

Legal Review of Application for Customary Land Rights Based on National Land Law Regulations

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Abstract

The definition of control over land is a concrete legal relationship (usually called "rights"), if it has been linked to certain land as the object and a certain person or legal entity as the subject or right holder. sons who are subject to customary law who do not have written evidence, are owned by local residents, often called customary land, for example, customary land rights, can be registered with the Confirmation of Conversion and Registration of Former Indonesian Rights to Land, this journal is a normative juridical research with the approach method of legislation. Invitation, case approach and conceptual approach, this study aims to analyze and explain the Process of Application for Customary Land Rights and Provisions Regarding Cancellation of Land Certificates. a Conversion that can be applied to the local Land Office with evidence possessed by the land authority. With the issuance of a certificate as strong evidence that can cause a dispute, then it can be canceled with provisions so that the land administration system is orderly and legal protection for anyone without being harmed. With so many rights to customary lands and other lands that do not have rights, it is hoped that the community and the government can collaborate well to create administrative order and avoid land disputes.

Keywords: *Conversion, Registration, Process, Certificate, Cancellation.*

INTRODUCTION

Land is a basic human need, which in human life has a very important meaning, because most of human life depends on the existence and ownership of land rights (Lemmy and Ramadhani, 2022). Land is part of Agrarian Law. Understanding agrarian includes the earth, water and natural resources contained therein. The definition of agrarian consists of two understandings of agrarian in a narrow sense and agrarian in a broad sense. In Article 1 paragraph (1), paragraph (2) and paragraph (4) of the Act No. 5 of 1960 in paragraph (1):

"The entire territory of Indonesia is the unity of the homeland of all the Indonesian people, who are united as the Indonesian nation. Then in

paragraph (2) it is emphasized that "All earth, water and space, including the natural resources contained therein within the territory of the Republic of Indonesia as a gift of God Almighty are the earth, water and space of the Indonesian nation and are national wealth."

In order to create legal certainty for land rights, a strong legal foundation is needed. The legal foundations related to agrarian issues in Indonesia are generally regulated in the Act No. 5 of 1960, better known as the Basic Agrarian Law (Ramadhani, 2017). Then in verse (4) it is stated that "In the sense of the earth, apart from the surface of the earth, it includes the body of the earth beneath it and what is under water". The definition of control over land is a concrete legal relationship (usually called 'rights'), if it has been linked to certain land as the object and certain people or legal entities as subjects or rights holders. The control of land rights, property rights, building use rights, use rights and land use rights requires land registration. The definition of land registration is a series of activities, which are carried out by the State/government continuously and regularly, in the form of collecting certain information or data regarding certain lands in certain areas, processing, preparing, presenting for the benefit of the people in the context of providing guarantee of legal certainty in the land sector including the issuance of evidence and its maintenance.

In carrying out land registration, it is carried out at the local land office of the regency/city where the land is located. After the land registration is carried out, a certificate is issued where the certificate is proof of ownership of the right to a plot of land. Land registration aims to provide legal certainty and legal protection to holders of land rights in a parcel of land, apartment units, and other registered rights, so that they can easily prove themselves as holders of the relevant rights. proof letter. Certificates are letters of proof of rights to land rights, management rights, waqf land, property rights to flat units and mortgage rights, each of which has been recorded in the relevant land book. A land book is a document in the form of a list containing juridical data and physical data of an object of land registration for which rights already exist. On the other hand, it must also be noted that the control, ownership and utilization of land rights are basically not only limited to individualistic relationships, but also (communal) groups based on a customary law bond between people and the land (Ramadhani and Ramlan, 2019).

Land registration is carried out by the government, namely the National Land Agency. Each regional area has its own land office, in each region the implementation of land registration is carried out by the Head of the Land Office and in carrying out the implementation of land registration the Land Office is assisted by the Land Deed Making Officer (PPAT).

