



## ADMINISTRATION OF ESTATES IN MALAYSIA: DETERMINANT OF FACTORS BEHIND THE DELAY IN THE DISTRIBUTION OF THE DECEASED'S ASSET

<sup>1</sup>Muhammad Amrullah Drs Nasrul, <sup>2</sup>Wan Noraini Mohd Salim

<sup>1</sup> Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia,  
53100 Jalan Gombak, Kuala Lumpur, Malaysia

<sup>2</sup> Ahmad Ibrahim Kulliyah of Laws, International Islamic University Malaysia,  
53100 Jalan Gombak, Kuala Lumpur, Malaysia

\*Corresponding author: [amrullah.edu@gmail.com](mailto:amrullah.edu@gmail.com)

Received: 16 April 2017

Accepted: 11 May 2018

### ABSTRACT

*The distribution of the deceased's estate depends on the smooth process of estate administration. Apart from the personal representative, the beneficiaries hold a significant role in the administration, not as recipients of the deceased's estate but as participants in the estate administration process. Despite the clear laws governing the succession matters in Malaysia, issues of delay in distribution of estate continue to occur, being the result of unresolved disputes between the beneficiaries. As a result, there are over sixty billion ringgit worth of unclaimed estate in Malaysia as reported by various sources, indicating the seriousness of the matter. This paper addresses the problems of delay in the administration of the estates and analyzes its causes and implications. The lack of knowledge and the attitude of the beneficiaries has been identified as the key factors which lead to such problem. This paper is based primarily on the analysis of written sources namely conference papers, textbooks, statutes, case laws, journals and other library-based documents. The findings in this article show that there is a need for a cohesive approach to educate the beneficiaries of the law and to change their attitude in understanding their actual roles in the deceased's estate administration.*

**Keywords:** Estate administration, asset distribution, beneficiaries, attitudes and lack of knowledge

**Cite as:** Drs Nasrul, M.A., Mohd Salim, W.N. (2018). Administration of estates in Malaysia: Determinant of factors behind the delay in the distribution of the deceased's asset. *Journal of Nusantara Studies*, 3(1), . <http://dx.doi.org/10.24200/jonus.vol3iss1pp75-86>

## **1.0 INTRODUCTION**

Estate administration is one of the essential components in inheritance as it deals with the management of the deceased's estate. When a person dies, his estate remained and left unattended. Therefore, it must be collected and managed until its completion. The conclusion of the process is normally marked with the distribution of the remaining asset to the beneficiaries. The term "administration" is used to describe a series of tasks, which includes the appointment of personal representative, a collection of the asset, payment of debts, and distribution of asset (Curzon, 2010). The entitlement of the beneficiaries over the deceased's estate exists upon the death of the deceased. It is part of the objectives of estate administration in ensuring the distribution of the deceased's asset to the rightful beneficiaries.

Consequently, various procedures must be complied with in dealing with the deceased's asset. Thus, the person who is managing the deceased's asset should have a sound literacy in the law under the estate administration. He must be able to determine where to go and what to do with the death of the deceased. This person is the personal representative of deceased's estate and must be equipped with such knowledge and should be capable of carrying out his tasks to its completion.

Apart from the role played by the personal representative, the involvement of the beneficiaries is equally important in ensuring the completion of deceased's estate administration. Although the beneficiaries do not directly involve in the estate management, their cooperation is deemed essential in ensuring the smooth process of estate administration. Apart from being the recipient of the deceased's asset, the beneficiaries should also be supportive and cooperative with the personal representative and relevant authorities. Such is especially true when they are required to attend hearings for estate distribution in the Syariah Court on the granting of the Certificate of Fara'id or hearing in front of the Collector of the Land Revenue under the Estate Distribution Division.

Without an active involvement and positive attitude from the beneficiaries, the estate administration may be prone to various problems. This paper discusses how the adverse actions from the beneficiary could lead to delay in the deceased's estate administration. The paper also seeks to identify the possible implications of such delay.

## **2.0 LITERATURE REVIEW**

Delay in estate administration is one of the problems, which is widely concerned by the authority and the public. This delay contributes to the increase in unclaimed asset over the past few years, which is alarming hence an immediate need for a proper solution. In 2013, it was reported that the unclaimed asset amounted to RM 63 billion which saw an increased in number compared from the past years (Shafie, Wan Yusoff, & Al-Edrus, 2014). Several causes that lead to the unwanted delay have been identified and clustered in the form of legal, economics, religious and social (Rashid, Hassan, & Yaakub, 2013).

