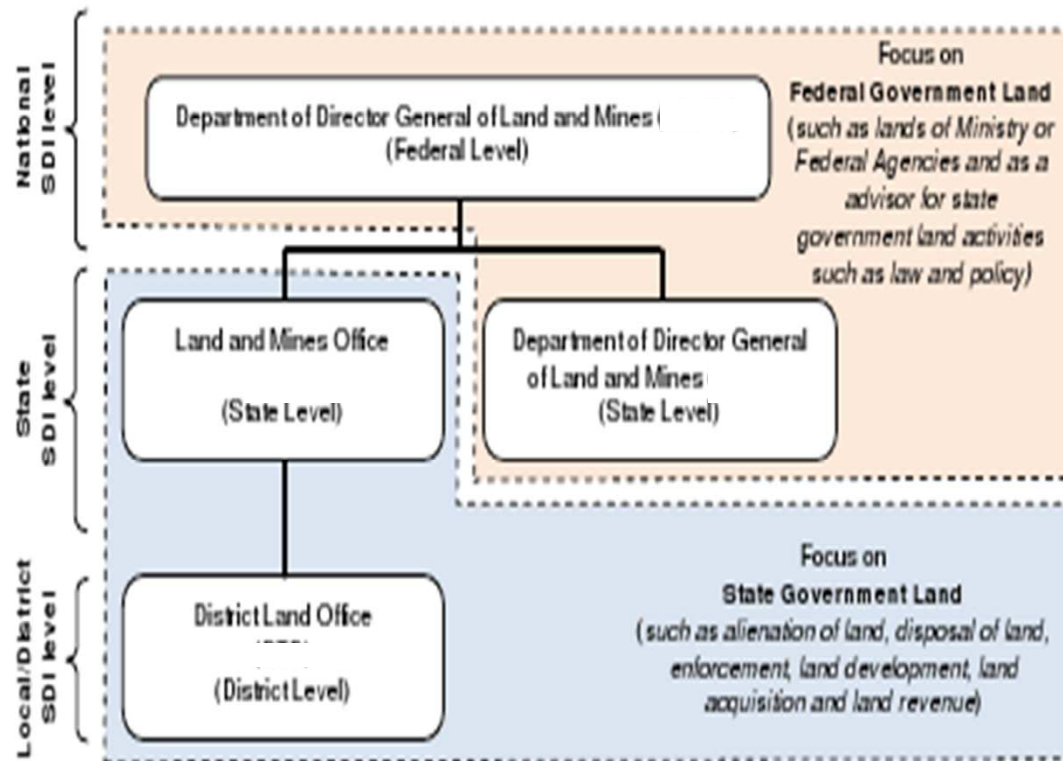
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- the Constitution allows Federal intervention in land matters to promote uniformity of law and policy.
- The Federal government played important role in coordinating aspects relating to land law, administration and policy.
- This Federal intervention on grounds of achieving uniformity of land law and policy is initiated by the introduction of the National Land Code 1965.

Structure of Land administration system

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Figure 3: The Structure of Land Ownership Activities for Malaysian Land Administration with SDI
Source: JKPTG (2007)