The proof of ownership basically consists of proof of ownership on behalf of the right holder at the time the UUPA comes into effect and if the right is later transferred, the evidence of the transfer of rights successively reaches the right holder at the time the book of rights is recorded. With the National Land Law, it is hoped that legal certainty will be created 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 that support legal certainty and furthermore, through existing regulatory instruments, law enforcement is carried out in the form of effective land registration.

RESEARCH METHOD

This legal research is research that is used with the type of normative juridical research, namely research that is focused on examining the rules or norms in positive law. Normative juridical research is research that is used to examine the application of legal rules or norms (Koto & Lubis, 2020). The use of this type of juridical-normative research is because this research tries to examine Customary Land Rights relating to the National Land Law applicable in Indonesia in relation to applicable regulations and related to research. Then the author analyzes the problems contained in Land Rights along with the registration process for land rights on customary land.

DISCUSS AND ANALYSIS

The Process of Applying for Ex-Customary Land Rights Until the Issuance of a Certificate

The State of Indonesia is a State of Law, this is regulated in article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, affirmation The contents of this constitution mean that all aspects of life insociety, state and government must be based on law (Asmadi, et.al, 2021). The UUPA regulates the hierarchy of land tenure rights in the National Land Law, namely:

1. The rights of the Indonesian people as referred to in Article 1 of the LoGA, as the highest land tenure matters, have civil and public aspects.
2. The state's right to control, as stated in Article 2 of the LoGA, is solely for the public aspect
3. The ulayat rights of the customary law community as referred to in Article 3 of the LoGA have civil and public aspects
4. Individual/individual rights, all of which have a civil aspect, consist of:
 - a. Land rights as individual rights are all directly or indirectly sourced from the rights of the nation, which are referred to in Articles 16 and 53 of the BAL.
 - b. Waqf is property rights that have been waqf, which is referred to in Article 49 of the UUPA.
 - c. Guaranteed rights to land which are called “ Mortgage Rights” in Articles 25, 33, 39 and 51 of the UUPA (Boedi Harsono, 2013)

On September 24, 1960, the Act No. 5 of 1960 on Basic Agrarian Principles (UUPA) was passed. Since the promulgation of the UUPA, the National Agrarian Law has been enacted which revokes regulations and decisions made during the Dutch East Indies government, including Agrarische Wet Stb. 1870 No. 55 and Agrarische Besluit Stb. 1870 No. 118.(Boedi Harsono, 2013). With the freedom to contract, every person or legal entity can make agreements that are not named or not listed in the BW, as long as they still comply with the rules in the legislation.(Rahmat Ramadhani, 2022). Making agreements based on regulations that apply to buying and selling land as in the example above is something that is done with the aim of providing protection for land rights held because land is an important

thing in human life. Indonesia is an agrarian country where land ownership has an important role in the lives of citizens, especially for production factors. Land has such an important role for Indonesian citizens that land determines the welfare of citizens, the more land you have, the more prosperous your life will be.(Ramadhani, 2022).

The purpose of promulgation of the UUPA as contained in its general explanation, namely:

1. Laying the foundations for the preparation of the National Agrarian Law, which will be a tool to bring prosperity, happiness and justice to the State and the people, especially the peasants, in the framework of a just and prosperous society
2. Laying the foundations for holding the unity and simplicity of land law
3. Laying the foundations to provide legal certainty regarding land rights for the whole people(Boedi Harsono, 2013)

In the explanation above point 3 states that providing legal certainty regarding land rights for the whole people is the purpose of the land registration itself. Providing guarantees of legal certainty regarding land rights for all Indonesian people, which is one of the objectives of the promulgation of the UUPA, can be realized through two efforts, namely:

1. Availability of written, complete and clear legal instruments that are carried out consistently in accordance with the spirit and provisions
2. Organizing land registration that allows land rights holders to easily prove their land rights and for interested parties(Boedi Harsono, 2013)

Land registration which aims to provide legal certainty is known as Recht Cadaster / Legal Cadaster. The guarantee of legal certainty to be realized in land registration includes certainty of the status of registered rights, certainty of the subject of rights and certainty of the object of rights. This land registration produces a certificate as proof of rights. (Boedi Harsono, 2013)

Land rights are rights as referred to in Article 16 of the Act No. 5 of 1960, hereinafter referred to as UUPA. Article 16 paragraph (1), namely:

1. Property rights,
2. Hak Guna Usaha,
3. Building use rights,
4. Right to use,
5. Lease rights,
6. The right to clear land,
7. The right to collect forest products,
8. Other rights that are not included in the rights mentioned above which will be stipulated by law as well as rights of a temporary nature as mentioned in article 53.

