

ANALYSIS OF LEGAL CERTAINTY FOR LAND REGISTRATION THROUGH COMPLETE SYSTEM LAND REGISTRATION

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ABSTRACT

Land enlistment is an movement to supply legitimate certainty for the community, to be specific proof of arrive rights within the shape of arrive rights certificates, but within the process there are a few impediments since there are still lands that don't have rights. The reason of this think about is to analyze the lawful certainty of arrive enrollment without a premise of rights through a total framework of land enrollment utilizing standardizing lawful inquire about strategies. Physical information and juridical information are prove within the eyes of the law with respect to the possession of the proper to a plot of arrive to be certified. Verification of physical information based on juridical information given by the candidate where afterward the alteration of the juridical information is carried out by checking within the field.

Keywords: land enlistment, legal certainty, complete system land registration

INTRODUCTION

Land all through the domain of Indonesia is the common arrive of the Indonesian Country. It is possible to own individual land together with private rights. The private nature of person rights alludes to the specialist of the correct holder to utilize the land in address for the advantage of and to meet individual and family needs. The legal relationship with a plot of land that is the subject is a person and legal entity, while the authority is to do something about a piece of land under his control, where the form of control is juridical control and physical control (Siti, 2022)

The formation of a legal relationship with a plot of land is carried out by way of land registration. For the community, registered land provides guarantees of legal certainty over land, while for the Government, lands registered in the territory of Indonesia will provide legal claims over the territory of the Unitary State of the Republic of Indonesia as a whole (Siti, 2022)

The definition of land registration that has been implemented in the state administration system is based on the definition in Government Regulation No. 24 of 1997 concerning Land Enrollment, specifically a arrangement of exercises carried out by the government ceaselessly, persistently and routinely, counting the collection, handling, bookkeeping, and introduction and upkeep of physical information and juridical information, within the shape of maps and records, with respect to arrive bundles and units pads, counting the issuance of certificates of verification of title for arrive bundles that as of now have rights and proprietorship rights to pads units as well as certain rights that burden them. With the holding of arrive enlistment, the parties concerned can effectively discover out the status of the lawful status of the specific arrive they are managing with, the area.

Land enrollment is carried out based on the standards of straightforward, secure, reasonable, up-to-date and open. The definition of each rule of arrive enrollment is contained within the illustration of Government Direction No. 24 of 1997 as takes after: (Sudargo, 2012)

1. The rule of effortlessness implies that all related controls and land strategies must be effortlessly caught on by interested parties, particularly land rights holders.
2. The run the show of effortlessness infers that all related controls and land methodologies must be easily caught on by interested parties, especially land rights holders.
3. The principle of affordability, namely affordability in terms of opportunities to register and services for all parties, taking into account the integrity and capabilities of the economically weak group.
4. Sophisticated Principles. That is, the implementation of land registration is equipped with adequate infrastructure and the available data must be up-to-date. For that every data change must be registered and recorded. In addition, land registration data must be stored at the Land Office in accordance with the real situation on the ground.
5. The open guideline implies that the open can get data approximately rectify information at any time.

According to Sudikno Mertokusumo, the principle of land registration is divided into: (Sudargo, 2012)

1. The principle of speciality or the principle of specialist is the implementation of land registration carried out on the basis of certain laws which technically concern issues of measurement, mapping, and transitional registration.
2. The principle of openbaarheid or the principle of publicity means that everyone has the right to know juridical data about the subject of the right, the name of the land right, the transfer of encumbrance rights over land rights. In addition, everyone has the right to object before issuing a certificate, a replacement certificate, a lost certificate or a damaged certificate.

The reason of land enlistment is to ensure legitimate certainty by the Government to carry out arrive enlistment all through the region of the Republic of Indonesia concurring to the arrangements stipulated in Government Directions. The reason of arrive enrollment is clarified in more detail in Article 3 of Government Direction No. 24 of 1997 concerning Arrive Enlistment, specifically:

1. To give legitimate certainty and lawful security to rights holders over a divide of land, loft units and other enrolled rights so that they can effectively demonstrate themselves as the holder of the rights in address.

2. To give data to interested parties, counting the Government, so that they can effectively get the information required to carry out legitimate activities with respect to enrolled arrive packages and loft units.
3. For the usage of deliberate land organization.

