

LAND REGISTRATION BASED ON COMMUNAL LAND TRADING IN SOLOK DISTRICT

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Abstract: National agrarian law acknowledges traditional communal rights on ulayat land mentioned in the article 5 of agrarian law (UUPA). As legal certainty, government must conduct land registration based on Act no 5 Year 1960 regarding agrarian affair. Unfortunately, most of individuals have not registered yet their ulayat land even for buying and selling.

Key Words: sale and purchase, tenure land, and registration of transfer of rights.

1. INTRODUCTION:

Land for human life is very important, this is because almost all aspects of life, especially for an agrarian society.[1] Land does not only consist of private land but also customary land which has high value. National Agrarian Law recognizes the existence of customary rights in customary law communities.

Hak ulayat is a collective right (collective right) held by the adat community (adat law community) over the lands within their territory. "For the Unitary State of the Republic of Indonesia, the 1945 Constitution (UUD) is a constitution which exists as a" social contract "to unite various regional, ethnic, racial and religious backgrounds.

Customary law communities are communities that arise spontaneously in a certain area, whose establishment is not determined or governed by a higher authority or other rulers, with a very large sense of solidarity among members, viewing non-members as outsiders and using their territory as a source of wealth that can only be used by its members.[2]

One of the customary law communities that has a close relationship with their ulayat is the Minangkabau adat law community. According to Minangkabau custom, "all land and forest starting from a single tree, one stone to a single grass, whose height reaches the sky and its depth to the bowels of the earth is ulayat.[3]

With developments in land law, the integrity of customary land rights has begun to be disrupted. The community began to sell their communal land, resulting in deviations from customary regulations. These changes are then followed by changes in ownership, control and also visible social changes that are formed by the relationship between humans and land. As in Solok District, their clan customary land has been allocated (*ganggam bauntuak*), then the land is sold off.

2. THEORITICAL FRAMEWORK:

a. Theory of Legal Certainty

According to Utrecht, legal certainty contains two definitions, namely first, the existence of general rules that make individuals know what actions are allowed or not to be done, and second, in the form of legal security for individuals from government abuse due to general rules. the individual can find out what the State may impose or do against individuals.[4]

b. Agreement Theory

Theory Contract theory related to the obligations of the parties or *Theories of contractual obligation* is a theory that examines and analyzes the implementation of the contractual rights and obligations of the parties.

3. LITERATURE REVIEW:

Land registration is important as strong evidence of land rights to prove as the owner of land rights in harmony.

The purpose of land registration is also to collect and provide complete information on land parcels, which is confirmed by the possibility according to PP. 24/1997 books of land parcels whose physical data or juridical data are incomplete or are still in dispute, although for such lands a certificate of proof of their rights has not been issued yet. [5]

The sale and purchase of land is essentially a transfer of land rights to another party, namely from a seller to a land buyer.[6]

According to Boedi Harsono, what PPAT means is a position (ambt) in the structure of our national agrarian law, especially the law that regulates land registration. Can also be interpreted as "person" who held the position.[7]

5. METHOD:

The method used in this research is juridical empirical, which formulates problems by looking at legal practices carried out by the community and then linking them with the applicable legal rules.

6. DISCUSSION:

Land in customary communities is a property that is always maintained because the prestige of a people is very much determined by the size of the land they have, as well as in determining whether a person or a people originate from an area.[8]

The pattern of land ownership in Minangkabau is not individual, but communal, namely belonging to tribes, clans and nagari. Ulayat land is an heirloom that is passed down from generation to generation, the right of which lies with women, but as the holder of the customary land rights is the head of the inheritance mamak. The control and management of customary land is intended to protect and maintain the life and existence of the community (cultural existence). In addition, customary land also contains religious, historical and even magical elements and aims to prosper the people in it.

Developments in the field of land law normatively and in line with the development of the increasingly modern times have influenced the views of indigenous peoples towards land, both in terms of ownership, control and use. This change of view has begun to be seen in land tenure in communities in West Sumatra, especially over communal land, where the land is land controlled from generation to generation based on a "matrilineal" inheritance system (according to maternal lineage), [9] which is regulated by customary law "*tak lapuak dek hujan, tak lakang dek paneh*" (not weathered by rain, not rusty by heat) which means it will not be swallowed up by time and will always be preserved from generation to generation.