The rights of a temporary nature contained in article 53 of the Act No. 5 of 1960, namely:

1. Lien
2. Profit sharing business rights
3. Right to ride
 - a. Agricultural land rental rights

The types of land rights mentioned in Article 16 of the Act No. 5 of 1960 and Article 53 of the Act No. 5 of 1960 are grouped into 3 fields, namely (Urip Santoso, 2010):

1) Permanent land rights

Namely, these land rights will remain or apply as long as the UUPA is still in effect or has not been revoked by a new law. The types of land rights are Property Rights, Building Use Rights, Business Use Rights, Use Rights, Rental Rights for Buildings, Land Clearing Rights and Forest Products Collecting Rights.

2) Land rights established by law

Namely the right to land that will be born later which is determined by law. This kind of land rights does not yet exist.

3) Temporary land rights

Namely, land rights that are temporary, will be abolished in a short time because they contain extortionate characteristics, contain feudal characteristics, and are contrary to the spirit of the UUPA.

Based on the information above, the land is divided into 2 groups, namely:

1) Primary land rights

Namely land rights originating from state land. These types of land rights are property rights, building use rights on state land, cultivation rights, and use rights on state land.

2) Secondary land rights

Namely land rights that are land of other parties, the types of land rights are Building Use Rights on Management Rights, Building Use Rights on Ownership Land, Use Rights on Land Management Rights, Use Rights on Land Ownership Rights, Rental Rights for Buildings, Liens, Profit Sharing Business Rights, Riding Rights and Agricultural Land Lease Rights

In fact, it turns out that in the community there are still Eigendom Rights, Opstal Rights, Erfpacht Rights and the rights of indigenous people or the land of sons who are subject to Customary Law that does not have written evidence, which is owned by local residents is often called customary land, for example, Land with Customary Rights, Customary Land, Yasan Land, Gogolan Land and others. Based on the provisions of Article 9 above, it is clear that lands originating from Western Rights cannot be registered. If these lands cannot be registered, it will be detrimental to the land owners, because they will certainly lose their rights. Therefore we need a way so that this land can be registered, then the way that can be done is by converting the land originating from the western rights. With the conversion of land from western rights, it is hoped that the community will not be harmed by their rights because after they are converted, the rights will be registered. The conversion of former land rights is one of the instruments to fulfill the principle of legal unification through Law Number 5 of 1960. Regulation of the Minister of Land and Agrarian Affairs (PMPA) Number 2 of 1962 regulates provisions regarding affirmation of conversion and registration of former Indonesian rights to land rights. normative land. The conversion regulation 102 is the implementation of the transitional provisions of Law Number 5 of 1960.

Land Rights Subject

1) Individual

a) Individuals or groups of people jointly Indonesian citizens

b) Foreigners domiciled in Indonesia

(1) Legal entity

- (a) A legal entity established under Indonesian law and domiciled in Indonesia, for example a department, local government, limited liability company, foundation.
- (b) Foreign legal entities have representatives in Indonesia, for example a foreign bank that opens a representative office in Indonesia
- (c) Private legal entities, for example limited liability companies, foundations
- (d) Public legal entities, e.g. departments, local governments

Conversion of land rights is the adjustment of old land rights into new rights according to the Basic Agrarian Law. Meanwhile, according to A.P Parlindungan, the conversion of land rights is how the arrangement of land rights that existed prior to the enactment of the UUPA to be included in the BAL system.

