

Using private leased land for industrial development

THE legal landscape governing land ownership in Peninsular Malaysia, as established by the National Land Code 1965 (NLC), has been in effect since Jan 1, 1966. As this foundational law nears its 60th year in 2026, it becomes imperative to look at its implications, particularly on the disposal of state or private land.

According to Section 40 of the NLC, all state land is under the jurisdiction of the state authority. When state land is transferred to an individual indefinitely, it is granted a freehold title. Conversely, if the transfer is for a period not exceeding 99 years, it receives a leasehold title.

When the lease expires, the land reverts to the state authority. The owner has to either renew the lease or apply for fresh alienation, often involving substantial premiums akin to buying the land again.

However, there are many owners of large tracks of freehold land (such as estate owners) who are reluctant to sell their land for development as it represents a one-time gain and a permanent loss of ownership of the asset. As a result, it remains off the market and unavailable for development. The Private Lease Scheme can address this issue.

The Private Lease Scheme (PLS)

Under the National Land Code, a proprietor (registered owner of freehold title) has the power to grant a lease of the whole of his land for up to 99 years. Hence, they have a right

to lease out their land to developers. The leases granted are registered under the NLC and enjoy its protection.

The NLC prescribes that any lease of alienated land in Peninsular Malaysia is permitted to be transferred. The interest of the lessee (the developer) will be passed to and vested in the transferee (the end-purchaser) upon registration of the transfer of the lease.

This means that the transfer of lease by developers to end-purchasers is also permitted. This also means that PLS has legal standing in Peninsular Malaysia

In the context of privately held freehold land, the PLS emerges as a sustainable solution to enable private corporations or individuals to lease out freehold land for development without relinquishing ownership.

Benefits of PLS

Despite facing mixed reactions and misconceptions, PLS offers several advantages. The NLC permits landowners to lease their land for up to 99 years, with the leases enjoying legal protection. End-purchasers of such leases attain indefeasible title upon registration, similar to state leasehold owners.

A compelling argument arises for PLS in the industrial sector. Most industrial land in Malaysia is leasehold, leased by state governments to developers or foreign companies for periods ranging from 30 to 99 years.

Leases purchased under PLS enjoy



Trends & perspectives

DATUK STEWART LABROOY
AREA Group of Companies
Executive chairman

Most leases offer

30 to 99
years

Factories have useful lives of

40 to 50
years

similar legal protections, granting end-purchasers rights akin to state leasehold owners. One of the biggest challenges faced is the fact that state land banks that are close to critical infrastructure and prime industrial locations are diminishing in the popular states of Selangor, Penang and Johor.

These prime locations are now in the hands of privately- and publicly-held plantation companies. With the PLS scheme, owners can now lease their lands to the state government or to privately-owned industrial park developers.

Industrialists do not require their land to be freehold as their factories have a useful life of 40 to 50 years at best. With the pace of technological advancements, most industries evolve over time and older factories become obsolete.

It appears there is no need to sell a freehold title to an industrialist as they are more than happy to acquire a leasehold title for their business. This is witnessed by the huge take-up of leased industrial lands in Vietnam, Thailand and Indonesia by multinationals.

With a PLS, we can encourage the establishment of more industrial estates and avoid the loss of Malaysian real estate to foreign parties.

Monetising MRL

Expanding the use of the PLS could pave the way for monetising Malay Reserve Land (MRL), allowing the owners to lease their land for industrial purposes while retaining their freehold interest and generating income.

For many years, MRL was always valued far below that of freehold or state leasehold land. Thus, large tracks were left undeveloped as owners struggled to find commercial use for their land. With the PLS, we could see a boom in the profitable use of MRL in industrial applications.

In conclusion, PLS presents a viable avenue for industrialists as it aligns with their operational timelines and offers similar rights and benefits as state leasehold titles.

The government should encourage the establishment of more industrial estates through the PLS as this would mitigate the transfer of freehold real estate to foreign entities.

Privately owned land being converted to industrial use via PLS is an option for unused real estate.