7. ANALYSIS:

Solok Regency is a plateau with an altitude of 284 m - 1,458 m above sea level, located at a position between 000 32 'and 010 46' south latitude and between 10025 ' - 10141' east longitude. Solok Regency is a land area of 3,738 km².

In principle, the Minangkabau customary law community is not allowed to transfer their customary land rights by way of sale and purchase because this causes the indigenous peoples concerned to lose their ulayat lands for good. The people of Solok Regency often say that the ulayat of the clan is a high inheritance.

Niniak Mamak is a customary institution consisting of several heads of people who come from various tribes. In Solok District, niniak mamak is commonly referred to as "niniak mamak iv jinih" or an elder traditional figure in adat who has the main task of protecting sako (customary title) and pusako (property). Sako is a customary title attached to Minangkabau men when appointed as a customary apparatus in a tribe or clan.

Role is an action performed by an individual in an activity or event / land registration due to sale and purchase, in this case it is a set of actions owned by someone (Land Deed Maker Official) who is domiciled in the community, while the definition of the role itself is the duty which includes rights and obligations. [10]

The Official for Making Land Deeds (PPAT) has a very important role in land registration, which is to assist the Head of the Regency / City Land Office to carry out certain activities in land registration, in accordance with Article 6 of Government Regulation Number 24 of 1997 that the task of implementing land registration carried out by the Head of the Land Office, except for certain activities which are assigned by this Government Regulation or the relevant legislation to other officials, in carrying out land registration, the Head of the Land Office is assisted by PPAT and other Officials assigned to carry out certain activities according to Government regulations and the relevant laws and regulations.

Land registration based on sale and purchase means that there is a transfer of land rights through sale and purchase. The registration of the transfer of land rights in Solok Regency is inseparable from the procedures that have been stipulated by the prevailing regulations. Therefore, applicants who wish to register their land are required to meet the specified requirements.

8. CONCLUSION:

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

- The types of land in Solok Regency are generally ulayat lands of the local community which are still not registered / certified by the local community because according to them the strategic ulayat rulings are assets whose condition is permanent / eternal and the fact of the relationship between members of the clan and their respective customary rights and managed based on customary norms that have been maintained for generations.
- The process of buying and selling ulayat land in Solok Regency after the existence of Government Regulation number 24 of 1997 concerning Land Registration is that the communal land of the clan has been allocated (ganggam bauntuak) to one of the members of his clan and for those who receive the ulayat land designation of the people who wish to sell the ulayat land This must be with the consent of all members of the clan, the head of the heir and be known by the ninik mamak. The ulayat land must be registered / certified in advance in the name of the person receiving the ulayat land designation at the local National Land Agency (BPN) office. After the certificate is issued, the parties (seller and buyer) go to the office of the Land Deed Maker (PPAT) to conduct a sale and purchase transaction.
- The role of the Land Deed Making Official (PPAT) in the sale and purchase of ulayat land in Solok Regency after Government Regulation No. 24/1997 on land registration, namely assisting the Solok Regency Land Office in carrying out certain activities in land registration. This is related to the function of deeds made by the Official for Making Land Deeds (PPAT) as proof that a certain legal action has been done. In the case of the sale and purchase of customary land in Solok Regency, PPAT will make the sale and purchase deed of the ulayat land if the parties (the seller and the buyer) have completed the required documents for the making of the land sale and purchase deed. And PPAT is also responsible for ratifying the deed it has drawn up, after the deed is signed no later than 7 (seven) working days from the date the deed is signed, PPAT is obliged to submit the deed made along with the relevant documents to the Land Office to be reversed on behalf of buyer. Then the PPAT is obliged to deliver a written notification regarding the delivery of the deed to the parties concerned.

9. SUGGESTIONS

The suggestions given by researchers are as follows:

- It is hoped that people who have land that have not been registered (certified) to register their land with the Regency / City National Land Agency Office regarding the importance of registering land rights and the importance of transferring land rights to an authorized official as regulated in Government Regulation No. 24 of 1997 concerning Land Registration which aims to be able to guarantee legal certainty for the land.
- There is a more intense continuous socialization in the land sector to the community so that the community understands and understands land law and is more aware of their rights in the land sector.

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