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Land Law in Malaysia

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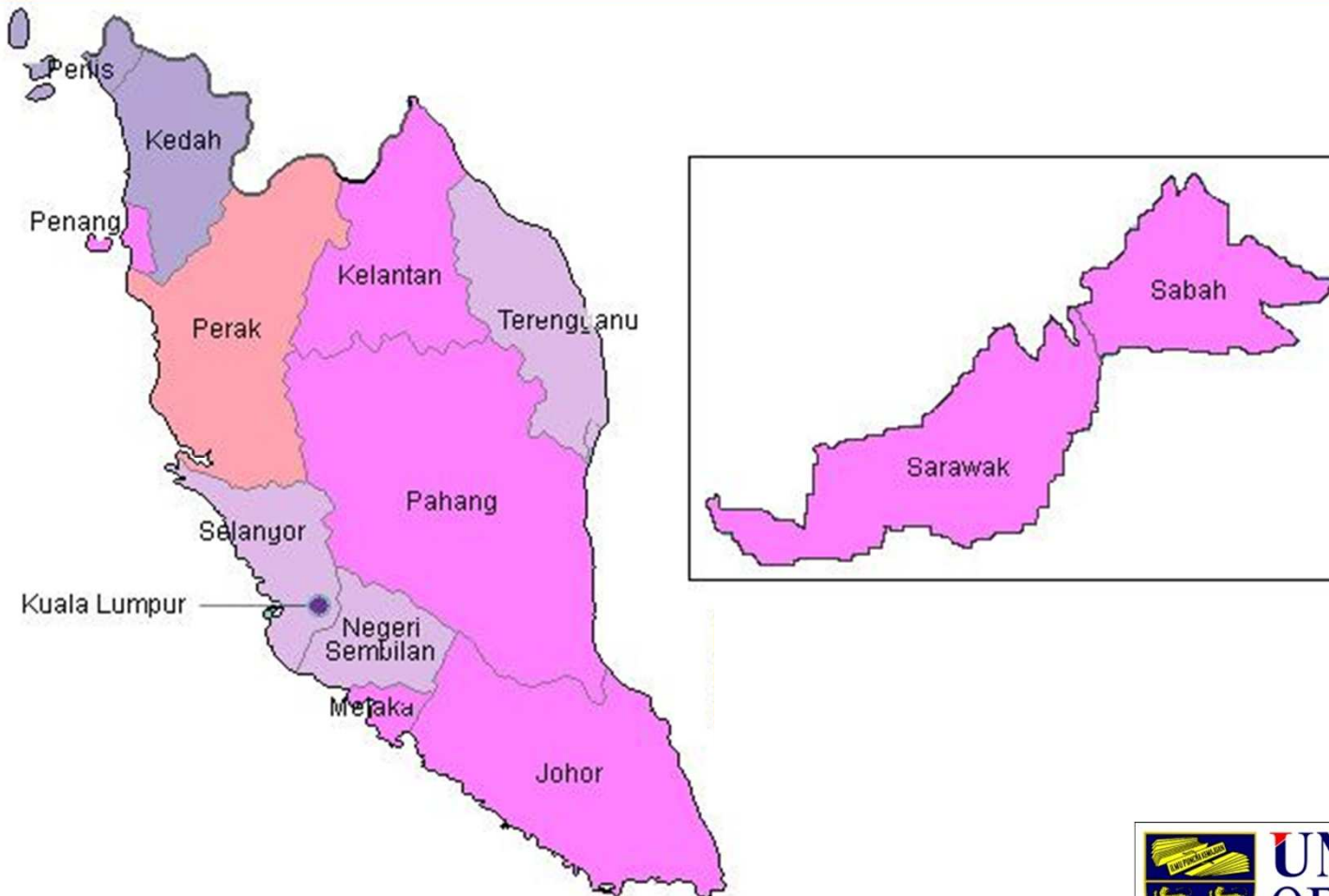
- Land administration and land law practices is based on the Torrens system introduced by the British.
- Under the Torrens System, the Register is everything. A title or an interest is conferred indefeasibility of title under two conditions:
 - Usage of correct forms
 - The forms are registered

..Land Law in Malaysia

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- Three main land laws are in use:
 - National Land Code (Act 56 of 1965) implemented at all state for peninsular of Malaysia only;
 - Sarawak Land Code (Cap 81) implemented for Sarawak only; and
 - Sabah Land Ordinance (Cap 68) implemented for Sabah only.

MAP OF MALAYSIA



The power of State Authority

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- Article 74 and Second List (State List) in Ninth Schedule stresses that the Legislature of a State may make laws with respect to any of the matters enumerated in the State List (Malaysia Federal Constitution, 2008).