The causes of such delay can also be related to the varieties of rules and complexity of procedures as well as the involvement of more than one body in estate administration. Thus, the process of estate administration is not a straightforward process. There are generally two stages; the first stage involves the process of obtaining the letters of representation from the

administrative institutions while the second phase covers the execution process which involves the extraction of the deceased's asset from particular sources as well as the distribution of the asset in accordance with the law. Both stages involve dealings with third parties. While the nature of the first stage is more towards obtaining the authority to govern the deceased's estate, the second phase involves dealing with individuals or cooperates bodies such as the creditors as well as financial institutions, which hold the deceased's account once the authority is obtained.

## **2.1 *The Jurisdictions of the Administrative Bodies***

Managing the estate of the deceased requires a person to apply for such authority from a particular body. The authority is granted in the form of a document, generally known as the letter of representation. The letter of representation is applied from the administrative bodies, which possess jurisdiction in estate administration. If the application is made to the wrong body or for the wrong type of letter of representation, then the process of estate administration and distribution might delay. There are three administrative bodies, which grant the authority to deal with the deceased's estate, namely the Civil High Court, Amanahraya Berhad and the Estate Distribution Division (Md. Azmi & Mohammad, 2011). The jurisdiction of each administrative body is different, subjected to the type, the value of the asset and the nature of death whether the deceased died testate or intestate.

Also, the Syariah Court is also considered as one of the administrative bodies. Its function is slightly different with the other bodies as the jurisdiction of the court in this matter is to grant the Fara'id certificate in inheritance cases involving Muslim deceased. The Fara'id certificate, however, does not provide the authority to administer the asset as the function is to affirm the entitled beneficiaries as well as their prescribed portion (Noordin et al., 2012).

### **2.1.1 The Civil High Court**

The Civil High Court has the widest jurisdiction in inheritance matters compared to Amanah Raya Berhad and Estate Distribution Division. Granting the letter of representation is one of the court's power, notwithstanding the authority to hear cases, relevant to inheritance matters. This stage focuses on the high court's jurisdiction in granting the letters of representation, which is of two types, namely the grant of probate and letter of administration. Grant of probate is 'a grant under the seal of the court authorising the executor or executors therein named to administer the testator's estate'. It is granted upon application by the executor or executors in cases, where the deceased passed away leaving a valid will. Grant of Probate is the key instrument required in unlocking the deceased's asset in testate cases (Ab. Aziz et al., 2014)

Letters of administration, on the other hand, is a grant issued by the High Court upon application after the death of a person intestate authorising him to distribute the estate according to the law. In a case where the testator left a valid will but without executor appointment clause, or if the executor predeceases the testator or if the executor renounces his right to administer the estate, the court will grant the letters of administration with will annexed instead. In this case, the court will treat the application similar to that of an intestate case. The grant of probate affirms the appointment of the executor named in the will, which enables him to act in his actual capacity as the testator's preferred choice of personal representative.

The letters of administration, on the other hand, appoint an administrator, which is decided by the court to deal with the deceased's estate. Regarding procedural comparison, the grant of probate holds few advantages over the letters of administration. For instance, the appointment of an executor is already mentioned in the will, thus avoiding uncertainties and unnecessary disputes as to who will administer the deceased's asset. In applying for the letters of administration, the beneficiaries will have to decide, who will be the administrator. Another difference that can be seen is regarding the requirement of providing sureties. In a grant of probate application, such is not a requirement. Letters of administration, on the other hand, will only be issued upon providing two sureties who possess a similar or more in terms of the value of the asset with the deceased's estate value (Alma'amun, 2010). In cases involving a high value of the deceased's estate such as millions of ringgit, finding sureties who holds the similar of the higher amount is not easy. Though the requirement can be dispensed with, through the filing of the certain document, such process will consume more time, which will extend the process in the application for Letter of Administration.

Regarding the subject matter, the high court possesses unlimited monetary value. In practice, however, cases involving the value of the asset of more than two million ringgit shall be heard by the high court, irrespective of the type of asset. It is common for an application for letters of representation to be made to the high court due to its large jurisdictional coverage. The introduction of the court-annexed system and e-filing system shortens the time duration from the date of application until the extraction of the sealed copy of the grant to two or three months and applicable only in non-contentious probate proceedings. This process is only possible if the application attached all required documents, using the correct court documentation and no disputed issues or any collateral disputes related to the estate arise.