In the implementation of the conversion, it is submitted to the Head of the Land Registration Office concerned, accompanied by proof of his rights (if any, a measurement letter is included), proof of valid citizenship from those who have rights stating their citizenship on September 24, 1960 and a statement from the applicant whether the land is land, housing or agricultural land. Article 3 Regulation of the Minister of Agriculture and Agrarian Affairs the Act No. 2 of 1962, regulates rights that are not described in a land title certificate, then by the person concerned they are submitted:

- 1) Proof of entitlement, i.e. proof of land yield tax / Verponding Indonesia or proof of letter of granting of rights by the competent authority (if any, include a measurement letter).
- 2) A letter from the Village Head confirmed by the assistant Wedana (Camat) who:
 - a) Justify the letter or certificate of proof of rights.
 - b) Explain whether the land is residential land or agricultural land.
 - c) Explain who has the right, if any, accompanied by derivatives of the letters of sale and purchase of the land.
- 3) Proof of valid citizenship of those who have the right.

Based on the provisions of this Article 3, specifically for lands that are subject to customary law but are not registered in the conversion provisions as land that can be converted to a land right according to the provisions of the UUPA, but the land is recognized as a customary right, then this must be taken with efforts " Affirmation of Rights" which is submitted to the Head of the local Land Registration Office, followed by preliminary evidence such as tax evidence, a letter of sale and purchase made prior to the enactment of the UUPA and a letter confirming a person's rights and also explaining that the land is for housing or for agriculture and a statement of citizenship of the person concerned. . Article 7 Regulation of the Minister of Agriculture and Agrarian Affairs the Act No. 2 of 1962, in this article another conversion agency is regulated called "Recognition of Rights", which treats lands that do not exist or no longer exist proof of his rights, then the person concerned can submit an application to the Head of the Office of the National Land Agency for the local area, the application is announced 2 months in a row at the land registration office and the sub-district office, if no objection is received they make the statement to the BPN office and then send it to the BPN office. Head of the local Agricultural Regional Office, the issuance of the acknowledgment of rights is given by the Head of the BPN Regional Office, from the

decree the recognition of the right as well as confirming what rights are granted/equivalent to the application, it can be Ownership Rights, Business Use Rights, or Building Use Rights or Use Rights.

If the complete evidence is not available, then the proof of rights can be done based on the fact of physical possession of the land parcel in question for 20 years or more in a row by the registration applicant and his predecessors. In the event that the written evidence is incomplete or there is no longer any proof of ownership of the evidence, it can be done with the statements of the witnesses and/or statements concerned which can be trusted in the opinion of the Adjudication Committee/Head of the Land Office. (Penjelasan Pasal 24).

The testimony of the witnesses or the statement concerned regarding the ownership of the land serves to strengthen the incomplete written evidence, or as a substitute for written evidence that no longer exists. What is meant by witness here is a person who can provide testimony/information and know the ownership of the land in question. There are three possible means of proof regarding the ownership of the land in question above, namely:

- 1) Complete written evidence, so no additional evidence is required;
- 2) There is no written evidence in part, then it is strengthened by the testimony of the witness or the statement in question
- 3) There is no written evidence, then it is replaced with witness statements or statements in question. However, all the truth is checked through an announcement, in order to provide an opportunity for interested parties to raise objections.

The period of announcement in systematic land registration is set for 30 days. Announcement of sporadic land registration takes longer than 60 days. The consideration of the difference in the announcement period is because systematic land registration is a mass land registration activity that covers many plots of land in an area and involves many people, so that the possibility of being known by the general public is greater than sporadic land registration activities which are individual in scope. limited so that only interested parties know.