The power of Federal Authority

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- Article 76 Clauses (4) (Malaysia Federal Constitution, 2008) mentions that the federal government has the power **to ensure uniformity of law and policy** such as to make laws with respect to land tenure; registration of titles and deeds relating to land; transfer of land; mortgages; leases and charges in respect of land; and local government

..The power of Federal Authority

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- The law provides for the establishment of organisations at the Federal level (the office of the Director General of Lands and Mines and the Federal Lands Commissioner) aimed to promote uniformity of law and policy between all States in Peninsular Malaysia except for Sabah and Sarawak

Organisation of Land Administration at the Federal Level

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- The Federal Constitution of Malaysia 1957 expressly provides for the establishment of a National Land Council for the purpose of ensuring uniformity of law and policy
- Article 91 of the Constitution establishes the National Land Council chaired by a federal minister with representatives from various states (including Sabah and Sarawak).
- The main objective of this Council is to formulate a national policy for the promotion, control and utilization of land throughout the country.

The National Land Council

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- Forum for federal government and state governments - Article 91 of the Federal Constitution.
- Article 91(5): National Land Council makes the national policies for the development and control of the use of land in the whole of the federation for the purpose of mining, agriculture, forestry or for any other purpose.
- Council's decision binding on both the federal and the state governments.
 - Sabah and Sarawak are not bounded by council decisions if they do not choose to vote.
- Council meeting held at least once a year, chaired by Deputy Prime Minister.

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Federal Agencies Established for Land Administration

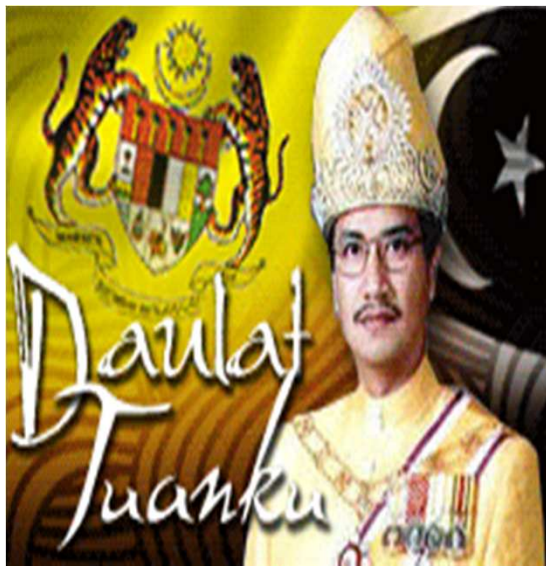
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- The office of the Director General of Land and Mines and the Federal Land Commissioner is established at Federal level
 - ▣ to ensure the coordination of the land administration issues between Federal and State
 - ▣ to ensure effective and efficient implementation of land policies, law, administrative guidelines and circulars principally to promote uniformity between all States in Peninsular Malaysia.

..Federal Agencies established for Land Administration



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- His Majesty the Yang Dipertuan Agong can appoint any public servant under Section 3 of Federal Lands Commissioners Act 1957 (Act 349).
- The position of the Director General of Land and Mines is derived from section 6 of the National Land Code 1965 (Act 56) which provides that whoever is appointed as the Federal Land Commissioner must also assume the power of the Director General of Land and Mines.

..Federal Agencies established for Land Administration

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- The Federal Land Commissioner is the custodian of the Federal Government's movable and immovable properties,
- the Director General of Land and Mines acts as the coordinator of land administration between the Federal Government and State Governments

