



Legal Protection for Village Communities Against Land Rights in the Construction of a National Strategy Project Through a Complete Systematic Land Registration System (Study of Pasuruan District Land Registration)

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Abstract

In this study using normative legal research. Policies related to land are required to guarantee legal certainty and certainty of land ownership rights by every person (individual) or by legal entities. So the community needs to register land in order to obtain a certificate of land rights which serves as a strong means of proof of ownership of land rights by someone. Meanwhile, Article 19 paragraph (1) of the Basic Agrarian Law states that to ensure legal certainty by the Government, land registration is held throughout the territory of the Republic of Indonesia. This is done so that land owners can obtain legal certainty for the land they have owned, and it's intended that rights holders obtain valid evidence in the form of certificates as a strong means of proof as holders of rights to the land they own. Starting from the description above, the researcher can provide several aspects of the study, including: First, the Complete Systematic Land Registration (PTSL) target is so large that it's not an easy job for the Pasuruan Regency land office, which has 29 State Civil Servants, assisted by 63 non-government employees, due to the limited number of existing staff, the implementation of the Complete Systematic Land Registration (PTSL) land office in Pasuruan Regency involves; 1. The private sector as a third party helping 20,200 fields for measurement and mapping activities, 2. Community participation in assisting Complete Systematic Land Registration (PTSL) in village locations for 10,100 respectively, and 29,700 fields carried out and carried out by the Pasuruan Regency Land Office ASN.

Keywords: *Legal Protection; Land Rights*

Introduction

It's necessary to realize that the 1945 Constitution of the Republic of Indonesia, especially Article 33, has emphasized that the basic essence of the "Right to Control" has regulated the basic norms and values of the people's economy and a desire for the interests of the State which aims to provide welfare and prosperity to the people.(Yudha Koswara, 2016)

Policies related to land are required to guarantee legal certainty and certainty of land ownership rights by every person (individual) or by legal entities.(Agustina, 2018) So the community needs to

register land in order to obtain a certificate of land rights which serves as a strong means of proof of ownership of land rights by someone. Meanwhile, Article 19 paragraph (1) of the Basic Agrarian Law states that to ensure legal certainty by the Government, land registration is held throughout the territory of the Republic of Indonesia. This is done so that land owners can obtain legal certainty for the land they have owned, and it's intended that rights holders obtain valid evidence in the form of certificates as a strong means of proof as holders of rights to the land they own.(Permadi, 2016)

The Ministry of Agrarian and Spatial Planning (ATR) or the National Land Agency (BPN) based on Presidential Regulation Number 17 of 2015 and Predisential Regulation Number 20 of 2015 has the task of organizing government affairs in the field of agrarian and land and spatial planning to assist the President in organizing state governance. Judging from the institutional history shows the fact that land registration activities by BPN have been carried out since 1955 or have been going on for 63 years.(Danu et al., 2020) However, based on data reported by the Ministry of Agrarian and Spatial Planning or the National Land Agency in 2018, out of a total of approximately 126 million land parcels in Indonesia, there are still 82 million land parcels that have not documented ownership. Therefore, during the establishment of this institution, which is 63 years, the number of land parcel ownership documents that have been successfully implemented has only reached around 44 million scattered throughout Indonesia (Ministry of ATR or BPN 2018). The absence of ownership documents for all of these land parcels means that the Ministry of Agrarian and Spatial Planning or the National Land Agency doesn't yet have a complete, correct, accurate and structured database regarding land.(Marryanti & Purbawa, 2019)

This condition is suspected to be one of the factors causing the emergence of land disputes, conflicts and land cases in Indonesia, the increasing number of overlapping ownership and control of land, injustice in land tenure, inequality in land ownership and uncertainty over land rights, and land grabbing by land. The company is still high due to incomplete land registration and problematic land administration.(Permadi, 2016)

Therefore, one of the priority agendas mandated by President Joko Widodo to the Ministry of Agrarian and Spatial Planning or the National Land Agency is to resolve agrarian and land issues so that land can provide justice and be able to improve the community's economy by implementing Complete Systematic Land Registration (PTSL) which is further regulated in the Ministry of Agrarian and Spatial Planning Ministerial Regulation or the Head of the National Land Agency Number 6 of 2018. In implementing Complete Systematic Land Registration (PTSL) in the field there are several obstacles or problems that make Complete Systematic Land Registration (PTSL) not run properly, including the implementation of Complete Systematic Land Registration (PTSL) at the Pasuruan district land office. The problem most often found in the villages where Complete Systematic Land Registration (PTSL) is located is that most of the common people who own land parcels don't know and understand the obligation to become Complete Systematic Land Registration (PTSL) participants. The land office of the Pasuruan district in 2017 received a target of 21,000 land rights certificate fields and increased in 2018 to 57,826 mapping fields and 52,000 land rights certificates, in 2019 63,000 mapping fields and 49,500 land rights certificate fields over land, by 2020 there will be 60,000 mapping fields and 56,000 land title certificates.(Mujiburohman, 2018)

