

Implementation of Complete Systematic Land Registration for Legal Sure Of the Rights of Traditional Land In Kampar District

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Abstract: Customary land in the term of land law is known as systematic land registration and sporadic land registration. Both of these activities do not need to be preceded by the buying and selling process. The main problem in this research is how the process of procuring the basis of rights to customary land rights in Complete Systematic Land Registration in Kampar District, how is the implementation of Systematic Complete Land Registration for legal certainty of customary land rights in Kampar Regency and how is the resolution of disputes over customary land rights in Complete Systematic Land Registration in Kampar District.

Key Words: Implementation, PTSL, Legal Certainty, Customary Land Right.

1. INTRODUCTION:

Land is a part of the earth called the surface of the earth. Land is one of the objects regulated by Agrarian Law. Land governed by Agrarian Law is not land in its various aspects, but land from its juridical aspect, which is directly related to land rights which are part of the earth's surface. The surface of the earth is called land that can be given to and can be owned by people, either alone or together with other people and legal entities. [1]

Land registration is carried out keeping in mind the condition of the State and society, the need for socio-economic traffic and the possibility of every inch of land in the eyes of agrarian law, the status of rights and rights holders must be clear. For example, Hak Milik land is clearly not State land and the criteria differ from land use rights for buildings, land use rights, rights to use. Likewise, whoever is allowed to control or own it and the designation for the use of the land has different criteria.

The government's objective of holding land registration and issuing certificates is one manifestation of the intended land registration objectives. Law No. 5/1960 on Basic Agrarian Principles, through Article 19 mandates that the government conducts land registration for the entire territory of the Republic of Indonesia and that land title certificates are strong evidence of control or ownership of land. [2]

The implementation of land registration will produce a final product in the form of a certificate as proof of ownership of land rights. However, in its implementation, there must be obstacles, both in the administration and from the community itself. There are still people who do not really understand the importance of land registration. [3] Rights or land holders are entitled to obtain authentic evidence that is legally binding on their land ownership from the competent authority, namely the National Land Agency (BPN).

2. THEORITICAL FRAMEWORK:

a. The theory of Legal Certainty

According to legal certainty is the certainty of legal rules, not certainty of actions against or actions in accordance with the rule of law. Because the phrase legal certainty is not able to describe the certainty of behavior towards the law really. [4]

b. Land Registration Theory

Land registration According to AP Parlindungan, namely land registration comes from the word *Cadastre* (Dutch *Cadastre*), a technical term for a *record*, indicating the area, value and ownership of a land parcel. This word comes from the Latin *Capistratum* which means a register or *capita* or unit made for Roman land tax (*Capotatio Terrens*).

c. Dispute Resolution Theory

- Dispute Resolution through Litigation

The process of dispute resolution carried out through courts or what is often referred to as "litigation", is a dispute settlement carried out by proceeding in court where the authority to regulate and decide is exercised by the judge.

- Dispute Resolution through Non-Litigation

In dispute resolution through non-litigation, we are familiar with the existence of alternative dispute resolution or *Alternative Dispute Resolution* (ADR), which in the perspective of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, *Alternative Dispute Resolution* is an out-of-court dispute resolution institution based on the agreement of the parties by ruling out litigation dispute resolution in court.

3. LITERATURE REVIEW:

In Article 1 paragraph (2) Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration, it is stated that Complete Systematic Land Registration, hereinafter abbreviated as PTSL, is the first Land Registration activity carried out simultaneously for all objects of land registration throughout the territory of the Republic of Indonesia in one village / kelurahan or other similar names, which include the collection of physical data and juridical data regarding one or several objects of land registration for registration purposes.

In Article 2 Paragraph (2) Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration, it is stated that this Ministerial Regulation aims to realize the provision of legal certainty and legal protection of community Land Rights based on simple principles, fast, smooth, safe, fair, equitable and open, can improve the welfare and prosperity of society and the country's economy, and reduce and prevent land disputes and conflicts.

Customary land in the term of land law is known as land registration for the first time, namely land registration activities carried out on objects of land registration that have not been registered. These activities are of two types, first, systematic land registration, which is initiated by the government. Second, sporadic land registration is carried out independently / on the initiative of the land owner. Both of these activities do not need to be preceded by a buying and selling process.

Based on Article 19 of Law Number 5 Year 1960 concerning Basic Agrarian Regulations (UUPA), it is stipulated that to ensure legal certainty by the government, land registration is held throughout Indonesia. The implementation platform used by the Land Office is in accordance with the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration. In addition, the main objective of implementing PTSL is that the Government has a single map related to land in Indonesia, especially legal certainty of customary land rights. The settlement of disputes over customary land rights in Complete Systematic Land Registration (PTSL) in Kampar District is through mediation. Mediation can be taken if the parties agree to negotiate on the principle of deliberation to reach a consensus for the benefit of all parties. If one of the parties refuses, then the settlement shall be settled in accordance with the provisions of the legislation. Technically, the mediation is carried out for a maximum of 30 days where the mediator comes from the ministry, the Land Office. In the event that an agreement is found in mediation, then a peace agreement is made based on the mediation minutes that bind the parties. After that, the peace agreement is registered at the Registrar's Office of the local District Court to obtain binding legal force.

4. METHOD:

The method used in this research is juridical empirical, which is a study that uses a method of approaching the problem by looking at the prevailing legal norms which are then linked to the legal facts in the field.

5. DISCUSSION:

The need for land today is increasing in line with the increase in population and other needs related to land. Land is not only a place to live, a place for farming but is also used as collateral for obtaining a loan from a bank, for buying and selling purposes, for rent and rent. It is so important that the use of land for the public interest for a person or legal entity demands a guarantee of legal certainty over the land.