The power of State Authority

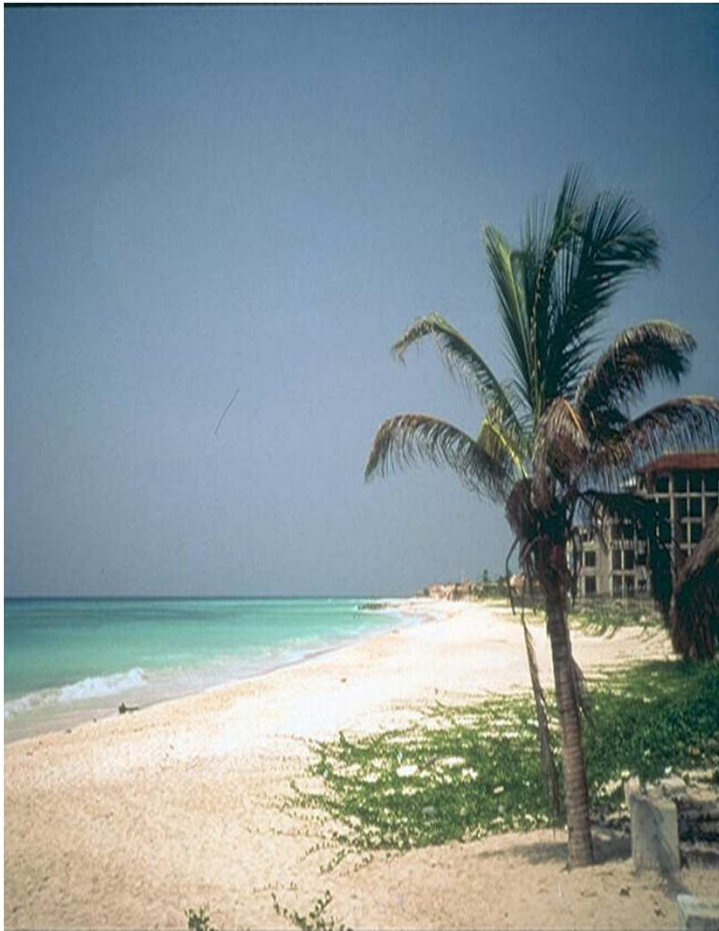
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- a) To alienate state land pursuant of s.76
- b) To reserve state land & to grant leases of reserved land
- c) To permit the occupation of State land, reserved land and mining land under Temporary Occupation of License.
- d) To permit extraction & removal of rock material from any land other from reserved forest.
- e) To permit use of air space on or above State land or reserved land.

and to dispose underground land below alienated land, state land and reserved land.

Definition of Land in National Land Code

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Section 5, National Land Code 1965 define land as:

- a) The land surface itself and all substances forming the surface
- b) Subsoil and all substances therein
- c) All vegetation and other natural products on or below surface
- d) All things attached or permanently attached to the earth, whether on or below surface i.e. ***fixtures***
- e) Land covered by water

Land Titles

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- May be either Qualified Title (QT) or Final Title (FT)
- QT: Land actual area & boundaries are still tentative
- FT: Final survey has been done to determine exact area & boundaries. The land can now be subdivided, partitioned, amalgamated and subdivided buildings erected thereon.
- S.78 NLC: land is still State land until a title has been registered.

Four (4) types of land titles



Final Registry Titles

- Grant (land alienated in perpetuity)
- State Lease (a period of years)

Qualified Title
corresponding to
Registry Titles – QT(R)

Final Land Office Titles

- Mukim Grant (perpetuity)
- Mukim Lease (period of years)

Qualified Title
Corresponding to Land
Office Titles- QT(M)

...Land titles



Registry titles

- ❑ Registered by Registrar of Title
- ❑ Land matters at Director of Lands and Mines office
- ❑ One office for each state located at the capital city of the state
- ❑ Town/village land >4ha, foreshore @ seabed
- ❑ Also, any country land that State Authority feels should be under Registrar of Title

Land office titles

- **Registered by Land Administrator (District Officer)**
- **Land matters at Land Office**
- **One Land Office for each district**
- **Country land <4 hectare**

Conclusions



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Basic land law in land administration system in Malaysia ;

- National Land Code 1965 which is only applicable in Peninsular Malaysia
- Sabah Land Ordinance (Cap 68) for Sabah
- Sarawak Land Code (Cap 81) for Sarawak



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Thank you

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