Certificate is a certificate of proof of rights as referred to in Article 19 paragraph (2) letter c of the BAL for land rights, management rights, waqf land, property rights to flat units and mortgage rights, each of which has been recorded in the relevant land book. Land registration aims to provide legal certainty and legal protection to the holder of the right to a parcel of land, apartment unit and other registered rights so that he can easily prove himself as the holder of the right in question. The certificate is issued for the benefit of the right holder concerned in accordance with the physical data and juridical data that have been registered in the land book because the certificate is a strong proof of right, in the sense that as long as it cannot be proven otherwise, the physical data and juridical data contained therein must be accepted as correct data. Of course, the physical data and juridical data listed in the certificate must be in accordance with the data listed in the relevant land book and measuring document, because the data were taken from the land book and the measuring document.

After the enactment of PP 24/1997, the implementation of the conversion of land rights by Regulation No. 24 of 1997 is referred to as proof of old rights. Article 24 paragraph (1) Government Regulation No. 24 of 1997 stipulates that:

“For the purpose of registration of rights, land rights originating from the conversion of old rights are proven by means of evidence regarding the existence of such rights in the form of written evidence, witness statements and/or statements in question which are confirmed by the Adjudication Committee in land registration. systematically or by the Head of the Land Office in sporadic land registration, it is considered sufficient to register rights, rights holders and the rights of other parties that burden him.”

Cancellation of Certificate According to National Land Law

One of the objectives of land registration in Article 3 Regulation No. 24 of 1997 is to provide legal certainty and legal protection to holders of rights to a plot of land, apartment units and other registered rights so that they can easily prove themselves as holders of the rights in question. The final product of a land registration is a certificate of land rights which is a proof of ownership of a particular plot of land. Certificate is a certificate of proof of rights as referred to in Article 19 paragraph (2) letter c of the UUPA for land rights, management rights, waqf land, ownership rights to flat units and mortgage rights, each of which has been recorded in the relevant land book. The certificate is issued for the benefit of the right holder concerned in accordance with the physical data and juridical data that have been registered in the land book. The contents of the certificate, namely: a copy of the land book and a certificate of measurement.

The certificate is issued by the Regency/City Land Office. Meanwhile, the official who signed the certificate was : (Urip Santoso, 2010)

1. In systematic land registration, the certificate is signed by the Head of the Adjudication Committee on behalf of the Head of the Regency/City Land Office.
2. In the case of sporadic land registration which is individual (individual), the certificate is signed by the Head of the District/City Land Office.
3. In the case of sporadic mass land registration, the certificate is signed by the Head of the Land Measurement and Registration Section on behalf of the Head of the District/City Land Office.

Land registration provides legal protection for the holder of the right and states that the certificate is a strong evidence (Boedi Harsono, 2013), stated in Article 32 PP No. 24 Year 1997:

1. Certificate is a certificate of proof of rights that is valid as a strong means of proof regarding the physical data and juridical data contained therein, as long as the physical data and juridical data are in accordance with the data contained in the letter of measurement and the book of land rights concerned.
2. In the event that a land parcel has been legally issued in the name of the person or legal entity that acquired the land in good faith and actually controls it, then the other party who feels that he has rights to the land can no longer demand the exercise of that right if in within 5 (five) years since the issuance of the certificate has not submitted a written objection to the certificate holder and the Head of the Land Office concerned or has not filed a lawsuit to the Court regarding land tenure or the issuance of the certificate..

With the existence of a time limit based on Article 32 paragraph (2) of Regulation No. 24 of 1997, indirectly every holder of legal land rights to control his land, use it according to

the purpose and nature of his rights, and seek proof of rights. (Maria S.W Sumardjono, 2001) The provisions of article 32 paragraph (1) Regulation No. 24 of 1997 has a weakness, namely, the state does not guarantee the truth of the physical data and juridical data presented and there is no guarantee for the certificate owner because at any time he will get a lawsuit from another party who feels aggrieved by the issuance of the certificate.(Urip Santoso, 2010). To cover the weakness in the provisions of article 32 paragraph (1) Regulation No. 24 of 1997 and providing legal protection to the certificate owner from claims by other parties and making the certificate an absolute proof, then the provisions of Article 32 paragraph (2) Regulation No. 24 of 1997, a certificate as proof of absolute rights if it meets the cumulative elements, namely: (Urip Santoso, 2010)

1. The certificate is legally issued in the name of a person or legal entity
2. Land acquired in good faith
3. Land is controlled for real
4. Within 5 years since the issuance of the certificate, no one has submitted a written objection to the certificate holder and the Head of the local Regency/Municipal Land Office or has not filed a lawsuit with the court regarding land or the issuance of a certificate.

