

PRIORITY RIGHTS FOR HEIRS WHO HAS EXPIRED THE TERM OF THE BUILDING USE RIGHT CERTIFICATE IN PEKANBARU CITY

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Abstract: Land will basically be controlled and utilized by someone, so the State provides an opportunity for citizens to register land that has been controlled, whether it is used as a Property Right, or other rights such as Building Use Rights. The state grants Building Use Rights for 30 years and can be extended for 20 years. When the building use rights expire, the government still provides an opportunity to be re-registered through renewal of rights for 30 years. And if the holder of the Building Use Right dies, the state still provides an opportunity for the heirs to have their rights re-registered.

Key Words: Priority Right, Building Use Right, Pekanbaru City Land Office.

1. INTRODUCTION:

Upon death, a person's ownership of land ends and results in the transfer of wealth from the deceased person, both material and immaterial wealth to the deceased person's heirs. Wealth that is the legacy of the heir has died while the heir is still alive at that time the inheritance is open.[1]

Registration is carried out on the process of inheritance which is a transfer of rights due to inheritance in the form of maintenance of physical data. The purpose of maintaining this physical data is regulated under Article 1 Number 12 of Government Regulation Number 24 of 1997 concerning Land Registration.

2. THEORITICAL FRAMEWORK:

a. Authority Theory

Juridically, the notion of authority is the ability granted by laws and regulations to cause legal consequences.[2]

b. Legal Certainty Theory

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law is implemented, that those entitled according to law can obtain their rights and that decisions can be implemented.[3]

c. Theory of Land Rights Transition

Switching, meaning the transfer of ownership rights to land from the owner to another party due to a legal event.[4]

3. LITERATURE REVIEW:

Another definition of the transfer of land rights, as cited by Erene Eka Sihombing, is the transfer or transfer of the ownership rights of a plot of land or several plots of land from the original owner to the new owner because of something or certain legal actions.[5]

The right to land comes from the right to control from the state over land that is given to individuals, both Indonesian citizens and foreign citizens, groups of people together, and legal entities, both private legal entities and public legal entities.[6]

Land registration is a requirement in an effort to organize and regulate allotment, control, ownership and use of land, including to resolve various land issues.

Land Deed Making Officials are appointed and dismissed by the Head of the Agency Head of the Regency/City Land Office in carrying out some land registration activities, and his authority is to make deed of certain legal actions regarding land rights or ownership rights to Flat Units. PPAT has been known since the enactment of Government Regulation of the Republic of Indonesia Number 10 of 1961 concerning Land Registration, which is an implementing regulation of the Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA).

4. METHOD:

The method used in this research is an empirical juridical approach, which is an approach based on field research methods, namely examining the legal provisions that apply and what happens in people's lives.[7]

5. DISCUSSION:

There is a transfer of land rights as a result of inheritance, where the heir dies, and will be handed over to his heirs. And if the property to be inherited is a piece of land that has a Building Use Right on top of the land right, but the said Building Use Right has ended in accordance with the stipulation of the time period determined by the Land Office based on statutory regulations. Basically Priority Rights cannot be transferred or transferred in any way including inheritance, but in practice, if the right holder dies, the Government through the Land Office can give priority rights to their heirs, provided that the heirs have owned the land for a long time and truly really want this land.

6. ANALYSIS:

A. The Process of Determining Priority Rights for Heirs whose Term of Building Use Right Certificates Has Expired in Pekanbaru City

Inheritance shows the assets of the person who has died, who is then called the heir, whether the property has been divided or is still in a state that is not divided.[8] Therefore, the existence of this division results in changes to data on land registration objects due to the inheritance process. The right holders, who in this case are the heirs, are required to register changes resulting from the distribution at the land office.

B. Resubmission Process By Heirs Whose Term Of The Building Use Right Certificate Has Ended In Pekanbaru City

Basically, the right to build is given by the state to citizens for 30 years, and can be extended for 20 years, and the rights can be renewed for a period of 30 years. This is contained in Article 37 of Government Regulation number 18 of 2021. After the extension is complete, and after the rights have been renewed by the holder of the Building Use Rights, the land must be returned to the state.

C. Legal protection for heirs whose building use rights certificate period has expired in the city of Pekanbaru

Building use rights, if an application for extension of rights is not made at the Office of the State Land Agency, or especially at the Land Office of Pekanbaru City, the control over the land rights returns to the state. The right of ownership for the holder of the previous Building Use Rights has ended. However, if the previous holder of the Right to Build wants to get the right back, it can be processed through renewal of the right after a maximum of 2 years after the end of the right.

7. CONCLUSION

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

- 1) Although in the UUPA it is mentioned that the land whose right period has expired results in the land being directly controlled by the State, but that does not immediately result in anyone being able to take over and apply for new rights over the former land.
- 2) Right to Build is a right granted by the state to Indonesian citizens on a temporary basis.

- 3) Legal protection for heirs whose Right to Use the Building has ended, does not immediately return to the country the right of control or management.

REFERENCES:

1. Effendi Perangin, 2011, *Hukum Waris*, PT.Raja Grafindo, Jakarta, page 3.
2. Indrohato, 1994, *Asas-Asas Umum Pemerintahan Yang Baik*, Citra Aditya Bakti, Bandung, page 65.
3. Sudikno Mertokusumo, 2007, *Mengenal Hukum Suatu Pengantar*, Liberty, Yogyakarta, page 160.
4. Philipus M. Hadjon, 1987, *Perlindungan Hukum Bagi Rakyat di Indonesia*, PT. Bina Ilmu, Surabaya: page 3.
5. Irene Eka Sihombing, 2005, *Segi-segi Hukum Tanah Nasional dalam Pengadaan Tanah untuk Pembangunan*, Jakarta, page 56.
6. Urip Santoso, 2014, *Hukum Agraria: Kajian Komprehensif*, Prenamedia Group, Jakarta, page 89.
7. Bambang Waluyo, 2002, *Penelitian Hukum Dalam Praktek*, Sinar Grafika, Jakarta, page 15.
8. Hilman Hadikusumah, 1980, *Hukum Waris Adat*, Bandung, poage 23.