### **2.1.2 Amanah Raya Berhad**

As opposed to the high court and the Estate Distribution Division, Amanah Raya Berhad (ARB) assumes the lowest monetary value under its jurisdictional capacity in granting the letter of representation. An estate that consists only of movable property the value of which is less than RM 600,000 can be administered by ARB. The Corporation is given the authority under section 17 of the Public Trust Corporation Act 1995 to issue either a Declaration or a Direction order to the beneficiaries for the purpose of the distribution of the estate. The jurisdiction awarded to the corporation is rather limited in term of monetary value, and thus it could not administer the asset that worth more than RM600, 000. Many people nowadays owned more than RM600, 000 worth of movable property.

There is a loophole in the law as to whom the jurisdiction to deal with the administration of movable estate exceeding RM600, 000 but less than RM2, 000,000 should be given. This will unnecessarily delay the process of estate administration and distribution since there is no clear provision of the jurisdiction to deal with such property. Thus it is submitted that the jurisdiction should remain with the ARB but there is a need to increase the value of the estate that could be administered by the corporation to RM2, 000,000 similar to the monetary jurisdiction of the Estate Distribution Division in the year 2009.

As a matter of fact, ARB plays another important role in the administration of the estate, which is to act as a personal representative on behalf of the deceased's beneficiary upon appointment made either by the testator or by the court as well as upon request made by all the beneficiaries. The role of the personal representative is crucial in estate administration, as most

of the beneficiaries do not possess sound knowledge about procedural and technical aspects of estate administration.

### **2.1.3 Estate Distribution Division**

The Estate Distribution Division is a government body under the Department of Director General of Lands and Mines, Ministry of Natural Resources and Environment. As the name indicates, the focus of this unit is to deal with intestate cases involving small estate, comprising either immovable or a combination of immovable and movable assets, whereby the amount is not more than two million ringgit. The Small Estate (Distribution) Act 1955 is the primary source of authority for the Estate Distribution Division in dealing with estate administration and issuing of distribution order and letters of representation. In a view to enhancing the role of the unit, a series of amendments were made to the Act including the increase in the value of the estate that can be dealt with by the unit from RM600, 000 to not more than RM2, 000,000.

Similar to the Civil High Court, the Estate Distribution Division is statutorily empowered to issue letters of representation, which in this case known as the letters of administration (Form F of the 1955 Act). The letters of administration, however, will only be granted in exceptional cases to an administrator who is appointed based on the agreement of all heirs. The letters of administration give the power to the administrator to collect all assets of the deceased, pay the debts and distribute the deceased's estate to all entitled heirs. In straightforward cases, the land administrator will only grant the distribution order (Form E) to the beneficiaries, which gives two immediate effects. The first one involves the immovable asset such as land whereby the portion of the beneficiaries will be registered in the land title. As for the movable asset, submitting the copy of Form E to the related institution will enable each entitled beneficiaries to obtain their secured portion.

## **3.0 FINDINGS**

As being said earlier, the granting of the letters of representation by the administrative bodies is part of the initial process of administering the deceased's estate. Upon the retrieval of such grant, several other tasks need to be undertaken by the personal representative before the distribution of the asset to the entitled beneficiaries. The next step includes the retrieval of the deceased's asset from financial institution mainly and other sources of the deceased's belongings.

There are however certain types of asset which does not require letters of representation from the court such as nominated Employees Provident Fund (EPF) account and the deceased's investment bearing the amount of RM 10,000 and below under the Amanah Saham Nasional Berhad (ANSB), a unit trust account. In other words, claiming the deceased's money from the two institutions can be made earlier, without having to wait for the grant of letters of representation. Distribution can, therefore, be made earlier or such newly obtained asset can be used to settle the outstanding payment. However, if the assets have nominated a specific person, the asset belongs to the person and cannot be used to settle any outstanding payment.