Based on Article 32 paragraph (2) of Regulation No. 24 of 1997, namely:

“In the event that a land parcel has been legally issued in the name of the person or legal entity that acquired the land in good faith and actually controls it, then the other party who feels that he has rights to the land can no longer demand the exercise of that right if within 5 (five) years since the issuance of the certificate, he has not submitted a written objection to the certificate holder and the Head of the Land Office concerned or has not filed a lawsuit with the Court regarding land tenure or the issuance of the certificate.”

The article states that the time limit for other parties who feel they have land rights in submitting a written objection to the certificate holder and the Head of the Land Office concerned or not filing a lawsuit to the Court regarding land control or issuance of the certificate is given within 5 (five) days.) years since the issuance of the certificate, if it is more than 5 years then the other party cannot demand the exercise of the right.

Based on Jurisprudence, the Supreme Court Decision Number 34/K/Sip/1960 stated that *“The land tax petuk letter is not an absolute proof that the disputed rice field belongs to the person whose name is listed in the tax petuk, but the petuk is only a sign of who has to pay the tax from the field in question.”*

Now that land tax is referred to as Land and Building Tax, based on this jurisprudence, Land and Building Tax is not an absolute proof. That the proof of payment/payment of taxes is not proof of Right Ownership, but rather it is an obligation for those who occupy the land for its use and according to the law that proof using SPPT-PBB is not a proof of rights, but only the payment of taxes by the person in control. So that the evidence for Land and Building Tax cannot prove the existence of a legal relationship in ownership of a fixed object in the form of the disputed land.

The National Land Agency (BPN) as a representative of the government in carrying out land registration, therefore the Head of BPN issues a regulation which to resolve land disputes, namely: Head of BPN Regulation No. 34 of 2007. In disputes, in general, initially

there is a new conflict, a dispute occurs, but the National Land Agency has its own trimology, which consists of:

1. Land dispute, hereinafter abbreviated as dispute, is a land dispute between individuals, legal entities, or institutions that do not have a broad socio-political impact.
2. Land conflict, hereinafter abbreviated as conflict, is a land dispute between individuals, groups, groups, organizations, legal entities, or institutions that have a tendency or have had a broad socio-political impact.
3. Land Cases, hereinafter referred to as Cases, are land disputes whose settlement is carried out by a judicial institution or a decision of a judicial institution for which the dispute resolution is still being sought at the National Land Agency of the Republic of Indonesia.

Regulation of the Head of BPN No. 3 of 2011 is intended to

1. Knowing the roots, history and typology of land cases in order to formulate strategic policies for resolving land cases in Indonesia
2. Resolve land cases that are submitted to the Head of BPN RI so that the land can be controlled, owned, used and utilized by the owner as well as in the context of legal certainty and protection.

Head of BPN Regulation No. 3 of 2011 purposes and objectives of which are:

1. Management of the Assessment and Handling of Land Cases is intended to:
 - a. Knowing the roots, history and typology of land cases in order to formulate strategic policies for resolving land cases in Indonesia
 - b. Resolve land cases submitted to the Head of BPN RI so that the land can be controlled, owned, used and utilized by the owner as well as in the context of legal certainty and protection.

Management of the Assessment and Handling of Land Cases aims to provide legal certainty on the control, ownership, use and utilization of land in Indonesia.

The scope of the Regulation of the Head of BPN No. 3 of in Article 3, Management of the Assessment and Handling of Land Cases covering:

1. Complaint service and information on land cases
2. Assessment of land cases;
3. Handling land cases;
4. Settlement of land cases; and
5. Legal aid and legal protection.

