

Suhakam takes up Sabah communal land titles issues
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Newly-appointed Suhakam commissioner Jannie Lasimbang wants the Sabah government to take note of the various "grey areas" in the issue of communal land titles as per current state policy.

This implies a re-think in its recent amendment to the Sabah Land Ordinance (Cap 68) 2009 Amendment, Section 76.

The Malaysian Human Rights Commission (Suhakam) has received 67 complaints this year alone, up to the end of September, on the issue of land matters in Sabah.

The thrust of the complaints lodged with Suhakam is that the government's "new stand" on communal land titles may be a retrogressive variation on the communal title provision which in fact dates back to 1930 i.e. during the British North Borneo Chartered Company's rule of the territory.

Jannie Lasimbang "We have held several dialogue sessions so far in various mukims (sub-districts) and districts," said Lasimbang, in an indication that the issue is far from settled among natives claiming Native Customary Rights (NCR) land," said Lasimbang (left).

Her remarks were carried in a background paper co-drafted with activist Juhile Timan for a Suhakam seminar on communal titles, Seminar Geran Komunal: Isu dan Cabaran Tanah Adat Orang Asal, held on Wednesday morning in Kota Kinabalu.

The Suhakam commissioner suggests that the state government adopt a four-point approach on communal land titles in line with Article 161A(5) of the federal constitution.

The Article provides for state laws in Sabah and Sarawak "to reserve land for natives or to give preferential treatment in regard to appropriation of land by the state".

Firstly, the state government needs to explain to the people what communal titles mean; next, find a mechanism through the Land and Survey Department (LSD) to make communal titles consistent with NCR and the needs of the native land owners concerned; and thirdly, to discuss and resolve all issues before issuing any particular communal title.

Agropolitan schemes, the fourth suggestion, must also take into account NCR and the needs of the people concerned.

Field visits made to four areas

In support of the four-point approach, Lasimbang cited field visits to Sumatalun and Sepulut, two mukims in the Nabawan district; the Abingkoi mukim in the Tenom district and the Lampas Agropolitan Area on the Tongkod district as a sampling of the follow-ups to complaints that Suhakam has received so far.

NONE In Sumatalun, Suhakam found that those who understood the concept of communal land were opposed to the issue of such titles on the grounds that it means a possible alteration to the borders of tanah adat (customary land).

The villagers concerned in Sumatulun were concerned that there may be competition for particular plots of land - hilly land or undulating land - or those ineligible may be listed in the title under the fast-track system; parents with many children may not be able to pass on their land; and expressed unhappiness over the agropolitan concept being promoted by the government for NCR land.

Residents of Sepulut, Abingkoi and Lampas generally echoed those of Sumatulun. They too want enforcement of the so-called communal title provision dropped. In addition, Abingkoi residents were expressly against any so-called joint-venture involving their land with any private company.

"It's clear that villagers claiming NCR land don't want to have anything to do with others in matters involving their land," said Lasimbang. "They prefer to till their land themselves, not in joint-venture with anyone, and above all they want the children to inherit their individually-owned land."

NONE In contrast, communal titles are held in the name of the Land Collector as trustee for the natives concerned but without power of sale and such communal title shall be held to be a title in part, but shall be subject to such rent as the minister may order.

The various policy changes introduced - following the amendments - mean that land ownership henceforth, according to Lasimbang, may depend on the opinion of the state government. This means the issue of land titles by the state government may no longer be based on NCR as in the past or the needs of the people concerned.

"Natives occupying land which they claim under NCR give more importance to individual land titles since these can be mortgaged," said Lasimbang. "They also feel that individual titles are a guarantee of their ownership over the land."

Communal titles 'help reduce poverty'

The state government on the other hand, it's noted, feels that communal titles offers enormous potential in the quick resolution and issue of titles over NCR land. In addition, besides protecting native land in perpetuity, communal titles will help reduce poverty through planned land development schemes and foster joint-ventures involving communal and state land, Lasimbang cites the state government on the amendment.

Several other speakers also made presentations at the seminar after opening remarks by Suhakam chairman Muhammad Sha'ani Abdullah.

Community representatives from Sepulut, Tenom and Tongod were also present. They made brief presentations reiterating their reservations over communal titles.

LSD director Osman Jamal, who accepted an invitation to attend the seminar and present a paper, did not turn up. It was not immediately clear why he was absent. He had been expected to reiterate the state government's stand on the grant of communal titles.

Galus Ahtoi, an activist from an NGO, the PACOS Trust, was dismissive of communal titles and spoke on the continued confiscation of NCR land under one pretext or another by the state government.

sabah natives bajau community 180509 02He warned that NCR land was a lifestyle all its own - linked to culture, customs, traditional wealth and continuity of life - and borrowed

from future generations. It should not be tampered with by the state government, he cautioned in his presentation.

"The state government's excuse that communal titles will prevent natives from selling off their land does not hold water. There's nothing to prevent companies from selling such land."

He called on the state government to recognise NCR land as enshrined in the state constitution. In support, he cited three recent cases resolved by the courts in favour of NCR land owners viz. Nor Anak Nyawai (Sarawak); Rambilin Ambit (Sabah); and Sagong Tasi (Selangor).

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