### 3.1 *Nomination*

It is important to note that not all assets belonging to the deceased can be distributed to the beneficiaries under inheritance rules. Several types of an asset such as pensions are not subject to distribution under the law of inheritance as it has already been specified in the Pension Act 1980 that the recipient of such asset is the deceased's spouse or children below the age of twenty-one years old. Other assets such as the life insurance, *Takaful*, and employees' provident fund (EPF) account are subjected to certain restrictions. This includes the existence of nomination clauses, whereby the effect of such nomination will determine whether or not such asset can be subjected to the distribution to the beneficiaries. For instance, the nomination clauses under the EPF has clearly mentioned in a case involving Muslim deceased, that the nominee will act as the administrator for such account, whose role is to distribute it in accordance to the law of *Fara'id* (Ahmad & Ibrahim, 2002).

Life insurance and *Takaful* policy, however, possess a different nomination mechanism. The nomination effect is somewhat different from the insurance company and *Takaful* providers where part of them consider the nominee as the sole recipient of the policy. Others treat the nomination in life insurance policy amounts to a creation of a trust, which prevented such asset from becoming the subject of the inheritance distribution. In a different scenario, the nomination clauses in other insurance and *Takaful* policies give effect to an *Inter-vivos* gift or *Hibah*, which also exclude the assets from being distributed under inheritance. The different effects of nomination clauses, provided by the insurance and *Takaful* operators, much or less, lead to misconception and confusion about the status of nomination (Abdullah et al., 2012).

Though a series of *fatwas* including the latest one held by the Fatwa Committee of the National Council for Islamic Religious Affairs in the year 2000 has been issued in order to dismiss the misconception, Such rulings were not followed as it has no binding effect on the insurance companies ("Wang Simpanan KWSP, SOCSO dan seumpamanya" n.d.). Hence this uncertainty contributes to causing a delay in the estate administration and actual distribution

### 3.2 *Settlement of Debts and Liabilities*

The actual distribution of assets to the beneficiaries is conditional upon whether or not; there is any remaining of the assets after the settlement of the deceased's debts and liabilities. In cases where the deceased died leaving debts and other liabilities, the personal representative should be able to carefully consider the order of priorities for the payment of these unpaid sums. Though the beneficiaries would have their fair share of the asset, such right under the law of inheritance is subject to the remaining portion of the estate after the settlement of outstanding debts and liabilities. For instance, the rights of the creditors if any is placed higher in priority over the distribution as it involved their rights over the debt owed by the deceased. This includes liabilities such as credit card and personal loans payment balance. In other situation, part of the deceased's asset should be secured for payment of fees and the remuneration of the personal representative. Other payments such as funeral expenses should be settled as soon as possible as it is also considered as debt.

Apart from the outstanding debts, the deceased might also leave movable property such as cars or other vehicles, which are under the hire-purchase agreement and have an outstanding

balance. This also is considered as debt and must be settled from the deceased's estate. In practice, the bank normally keeps the original copy of vehicle registration card until the completion of the hire-purchase payment. The registration card will only be surrendered to the owner or the personal representative upon full settlement of the outstanding balance and then only can be transferred to any legal heir or be sold. The money obtained from the sale will be subjected to distribution according to inheritance rule. The actual distribution of the deceased's estate might delay if no proper monitoring made by the personal representative to settle outstanding balance of those type of assets.

### **3.3 Actual Distribution of the Deceased's Asset**

The distribution of the deceased's asset should have taken place after the settlement of debts and other liabilities. If no conflict or complication arises, the actual distribution can take place soonest possible. Otherwise, it might be delayed and troublesome especially when the personal representative intentionally withholds the task of distributing it to those entitled according to inheritance rule, or some heirs objected to the method of distribution. Thus the personal representative should be able to avoid the delay and to decide the best option for managing and distributing the deceased's asset.

Distribution should take place accordingly. If the deceased dies to leave a will, the distribution should firstly be made in accordance with the testator's wishes in the will, regardless of whether it involves Muslim or non-Muslim deceased. If he dies without leaving any will, the estate of the deceased will be distributed according to the rules of *Fara'id* for the Muslims and the Distribution Act 1958 to the non-Muslims. It is pertinent to ensure that the distribution to take place as soon as possible to prevent the unnecessary hardship, which will take place should the distribution is intentionally delayed.

## **4.0 ANALYSIS AND DISCUSSION**

As the recipient of the deceased's asset, the beneficiaries are not directly involved with the estate management, administration and distribution compared to the personal representative. Nevertheless, their involvement is crucial and necessary since it could affect the smooth running of estate administration and distribution process. If the beneficiaries cooperate with the personal representative and show positive attitude as well as adhere to the distribution order, then the process of estate administration will be smooth and therefore, actual distribution can take place faster. It is, therefore, paramount that the beneficiaries display a positive attitude and being resourceful either to the personal representative or among themselves.

