

THE POSITION OF KUUM'S ULAYAT LAND BECOME A PROPRIETARY TRANSFER OF PEOPLE'S ULAYAT RIGHTS OUTSIDE OF TRADITIONAL PROVISIONS IN NAGARI HEAD HILALANG, 2X11 KAYU TANAM DISTRICT, PADANG PARIAMAN

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Abstract: Today there is a mandate from the government to certify land rights including customary land owned by a people based on Government Regulation Number 24 of 1997 concerning Land Registration, because the purpose of land registration is the existence of legal certainty for the owner of the land, providing legal protection for the land owner. the land itself and the holder of land rights and provide certain information for interested parties. It is also a motivating factor for a people to register their ulayat land, through the local National Land Agency which has the status of conversion of land rights. So that the certificate that will be issued contains the Mamak Head of Inheritance as the leader of the clan and members of the clan. However, there are several things that violate customary provisions in the transfer of customary rights of the people.

Key Words: Ulayat Land, Property Rights, Minangkabau.

1. INTRODUCTION:

Minangkabau area applies a matrilineal kinship system, which is based on maternal lineage, so that customary rights are assets that are always maintained by indigenous peoples based on customary rights that have been shared with certain people.[1] The rights to the land of the people or the ulayat of the people can be transferred either to other parties or to the members of the clan themselves, the members of the clan can transfer the rights to the customary land of the people to become their private property by means of the distribution of joint rights which are intended for one of the members of the clan. This kind of thing has become a polemic regarding the position of the ulayat land of the people which was originally owned communally (together) into private property which can be inherited to children and spouses, no longer to nephews or members of their people so that this can eliminate the existence of the ulayat land of the people themselves.

2. THEORITICAL FRAMEWORK The:

a. Theory Benefit Theory

Utilitarianism *the* view that the purpose of law is to benefit as many people as possible.

b. School of History

The school of history is one of the schools of law that emerged as a reaction to people's thinking that developed to interpret the law because the law can solve all legal problems in social life.

3. LITERATURE REVIEW:

According to Boedi Harsono, ulayat rights are a series of authorities and obligations of a customary law community, which relates to land located within its territory. ulayat rights include all land that is in the area of the legal community concerned, both those that have been liberated by someone or those who have not. In the ulayat environment there is no land as "*res nullius*".[2]

Looking back at the history of the Minangkabau journey in the context of forming the character, social and culture of the Minangkabau community, we will come to a conclusion that the combination of two teachings, namely traditional teachings and Islamic teachings, has succeeded in creating a strong and solid life frame, depending on the people's reasoning power to respond to changes that occur. occur. It is enough that social and economic guidelines are sufficient, looking at a stable government, maintaining an established order, creating a just distribution of society and prosperity and prosperity in justice.

Urip Santoso stated that land rights stem from state control rights over land granted to individuals, both Indonesian citizens and foreign nationals, a group of people together, and legal entities, both private legal entities and public legal entities.[3]

4. METHOD:

The method used in this study is an empirical juridical approach, namely an approach based on the enforcement or implementation of normative legal provisions in accordance with the reality or facts that occur in society.[4]

5. DISCUSSION:

One of the areas that transfers the customary rights of the people outside of customary provisions is in Nagari Kepala Hilalang, 2x11 Kayu Tanam District, Padang Pariaman Regency, West Sumatra. The meaning of 2x11 is that the number 2 represents the downstream area and the homecoming area and the number 11 relates to the number of nagari or villages and tribes that inhabit the downstream area and the homecoming area. The 6 tribes that inhabit this area include Sikumbang, Guci, Jambak, Pengalai, Koto, and Tanjung. They can be found in village villages such as Pakan Baru, Pakandangan, Parit Mantang, and Koto Tinggi which are downstream, besides that they also inhabit villages in the homecoming area such as Guguak, Kayu Tanam, Hilalang Head, Sicincin and Induriang. In Nagari Kepala Hilalang, Kayu Tanam Subdistrict, Padang Pariaman Regency, according to the results of research in general, ownership and control of land rights in Nagari Kepala Hilalang mostly consist of customary land of the people and there are some state lands that were former Dutch plantations.

Ownership of customary land of the people which has been controlled from generation to generation to obtain legal certainty, not a few of the customary land of the people are issued certificates either sporadically or systematically. After the certificate is issued in the name of a certain group, some of them are transferred by way of the distribution of rights between these people using the Deed of Sharing Joint Rights by that group to members of their clan.

6. ANALYSIS:

A. Reasons for the Transfer of Customary Rights Outside of Customary Provisions in Nagari Head of Hilalang District 2x11 Kayu Tanam, Padang Pariaman Regency

The reasons for the clan members to make the transition by dividing the customary rights of the people into property rights, among others:

- To redeem the garden pawn because there is no solution to get back the communal land that has been pawned, he also sees the benefits that the pawned land can bring and can be used as a business opportunity for his family.
- Mamak head heirs aim that one day when the mamak head heirs have died there will be no dispute between his niece or the children of his female nephews because the customary land owned by the people is not too wide if it is divided in the future.
- Members of the clan want to get protection and legal certainty for the customary lands of the people they have.

B. The process of transferring the customary rights of the people outside the customary provisions to become property rights in the Nagari Head of Hilalang District 2x11 Kayu Tanam, Padang Pariaman Regency

The approved customary land is sold to redeem the pawn because it has not yet been registered, the registration is carried out for the first time with the attachment of a statement of approval from all clan members and approved by the tribal chief and the Head of the Nagari Customary Density and known by the Nagari Wali concerned by attaching a ranji containing the name of the member the clan, which in the first registration was in the name of the mamak of the head of the heir H. Syamsir Harun and members of his clan, after that the division of joint rights was carried out in the name of H. Syamsir Harun and a member of the clan named Darlis because the two of them made the purchase of the land. However, the land which is divided into property rights for the daughters of Tinur has not yet registered the ulayat land.

7. CONCLUSION:

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

- 1) There are three reasons found in the research, namely to redeem the garden pawn because there is no solution to get back the customary land that has been pawned and also to see the benefits that can be obtained. caused by the pawned land can be used as a business opportunity for his family, avoid disputes in the future, and want to get legal certainty.
- 2) The Process of Transferring the Customary Rights of the People Outside of Customary Provisions into Property Rights in Nagari Head of Hilalang District 2x11 Kayu Tanam, Padang Pariaman Regency is an application for customary land to become property rights in customary law, especially in Minangkabau, it has not been regulated in laws and regulations, but the transition from The customary land becomes private property or property rights can be carried out with certain conditions, namely an agreement with the members of the tribe that has been approved and known together with traditional leaders and government agencies, the conditions that must be met are to administer the Land Value Zone to the Land Agency of Padang Pariaman Regency. for registration of transfer of right

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