Method

In this study using normative legal research.(Hidayat et al., 2020)

Results and Discussion

Implementation of a Complete Systematic Land Registration System in the Village Community of Pasuruan Regency

It's realized that the Complete Systematic Land Registration (PTSL) target is so large that it's not an easy job for the Pasuruan Regency Land Office, which has 29 State Civil Servants, assisted by 63 non-civil servants, due to the limited number of existing employees so that in implementing Complete Systematic Land Registration (PTSL) the Pasuruan district land office involves ; 1. The private sector as a third party helping 20,200 fields for measurement and mapping activities, 2. Community participation in assisting Complete Systematic Land Registration (PTSL) in village locations for 10,100 respectively, and 29,700 fields carried out and carried out by the Pasuruan Regency Land Office ASN.

Based on the results of the research carried out in the complete systematic land registration program Complete Systematic Land Registration (PTSL) carried out by the Pasuruan Regency Land Office and considering the size of the target, the Complete Systematic Land Registration (PTSL) implementation was carried out by 8 adjudication teams in the implementation of the Complete Systematic Land Registration (PTSL) program, with a target of 12 months. In the implementation process it's estimated that it doesn't exceed 1 fiscal year must start January and will be completed in December 2020.

Implementation of land registration in the Complete Systematic Land Registration (PTSL) program in January 2020, which includes (a) Planning; (b) Determination of location; (c) Preparation; (d) Establishment and appointment of Complete Systematic Land Registration (PTSL) adjudication committees and task forces; (e) Extension; (f) Physical data collection and juridical data collection; (g) Publication of physical data and juridical data and validation there of; (h) Confirmation of conversion, recognition of rights and assignment of rights; (i) Bookkeeping of rights; (j) Issuance of land title ownership documents; (k) Documentation and submission of results of activities; and (l) Reporting.(Nuralifah, 2021)

Although the complete systematic land registration program Complete Systematic Land Registration (PTSL) continues to be pursued by the Ministry of Agrarian and Spatial Planning and the National Land Agency (ATR / BPN) through the Land Office of Pasuruan Regency, some villagers still don't understand this national program. Thus the people of Pasuruan Regency village still need to get accurate information by continuing to provide counseling through outreach to the village head and implementing filing or collecting physical and juridical data, so that the village head really understands the Complete Systematic Land Registration (PTSL) rules, but also makes it easier for the community to obtain land certificates. (Hisbullah et al., 2019)

In the dynamics of Complete Systematic Land Registration (PTSL) problem practice, the most common obstacle encountered is the ignorance of village communities about their obligations in Complete Systematic Land Registration (PTSL), even though the extension has been delivered and explained by extension officers from the Pasuruan Regency land office, namely:

1. Prepare a base for land ownership rights;
2. Prepare a stamp for the statement letter attached to the Complete Systematic Land Registration (PTSL) rights application;
3. Installing a stake at each boundary of the land parcels owned;
4. and Paying Fees for Acquisition of Land and Building Rights (BPHTB), for BPHTB is given relief by signing a statement letter that the BPHTB is payable.

The Pasuruan Regency Land Office realizes that there are legal loopholes regarding the obligations of village communities who have legally used Complete Systematic Land Registration (PTSL), the need for the involvement of related *stakeholders* so that to minimize it has collaborated with the Pasuruan Regency and City Police, the Pasuruan Regency Public Prosecutor's Office by being involved in extension activities to provide explanations and related understanding illegal levies, and avoiding criminal law traps in the implementation of Complete Systematic Land Registration (PTSL). Until now, the implementation of Complete Systematic Land Registration (PTSL) at the Land Office of Pasuruan Regency has reached 97.2% completion rate, most of which have arrived at the issuance of ownership document rights, even some of the product ownership documents have been submitted directly to the Complete Systematic Land Registration (PTSL) participating communities in each village. The ownership documents that have been submitted have been used by the community for productivity in business in line with the disbursement of loans guaranteed by the 2020 Complete Systematic Land Registration (PTSL) certificate to the East Java Community Credit Bank, which has reached the figure of eight billion.