Unfortunately, it is not always the case. The characters of all beneficiaries are not the same. Some are very responsive, positive and accommodative. The others are not. To a certain extent, the attitude of the beneficiaries is seen as the cause of the delay in estate administration and distribution. This can be identified from two aspects, the first one involves the lack of knowledge on the part of the beneficiary as to the rules and procedures, while the second one is the personal attitude of the beneficiaries towards the administration of the estate.

#### 4.1 Lack of Knowledge

Though it is true that the beneficiaries are not allowed to directly deal with the deceased's estate due to the lack of authority, their presence and cooperation are essential because they are one of the main components in estate administration. They have a connection with the deceased and his estate and legacy. However, they must also, at least have general knowledge about the laws of estate administration, to avoid any adverse implication, of having to act without such knowledge. In a certain part of estate administration where the role of the beneficiaries is required, the absence of such knowledge would cause difficulties or complicate the already complicated process. For instance in cases relating to nomination in Employees' Provident Fund (EPF) account. There is a perception among the Muslims beneficiaries that all the money under the deceased's EPF account belongs to the nominee. This is indeed a wrong perception as it is clearly stated under the law that the nominee acts in a capacity of an administrator.

The nomination enables the money in the EPF account to be withdrawn without the letters of administration and such money will be in the possession of the nominated person. This is intended by the lawmakers as a means to speed up the withdrawal of the EPF money so that the nominated person will then distribute it to the rest of the beneficiaries. If the nominee does not discharge his task as required by the law, or rather, in this case, kept the money for his own personal benefit, such would be treated as a commission of an offence, be it in criminal or civil cases. The personal representative could take legal action against the nominee who failed to distribute the money accordingly.

Some beneficiaries are not aware of the jurisdiction and the function of the administrative bodies, to the extent that they approached the wrong body instead. For instance, testate cases involving Muslim deceased requires the applicant to first apply for the *fara'id* certificate from the Syariah Court, before the filing of probate in the Civil High Court. This is because the same *fara'id* certificate will be enclosed as part of the supporting document in order to apply for the probate. The Syariah certificate is a substantial proof regarding the list of entitled beneficiaries and the prescribed portion for the beneficiaries. Also, the will of the Muslim deceased has already been inspected and confirmed as to its validity, which prevents the will from being challenged in the future. If an application to the civil court was made without obtaining the *fara'id* certificate and other required documents, the applicant will not succeed in his application hence delay in the administration and distribution of the estate.

In some cases, the property involved might be subjected to the specific method of administration and distribution and would not be subject to distribution according to the law of inheritance. An example of the property is the group settlement land such as FELDA land. According to Mohamad, Talib, dan Md Noor (2011), the delay in administration of the estate was partially caused by lack of awareness among the Felda group settlers in relation to the law relating to Felda land. Under section 7 of Land (Group Settlement Area) Act 1960, different law applies to the Felda land in case of death of the first settlor, unlike the standard type of land which is governed by the National Land Code 1965.

While the land can be distributed accordingly based on whether the deceased died testate or intestate, the rules for the Felda land employs a different approach where only two people can be named as receiver of such land. Though in reality, these two receivers shoulder the same responsibility as of the personal representative in distributing the usufruct from such land to entitled beneficiaries according to the rule of succession (Nor Muhamad & Mat Hussain, 2013).



The lack of awareness is corroborated by a complex mechanism which not only deviates from the generic method of land inheritance administration but contradicts to the laws of *fara'id*.

#### **4.2 Attitude of the Beneficiaries**

The negative personal attitude displayed by the beneficiaries in a way interrupt the smooth process of estate administration. The attitude of taking things for granted, for instance, is an example of the beneficiaries' attitude which could cause delay and other problems in estate administration. This can be seen in cases involving a late application for estate administration to the administrative bodies. The attitude to stalling the application could be caused by two factors. The first is the classical perception that hastening in commencing the administration of the deceased's asset is a sign of disrespect to the deceased as well as the sign of greediness. The second possible cause is the carefree attitude among the beneficiaries themselves. Whereas under the law, application for estate administration should be made not less than six months after the death of the deceased. Failure in complying with this rule will not penalise the applicants, but they need to explain the reason for their late commencement in doing so. Still, this attitude of stalling the matters must not be practised especially in the administration of the estate which focuses on settlement of matters in the fastest possible manner.