Based on the Regulation of the State Minister for Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration, the basis for rights uses the term juridical data. The juridical data referred to is information regarding the legal status of the registered land parcels, the rights holders and the rights of other parties as well as other burdens that impose them.

With the existence of the National Land Law, it is hoped that the creation of legal certainty in Indonesia. For this purpose, the government is followed up with the provision of written legal instruments in the form of other regulations in the field of national land law which support legal certainty and furthermore through existing regulatory instruments law enforcement is implemented in the form of effective land registration.

After the enactment of the UUPA, all western rights that have not been canceled in accordance with the provisions as mentioned above, and are still valid are not immediately abolished and are still recognized, but to be able to become property rights over land according to the system regulated by the LoGA, must first converted according to and in accordance with the terms of conversion and the rules for its implementation.

Our country as a rule of law, as stated in the 1945 Constitution of the Republic of Indonesia, recognizes and protects the rights of the people and indigenous peoples to land. However, if it is necessary for a project that has the nature of public or national interest, the land owned must be surrendered. It is a general legal principle in living together that the public interest and the national interest must take precedence over personal and group interests; especially because the land that is owned is land with the Indonesian people, as stated in Article 1 of the UUPA. However, it is stated in the General Elucidation of UUPA that it does not mean that their rights and interests are simply ignored. This is evidenced in the determination of the principle of dispute settlement regarding the form and amount of compensation, which is obligatory, to be given to individuals holding land rights, as stated above.

6. ANALYSIS:

A. Implementation of Complete Systematic Land Registration for Legal Certainty of Rights to Customary Land in Kampar Regency

Complete Systematic Land Registration is carried out to obtain legal certainty for holders of land rights and other parties who have interests in the land they control. Legal certainty of land ownership can be realized by issuing land certificates. The Basic Agrarian Law stipulates that the Government holds land registration throughout the territory of the Republic of Indonesia which aims to guarantee legal certainty over land rights. [5] Efforts to achieve legal certainty in land registration are the issuance of land certificates. A certificate according to Government Regulation Number 24 of 1997 concerning Land Registration is in the form of a single document containing information on juridical data and physical data required for a land parcel for which rights are registered.

A land certificate connects the legal certainty of land parcels and rights holders. The nature of a land certificate is strong evidence, but what is confirmed in Article 19 paragraph (2) Government Regulation Number 24 of 1997 concerning Land Registration has not fully guaranteed legal certainty and protection for land rights holders. This is because the land registration system adopted by Indonesia is a negative system with a positive tendency. Thus, everything that is listed in the land book and certificate of land rights shall act as strong evidence until it can be proven that an otherwise untrue situation.

B. Dispute Resolution Against Indigenous Land Rights in Complete Systematic Land Registration in Kampar Regency

Based on the results of interviews conducted with the Head of Sub-Section for Land Rights Registration at the Kampar District Land Office, Mr. Syahri Nurriszki, regarding the settlement of disputes over customary land rights in Complete Systematic Land Registration in Kampar Regency, namely through the mediation channel. Mediation can be taken if the parties agree to negotiate on the principle of deliberation to reach a consensus for the benefit of all parties. If one of the parties refuses, then the settlement shall be settled in accordance with the provisions of the legislation. Technically, the mediation is carried out for a maximum of 30 days where the mediator comes from the ministry, the Land Office. In the event that an agreement is found in mediation, then a peace agreement is made based on the mediation minutes that bind the parties. After that, the peace agreement is registered at the Registrar's Office of the local District Court to obtain binding legal force. It should be noted that mediation is considered canceled if after being properly invited three times, the parties or one of the disputing parties is not present. Thus, the parties are welcome to resolve disputes or conflicts with the provisions of the applicable laws and regulations.

7. CONCLUSION:

From the discussion as explained earlier, several conclusions can be drawn, including:

- Implementation of Complete Systematic Land Registration (PTSL) for legal certainty of customary land rights in Kampar Regency is not in accordance with the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration because there are still many obstacles and problems. happens in the field. Which

is in accordance with the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration Article 2 paragraph 2 states to realize the provision of legal certainty and legal protection of community land rights based on the principles of simple, fast, smooth, safe, fair, equitable and open and accountable, so as to improve the welfare and prosperity of society and the state economy, as well as reduce and prevent land disputes and conflicts. In addition, the main objective of implementing PTSL is that the Government has a single map related to land in Indonesia, especially legal certainty of customary land rights.

- Settlement of disputes over customary land rights in Complete Systematic Land Registration in Kampar District, namely through mediation.

8. SUGGESTIONS:

The suggestions given by researchers are as follows:

- For the Kampar District Land Office, it must increase legal education or socialization about land, so as to increase community knowledge and understanding regarding the implementation of the Complete Systematic Land Registration (PTSL) program, especially customary land.
- For the community, so as not to feel reluctant in carrying out land registration, given the importance of evidence that can provide legal strength and certainty to the land parcels they own, especially customary lands.

REFERENCES:

1. M Arba, *Hukum Agraria Indonesia*, Sinar Grafika, Jakarta, 2015, page 7.
2. F.X. Sumarja, *Problematika Kepemilikan Tanah Bagi Orang Asing*, Indepth Publising, Bandar Lampung, 2012, page 9.
3. Irawan Soerodjo, *Kepastian Hukum Pendaftaran Hak Atas Tanah di Indonesia*, Arloka, Surabaya, 2002, page 40.
4. Dominikus Rato, *Filsafat Hukum Mencari : Memahami dan Memahami Hukum*, Laksbang Pressindo, Yogyakarta, 2010, page 59.
5. Jawahir Urip Santoso, *Hukum Agraria Kajian Komprehensif*, Prenada Media Group, Jakarta, 2012, page 248.