

PREFACE

Well known in the legal circle is the fact that the Malaysian law is based largely on that of England. The aim of this paper is to outline the development in Malaysia of one important branch of the English law, that is, the law of trusts, the basis of which is essentially English in character.

It is therefore not inappropriate to begin the first chapter of this paper with the subject of the reception of the English law in Malaysia, paying particular reference to the law of trusts wherever possible. While the English requirements for the creation of a trust are well-established, the question remains whether they are equally applicable here. Chapter Two, therefore, is devoted towards this end.

The English law boasts of many classifications of trusts - implied, discretionary and constructive trusts just to name a few. This being the case, a paper on the development of trust law in Malaysia would be incomplete without reference to such trusts and the extent to which they have been adopted by the courts in our country. This is dealt with in Chapter Three.

Thus far, it can be said that in general the law of trusts of Malaysia is the law of trusts of England: the elements of a trust and even most of the various species of trusts have been adopted. However as regards the latter, there is one type of trust where the Malaysian position and the English law may be at divergence, namely charitable trusts. This is given due attention in Chapter Four.

Chapters Five and Six have to do with trustees. The former concentrates on the Malaysian position as regards appointment and removal of trustees, delegation of trusteeship and breach of trust. The latter chapter brings out another aspect of the law of trusts where the Malaysian law differs from the English law i.e. trustee investment.

At this juncture, it must be pointed out that, since the trust law of Malaysia is essentially based on that of England, some discussion of the English law throughout the paper is inevitable.

Last but not least, the writer wishes to express his gratitude and thanks to Mr. Balan for his invaluable help and guidance, without which he would have found some difficulty in completing the paper.

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