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Thursday, October 3, 2013

Kampong Hakka – when 100 years existence is not a matter- Arutchelvan

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The first Monday Every October is designated by the UN as the World Habitat Day. The main purpose to celebrate this date among others is to reflect on the basic right of all to adequate shelter. UN has dedicated one day to highlight the plight of people fighting for shelter as it seems that the right to a home is one of the most fundamental human rights. With this, let me argue the case of kampong Hakka in Mantin, Negeri Sembilan.

When I first stepped into kampong Hakka a year ago, I was amazed that a Chinese new village complete with temple, community hall and school existed in this village and I was further shocked to learn that all the people living there have been declared as illegal's just because some rich company has bought their land.

When I looked at the building structure of their homes and their life style, I was convinced that these villagers have a history to talk about and they have lived here for many decades. Most of the villagers were elderly people as their children have left to more urban town centres. Their economic activity varies with most of them being petty traders and self employed.

I then met a whole bunch of them in the community hall. I was warmly welcomed and they related to us about their plight. I listened and posed them two major questions which will determine my own intention if I want to continue working with them.

The first question was if they think that they have a right to stay in their current homes and the second is, if someone else claims that they have the grant titles of their land, then will

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Sumbangan Tabung Perjuangan Rakyat

they move out. They responded strongly that they have rights, they spoke how their fore fathers came many years ago, how they build this village and said that they will fight to be here. I was shown a photo of the village taken in the year 1960s where there were only 2 building in Mantin town which I recognised as the rest must have come up after the village was set up. Some questioned me, where do you want us to go?



Looking at all angles, I was convinced with their plight. Along with friends from Community Front (CF) a front of PSM, we decided that the people have a legitimate right to struggle and that they have a genuine case.

During our discussion we also learned of many disturbing issues among them that some villagers have already taken compensation and left. The amount that has been given ranged between RM 1,500 till RM 7,500. The amount is low by any standard. Many claim that they were either cheated or threatened into accepting the amount. When asked what would their demand would be, the remaining villagers wanted to stay put in the current land or failing which they want to be given a plot of land or a house in the same location. I thought their request was reasonable.

The Hakka villagers claim that their village is more than 100 years old. They trace their history right back to 1860. Most of them came from Hui Zhou, China and was brought by the British to work in the tin mines, they settled in a village in Mantin known as Kampung Attap because of its roofing. Today the same village is known as kampong Hakka. They have a temple Tokong Tan Gong and a school SJK Chi Chi Mantin, both with a hundred years history.



Today these same people are humiliated as squatters, illegals' and chased away. The Developer Mega 9 which only existed in this history in the year 2005 is now calling them squatters. Squatters is equated to criminals by the former Lord President Tun Azlan Shah. They are defined as people who illegal built houses in Government land.

In the case of Kampung Hakka, these villagers were given TOL (Temporary Occupation

Licence) by the Seremban land Office since 1960s. They also have been paying quit rent to the local Municipal Council even till now. Looking at all this, there is no way that they can be called squatters or illegal.

But sadly, going by experience, we have one big problem in this country. It is how our Judiciary and legal system define who has rights or not. It is narrowly defined that those who hold the land title are the legitimate owners. In this case of kampong Hakka, somewhere in 1987, the villagers heard that their land is being taken away for a development project. The Government then sold the land to private developer and it became clear in 2005, when the local Government decided that Mega 9 a private



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company will be given the Kampong Hakka land to built a mixed development project which includes 374 houses including 116 low cost houses and shop lots.

Therefore Mega 9 who came last to the land overnight becomes the King while the people who initially built the village and the settlement are condemned as squatters and illegals. This is the sad reality where the might is decided by money and corruption while justice is buried under a paper called “geran tanah”.

On 26 August 2013, the villagers lost their case in the Seremban High Court. The decision was made in chambers while the villagers waited in the open court. The court only saw who had the land title and it was decided that the villagers must give vacant possession to Mega 9. Mega 9 took an Order 89 application and was successful. This is unbelievable. In normal circumstances, the court should reject the Order 89 application and order for a full trial since Order 89 is a summary proceeding which is normally done in clear cut trespassing issues. Here a trial is warranted as there is a long history of the villagers' existence. This not a simple case of someone trespassing or not paying a rent.

The High Court narrowly interpreted the issue. This is an issue of equitable rights, this is an issue of rights to shelter and this is an issue of rights to livelihood as enshrined in the Federal Constitution Article 5. But the court seems to have chosen just to see who has the land title and gave the death sentence to the villagers.

The lawyers for the villagers applied for a stay of execution and obtained a court date to hear the stay on 17th October 2013. However on 25th September, Mega 9 developer served notices to the houses giving them 7 days to vacate the land. But in less than 5 days, they came with the full might of the police force, TNB and court bailiffs to evict the people.



Why the hurry, when there is a court date pending on the 17th? Why the hurry when there is an appeal? Why couldn't the bailiff just wait for 30 minutes extra to allow the villagers lawyers to be present when their lawyer, a State Assemblyman was in the Dewan Negeri and said that he will be there by 11.30am.

In spite of all that, the bailiff citing higher orders carried on with the eviction. The police used excessive force to arrest, injure and humiliate those who were protecting the houses. 13 people were arrested and 3 houses were demolished. The demolition machine engine only stopped when the villagers lawyers finally came 15 minutes later. Later an interim stay was granted till the 17th October 2013. I greeted this news with a huge applause with the other detained along me at the Mantin police lock-up. At least, the entire village was not in ruins.

As we celebrate world habitat date, I hope the State Government will come to its senses. It is the role of the State to ensure its people be given adequate houses. In this case, in the first place how could the State Government approve a development plan without first resolving the issues faced by the Kampong Hakka villagers. Isn't this policy called profit before people. Why can't the state resolve the housing issues or better still, why not make this a heritage settlement. It seems the State authorities have been paid off handsomely by the developer. This is the only logical explanation I can come to and many people feel likewise.

As the remaining villagers ponder their future, I repeat the question to them. Do you want to surrender or fight on? They said that they have no choice but to fight on. More villagers have now come forward after the rude awakening they got on 30 September.

As for us in the PSM, this is a class war between the rich powerful against the poor. The policemen while recording my statement after the arrest asked if I lived in Kampong Hakka

BERSIH

JERIT

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or if I have relatives there. For him, it is a joke that among 13 people arrested, there were 6 Malaysian Indians caught protecting Chinese villagers. I told him that, I have been arrested before for supporting the plight of Palestinians, so what is the big deal in supporting affected people in Mantin, Negeri Sembilan. He felt embarrassed and soon started to speak our language- the language of the poor.

While there are still people keep arguing on technical matters if the villagers were right to defend their homes, why didn't they take the compensation etc but the bigger issue remains that a 100 year old village and the villagers are being forcefully evicted because some big company has made a move and some big people have taken a cut. The rest of us have a choice where we want to stand in this dispute.

For those who want to support, the kampong Hakka struggle, please contact Ghandi at 0166862080.

Written by,
Arutcheclvan
Activist & PSM's Secretary General

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