Greediness which is substantiated with the lack of tolerance is another factor which could cause a delay in estate administration. For instance, testate cases involving Muslim will or *wasiyah* made to the adopted child. The right of the adopted child is secured provided the gift made is not more than 1/3 of the deceased's asset under the rule of *wasiyah* (Alma'amun, 2012). Still, the insatiability among the beneficiaries could disregard the right of the adopted children by trying to conceal the facts during the application for a *fara'id* certificate from the Syariah Court. The similar scenario can be seen in the application for the jointly-acquired property by the deceased's polygamous wife where her right was denied by the deceased's children from the other wife due to a sense of greediness which clouded their mind and reasoning (Sitiris & Halim, 2010).

#### **4.3 Implications of Delay**

Interruptions in estate administration led to the delay in distribution of the deceased's asset. It is unlikely that distribution could take place without clearing the earlier tasks in estate administration since asset distribution can only be done at the end of the administration. Regardless of what caused the delay in administration, the implications are serious since it also affects the rights of others including the creditors and the beneficiaries. One of the main implication is the series of death involving the beneficiaries prior to the distribution of the deceased's asset. Should the beneficiaries died earlier before the actual distribution takes place, the process will become more complex, especially if there is a large period gap between the deceased's time of death and the beneficiaries time of death. For example, a series of death involving three generations involving a grandfather, his son as the beneficiaries and his grandchildren. The grandfather passed away leaving his asset to his son as his beneficiaries. Imagine if the deceased's son died prior to the obtainment of his portion of the deceased's asset. In this case, the portion of the son from the deceased's asset is fixed and secured after his death. However, due to the delay in the estate administration of the deceased, the grandchildren cannot

succeed his portion from his father's inheritance since part of his father's portion is still pending from the distribution of the deceased's asset, which is the grandfather.

The second implication involves the transfer of the deceased's money from his bank account to the registrar of unclaimed money. In any case, involving the deceased's frozen account which lies dormant for more than seven years, according to the law, such account will be transferred to the registrar of unclaimed money under the Unclaimed Moneys Act 1965 & (Amendment) 2002. Should there be any claim made to this portion of the money, such application can no longer be made towards the former bank as the money has already been transferred. Instead, the personal representative should apply to the registrar of the unclaimed money. In practice, withdrawing a money from the unclaimed money is bit tedious and more time consuming compared to from the bank. This may further prolong the asset distribution process.

Incomplete asset distribution may affect the relationship between the heirs and the beneficiaries. As each of them was frustrated due to the long waiting for their portion of the distribution, such continuous waiting may trigger tensions among each other which may lead to a dispute. If the relationship prior to the delay is already sour, the delay will worsen the situation, adding a series of continuous blaming on each other and torn the relationship apart (Mohd Salim, 2002). In this case, the family dispute could lead to a broken relationship between the beneficiaries.

The delay in administration and distribution of estate does not only affect the beneficiaries but, it more or less tarnishes the reputation of the government legal system. Reports and news about the undistributed asset will create an ill impression to the public inside and outside Malaysia that the government could not handle the matter properly, despite having a good legal system and mechanism of enforcement. Prompt measures must be taken in order to effectively tackle the delay issues which has led to millions of ringgit worth of the unclaimed asset.

## **5.0 CONCLUSION**

The current administration of the deceased's estate involves a various process which must be complied with, hence justifies its long period of settlement. Involvement of different parties, each with a different set of procedures adds up to its lengthy process. Though the overall period of settlement for each case is different, it is the wish of all parties involved in estate administration for a smooth and quick settlement of such matter. The arising problem in estate administration could lead to delay by which its implication is a detriment to all. The beneficiaries should try to avoid from complicating the matters which could result in a delay in distribution.

Based on the discussion of the problems which could be triggered by the beneficiaries, the proposed ideas on preventing such problems from happening are as follows. The beneficiaries should be aware of the crucial knowledge regarding the estate administration. Nowadays obtaining information is easy with the use of internet, smartphones and other related information technology and electronic devices. Preparing themselves with the fundamental knowledge and knowing their actual rights and duties as beneficiary could lead to a better understanding on how the estate administration is being carried out, instead of simply waiting for the asset distribution.