Legal Protection of Pasuruan Village Communities Against Land Rights in a Complete Systematic Land Registration System

Land registration according to the Government Regulation of the Republic of Indonesia Number 24 of 1997 using the Negative Publication system. The implementation of this system has had a major influence on the land registration system in Indonesia. In this system the state only passively accepts what the party requesting registration states. Therefore, at any time, people who feel they have more rights to the land can sue. Parties who acquire land from registered persons aren't guaranteed. Although he acquired the land in good faith. ("KEBIJAKAN PENDAFTARAN TANAH SISTEMATIS LENGKAP DI KOTA MANADO," 2018) This means that in a negative publication system, the statements contained there in have legal force and must be accepted as true information as long as and as long as there is no means of evidence to prove otherwise.

The advantages of a negative system are: a) the protection of the real rights holders; b) there is an investigation into the history of the land before the ownership documents is issued. In a negative registration system, there is no obligation for land registration officials to check on whose behalf the registration of rights is made. Land registration officials register rights in public registers in the name of the applicant without first examining the applicant, so that the registration work of transfer of rights in the negative system can be carried out quickly and smoothly, as a result of the absence of the inspection by the land registration official. The weakness in the negative system is that it's not guaranteed the correctness of the contents of public lists as rights holders must counteract the risks themselves if those registered aren't the real rights holders. ("PERMASALAHAN PELAKSANAAN PENDAFTARAN HAK ATAS TANAH," 2015)

The principle of good faith provides protection to a person who in good faith obtains a right from a person suspected of being a legal right holder. (Ostrensky, 2019) Whereas in the legal principle of *nemo plus juris*, a person cannot take legal actions that exceed their rights, and the consequences of such violations are null and void, which results in the legal action being deemed to have never existed and therefore having no legal consequences and if the legal action causes loss, then the injured party can ask for compensation from the parties who committed the legal act. (Silviana, 2019) Therefore, the principle of *nemo plus juris* is always open to the possibility of a lawsuit against the owner whose name is listed on the certificate from the person who feels he is the owner. Based on the principle of *nemo plus juris*, the possession of a land right by an unauthorized person is null and void. ("THE INFLUENCE OF RELIGIOUS NORMS ON THE CURRENT AGRARIAN LAW," 2014) Thus, the real right holder can always claim back his rights which have been transferred without his knowledge from whoever the rights are. This is very important to provide protection to real land rights holders. (Safitri & Setiawan, 2019)

The Head of the Pasuruan Regency Land Office along with the Complete Systematic Land Registration Adjudication Committee and the Task Force, the benefits of this counseling for the community include that the community can find out the benefits of implementing this Complete Systematic Land Registration activity, the community can find out what stages are in the activity. This, what documents need to be prepared, and what fees or taxes will be borne by participants in this Complete Systematic Land Registration. The ultimate benefit of this activity lies in the Issuance of Land Rights Ownership Documents, where the ownership documents can provide legal certainty for land rights holders.

Conclusion

Starting from the description above, the researcher can provide several aspects of the study, including: First, the Complete Systematic Land Registration (PTSL) target is so large that it's not an easy job for the Pasuruan Regency land office, which has 29 State Civil Servants, assisted by 63 non-government employees, due to the limited number of existing staff, the implementation of the Complete Systematic Land Registration (PTSL) land office in Pasuruan Regency involves; 1. The private sector as a third party helping 20,200 fields for measurement and mapping activities, 2. Community participation in assisting Complete Systematic Land Registration (PTSL) in village locations for 10,100 respectively, and 29,700 fields carried out and carried out by the Pasuruan Regency Land Office ASN.

Second, in the dynamics of Complete Systematic Land Registration (PTSL) problem practice, the most frequently encountered is the ignorance of village communities about their obligations in Complete Systematic Land Registration (PTSL), even though the extension has been delivered and explained by extension officers from the Pasuruan Regency Land Office, namely: (1) Preparing land ownership rights mats; (2) Prepare a stamp for the statement letter attached to the Complete Systematic Land Registration (PTSL) rights application; (3) Putting a shake at each boundary of the land parcels owned; and (4) Paying Fees for Acquisition of Land and Building Rights (BPHTB), for Acquisition of Land and Building Rights BPHTB is given relief by signing a statement letter that BPHTB Acquisition of Land and Building Rights is payable.

Third, in connection with the principle of legal protection in the Regulation of the Minister of Agrarian and Spatial Planning or the Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018, it aims to provide benefits. The relevance of the benefits in this Ministerial Regulation is the existence of legal protection and the responsibility of the Government, especially the Pasuruan Regency Land Office in implementing the Complete Systematic Land Registration Program from the initial stage to the final stage, which greatly benefits the community who is a Complete Systematic Land Registration Participant.

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