Land registration will produce registration maps, measuring papers (for certainty with respect to the area, boundaries and zone of land), information from the subject concerned (for certainty who has the proper to the land in address), the status of the rights, and what burdens who is on the land right and the last one to produce a certificate (as a strong means of proof) (Sudargo, 2012).

In practice, in the implementation of the Complete Systematic Land Registration Program, not all of them get property rights certificates. Only partial certificates can be issued and the delivery of certificates cannot be carried out at all due to several obstacles experienced during the implementation of the Complete Systematic Land Registration Program. These obstacles vary, for example the certificate cannot be submitted because the Complete Systematic Land Registration Program requirements are not complete and there are internal administrative problems, the certificate cannot be submitted because there is still incomplete juridical data so the committee finds it difficult to achieve the certificate submission target however, the certificate will still be given to PTSL participants, it's just that it exceeds the specified time limit.

For someone who in this case does not have a certificate of land rights, it is necessary to prove himself as the holder of the land rights with other evidence besides the certificate. Land that does not yet have a certificate is very vulnerable to conflicts or disputes with other parties.

Therefore, researchers want to examine how the legal certainty of land that does not have a basis of rights registered through a complete registration system.

RESEARCH PROBLEMS

What is the legal certainty for land that does not have a legal basis registered through a complete registration system?

RESEARCH METHOD

The inquire about strategy in these composing employments the strategy of composing standardizing law. In this respect, the approach taken could be a statute approach, carried out by implies of library inquire about, specifically by perusing, considering and analyzing literature/books, laws and directions and other sources.

RESULTS AND DISCUSSION

Recognition of the right to something by a person or community must be based on valid and strong proof of ownership, one of which is the right to land and houses. Without evidence of written rights, a person or community cannot immediately make a statement regarding these ownership rights (Novida, 2022).

With the enactment of the Basic Agrarian Law (UUPA) Number 5 of 1960, the community can recognize several types of land ownership rights, including control rights from the state, customary rights from indigenous peoples/customary communities and individual rights (people and entities law) (Novida, 2022).

After the enactment of the Basic Agrarian Law Number 5 of 1960, as an implementation of Article 19 of the LoGA, Government Regulation Number 10 of 1961 was issued namely Land Registration with the Rechts-Cadaster system, not Fiscale-Cadaster so the main goal is legal certainty (Affan, 2006).

According to Budi Harsono, legal certainty and certainty of land rights require a well-executed written land law regulation and the holding of an effective and efficient land registration. The government carries out land registration activities with an institutionalized system as has been carried out in registration activities so far, starting from the application of a person or entity, processed until proof of title (certificate) is issued and registration data is maintained in the land book (Budi Harsono, 2006)

In the explanation of PP No. 24 of 1997 that the purpose of land registration is to guarantee legal certainty in the land sector with a negative publication system but containing positive elements. A certificate is the result of an official's decision as a strong proof of rights based on rights as a condition for proving their rights. The Civil Code in Article 1866 states that rights can be proven through written evidence, witnesses, confessions and oaths. According to the author, the basis of rights is the basic principle of proof of rights to explain an ownership or control of land that is legal, good faith and can be accounted for civilly (Akbar, 2005).

Implementation of Complete Systematic Land Registration which focuses on acceleration is carried out with policies that are very relevant according to applicable regulations. In its implementation there are potential impacts that result in a change for the better or vice versa (Farida, 2011).

The use of a statement of physical ownership of a land parcel is a step towards completing the completeness of the land registration documents for the first time as a companion to the evidence on the basis for the recognition of rights made. The concept of the contents contained in the statement of physical ownership of the land parcel is one unit that covers the outline of the contents of the acknowledgment of rights and both are known by boundary witnesses or witnesses who are considered important and signed by village officials or the village head (Chandra, 2005).

In Article 24 passage (2) Government Control Number 24 of 1997 states that for inadequate prove, the bookkeeping of rights can be supplemented with the truth that the physical proprietorship of the arrive bundles has been for 20 a long time or more sequentially with open control and known witnesses and not in a state of inconvenience or standard struggle over their arrive (Affan, 2006).