The beneficiaries should also display a positive attitude, not only towards each other but to other related parties in estate administration. With a healthy spiritual and emotional maturity, they could be able to control the negative feelings and prevent unnecessary disputes which could jeopardise the smooth process in estate administration. They should also communicate with each other in a positive surrounding while being able to understand each other's need and sorrow or other emotional stress. Optimism, patience and sense of forgiveness are required by each beneficiary while mutually controlling the stress which may incur within the estate administration. Only then, the beneficiaries would be able to participate positively and contribute to the smooth and quick process in the administration of the deceased's asset.

## REFERENCES

- Ab. Aziz, M.R., Nooh, M.N., Khairi, K.F., Johari, F., Mirza, A.A.I, & Nordin, N.I. (2014). A review on literatures in planning and managing of Islamic wealth distribution (2001-2013). Retrieved from <http://digitalcommons.unl.edu/libphilprac/1144>
- Abdullah, M.A., Arifin, M., Omar, M.N., & Mohd Napiyah, M.D. (2012). Is a nominee a trustee or a beneficiary? A study on the islamic legal maxim 'in contracts effect is given to intention and meaning and not words and forms' and its relevance to the nomination concept and practice in the administration of a Muslim's estate in Malaysia. *Australian Journal of Basic and Applied Sciences*, 6(11), 153-159.
- Ahmad, M.Y. & Ibrahim, I.A. (2002). Amalan penamaan harta orang islam di Malaysia: Satu tinjauan ringkas menurut syariah islamiah. *Jurnal Pengajian Umum*, 3(6), 63-80.
- Alma'amun, S. (2012). Analysing the practice of wasiyyah (Islamic will) within the contextual form of Islamic estate planning in Malaysia: Variations across control variables. *Journal of Islamic Economics, Banking and Finance*, 8(3), 60-82.
- Alma'amun, S. (2010). Islamic estate planning: Malaysian experience. *Kyoto Bulletin of Islamic Area Studies*, 3(2), 165-185.
- Curzon, L.B. (2010). *Dictionary of Law (6<sup>th</sup> ed.)*. Kuala Lumpur: International Law Book Services.
- Md. Azmi, F.A. & Mohammad, M.T.S. (2011). The causes of unclaimed, late claimed or distributed estates of deceased Muslims in Malaysia. *In the Proceedings of the 2011 International Conference on Sociality and Economics Development* (pp. 440-444). Singapore: IACSIT Press.
- Mohamad, Z., Talib, J., & Md Noor, R. (2011). Issues of land inheritance from Felda settler's perspective: A case study among settlers in Lurah Bilut, Bentong, Malaysia. Retrieved from <http://www.wbiconpro.com>
- Mohd Salim, W.N. (2002). *Problems in the administration and distribution of intestate estate in Malaysia with special reference to its foundation in customary law, Islamic law and English law*. (Unpublished doctoral thesis). University of Exeter, United Kingdom.
- Noordin, N., Shuib, A., Zainol, M.S., & Mohamed Adil, M.A. (2012). Review on issues and challenges in Islamic inheritance distribution in Malaysia. *OIDA International Journal of Sustainable Development*, 3(12), 27-38.

- Nor Muhamad, N.H. & Mat Hussain, N. (2013). Pembahagian harta pusaka Felda: Perspektif masyarakat Islam Felda Taib Andak. *Sains Humanika*, 66(1), 27-33.
- Rashid, R.A., Hassan, S.A., & Yaakub, N.I. (2013). A need for legal framework of gift inter vivos (hibah) in Malaysian estate planning. *International Journal of Business, Economics and Law*, 2(3), 29-31.
- Shafie, F., Wan Yusoff, W.Z., & Al-Edrus, S.M.D. (2014). Islamic real estate management: Review on issues and challenges in managing inheritance property in Malaysia. *Proceedings of the 25th International Business Information Management Association Conference-Innovation Vision 2020 From Regional Development Sustainability to Global Economic Growth-IBIMA 2015, 2015* (pp. 3684-3696). Kuala Lumpur: International Business Information Management Association, IBIMA.
- Sitiris, M. & Halim, A.H. (2010). Tuntutan harta sepencarian dalam kes kematian. *Kanun Jurnal Undang-Undang Malaysia*, 22(1), 26-46.