This regulatory statement is also contained in the same manner as Permen ATR/Ka.BPN Number 6 of 2018 which states that if there is incomplete evidence, it can be stated in the form of a written statement and/or a statement of physical ownership of the land allocate in great confidence by the individual concerned. The validity of the declaration of physical ownership of the land parcel is examined by a unit of juridical officers by assessing the truth of the contents of the ownership history. The use of a

statement of physical ownership of this land parcel is a complement so that landowners who have previously owned the basis of rights write down the contents of their land ownership history on the statement letter (Candra, 2005).

As for landowners who do not have a basis of rights but made a certificate of acknowledgment of new rights by the village head, this can be considered as evidence and is still accompanied by an explanation of physical possession of the land divide so that it can be said that the statement of physical ownership of the land parcel is a complementary statement for strengthening the first-time registration procedure that previously had rights (Muhammad Yamin, 2010).

Making a statement in the form of a statement of physical ownership of land parcels as simplified evidence of rights is the relevant effort ordered by PP No. 24 of 1997 Article 24 paragraph (2) which is a substitute for the absence or incomplete rights of the land owner as a means of proving written rights (Sudargo, 2012).

Issuance of a declaration of physical ownership of a land parcel which is quite risky regarding legal weaknesses, because the making of the above did not go through the time process and rules of the land inspection committee in the sub-district or village. This is necessary because the rules and time can minimize the occurrence of a double process of making a letter because it has been recorded in the process of making the letter and who participated in the committee for making the letter (Farida, 2011).

The Total Orderly Land Enlistment Program can give benefits counting the community having lawful verification of land possession, maintaining a strategic distance from arrive conflicts/disputes, and making community resources that can be utilized as bank ensures for wander capital. With this certificate, the proprietor has been pronounced lawfully owning the arrive so that it can ensure legitimate certainty of community arrive resources and have an affect on moving forward community welfar (Farida, 2011).

Certificate of land rights through Total Orderly Land Enrollment directs that the need is the smoothness of the method without dismissing the precision and exhaustiveness, judiciousness and precision in dealing with it, so that legitimate certainty of land rights is realized. Certificates of land rights give ensures of legitimate certainty over the land packages they claim, minimizing the event of debate, clashes and arrive cases (Farida, 2011).

The guideline of security in land enrollment is planning to appear that land enlistment must be carried out carefully and precisely so that the comes about can guarantee legal certainty concurring to the (most) reason of land enlistment. Careful and careful registration implementation is expected to bring advantages in terms of providing a high level of security. Security is the essence of land registration. Land owners or rulers, people who buy or rent land, people who lend money against land collateral, neighboring landowners have the right to pass over land, and so on, each and every one of them must be safe (Farida, 2011).

Land registration must also pay attention to whether there are demands, burdens or restrictions on the use/utilization of land. Registration that guarantees legal certainty must be able to reflect data/records that define land parcels and descriptions of their owners as well as restrictions on rights to an interest (Farida, 2011).

Settlement of Disputes over Land Rights can be resolved through the courts or alternative courts (litigation or non-litigation). This alternative is widely used, especially for disputes that are included in civil cases. Usually the litigation process means bringing dispute cases to court, while non-litigation is a settlement based on the good faith of the conflicting parties. Settlement for disputes from non-litigation according to the agreement of the disputants and written in an agreement is also commonly referred to as arbitration (Farida, 2011).

CONCLUSION

Based on the description above, it can be concluded that there are people who do not have written evidence of their land tenure. In general, they can only prove their land rights with concrete evidence that they physically control the land. In this case, a letter of replacement for rights can be in the form of a statement of physical ownership of the land parcel to facilitate the acceleration of land registration by no longer requiring the land owner to attach the basis of rights in the form of a land certificate.

The quality of physical and juridical information with respect to the method of enlisting land rights based on the Control of the Serve of Agrarian Undertakings and Spatial Arranging of the Republic of Indonesia Number 6 of 2018 With respect to Total Systematic Land Enrollment is to supply lawful solidness for landowners which gives a sense of security to their owners. Physical information and juridical information are prove within the eyes of the law with respect to the proprietorship of the correct to a plot of land to be certified. Verification of physical information based on juridical information provided by the candidate where afterward the alteration of the juridical information is carried out by checking within the field.

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