The handling of land cases is intended to provide legal certainty over the control, ownership, use and utilization of land. To ensure that there are no overlapping uses, overlapping uses, overlapping control and overlapping land ownership. Handling land cases to ensure utilization, control, use and ownership in accordance with laws and regulations as well as single proof of land ownership for each land parcel in dispute.

Presentation of land case data in the form of::

1. Electronic database
2. Data panel in control room
3. Report on the position of land cases; and
4. Reports to the leadership of the organizational unit.

The preparation and presentation of land case data is carried out periodically or as needed, among others

1. Mapping data on land cases;
2. Recapitulation of data on handling land cases;
3. Report on the performance of handling land cases; and
4. Analysis and evaluation of the handling of land cases.

The case study was conducted to find out the main point of the plaintiff's lawsuit against:

1. BPN RI in civil cases; or
2. BPN RI officials in state administrative matters.

The study was carried out by researching and analyzing the basis of the lawsuit and the substance of the lawsuit on the case submitted by the plaintiff and the results of the study resulted in recommendations for the application of law and legal strategies. Within the scope of this regulation, the parties can provide complaints and dispute information so that BPN in handling land disputes is carried out as follows:

1. Research/processing of complaint data;
2. Field research;
3. Organizing Case Titles;
4. Preparation of Minutes of Data Processing;
5. Preparation of minutes/letters/decisions; and/or
6. Monitoring and evaluation of the results of dispute resolution.

When field research turns out to be a dispute in a plot of land, the parties can choose how to resolve the dispute:

1. Mediation
2. Court

The holding of the case title occurred after field research, when the field research turned out to be overlapping land, BPN carried out a case title, at the time of carrying out the case title it was seen whether there was an administrative defect or not. Settlement of land cases outside the court can be in the form of land administration legal actions including:

1. Cancellation of land rights due to administrative legal defects;
2. Recording in Certificates and/or Land Books and other General Registers; and
3. Issuance of letters or other land administration decisions due to:
4. There are administrative legal defects in the publication.

Certificates of land rights containing administrative legal defects are subject to cancellation or an order to record changes to the maintenance of land registration data according to statutory regulations. The administrative legal defects as referred to in Article 62 paragraph (1) of the Regulation of the Head of BPN No. 3 of 2011 include:

1. Procedural error in the process of determining and/or registering land rights
2. Procedural error in the registration process for the transfer of rights and/or a replacement certificate
3. Procedural error in the registration process for affirmation and/or recognition of rights to land that was formerly owned by adat
4. Procedural error in the process of measuring, mapping and/or calculating area

5. Overlapping rights or certificates of land rights
6. Error subject and/or object rights, and
7. Other errors in the application of laws and regulations.

Land administration legal actions against land rights certificates that are defective in administrative law are carried out by:

1. Issuing a decision on cancellation; and/or
2. Record keeping of land registration data.

After settling a defense case through the court, the National Land Agency is obliged to carry out the decision. Actions in implementing court decisions that have permanent legal force, namely:

1. Implementation of all decisions;
2. The implementation of some of the verdicts; and/or
3. Only carry out orders that are expressly written in the verdict.

Court decisions that have obtained permanent legal force, relating to the issuance, transfer and/or cancellation of land rights, among others:

1. Orders to cancel land rights;
2. To declare void/illegitimate/do not have legal force on land rights;
3. To declare that the proof of right is invalid/not legally enforceable;
4. Orders to be recorded or written off in the land book;
5. Orders to issue land rights; and
6. Amar which means to cause legal consequences for the issuance, transfer or cancellation of rights

Land legal actions in the form of issuance, transfer and/or cancellation of land rights to implement court decisions are carried out by decisions of authorized officials. The data processing process in order to issue a decision letter as referred to in Article 56 paragraph (1) of BPN Regulation No. 3 of 2011 is carried out after the receipt of a court decision by BPN RI, in the form of:

1. An official copy of the court's decision legalized by the competent authority;
2. A certificate from an authorized official in the court environment explaining that the said decision has obtained permanent legal force (*inkracht van gewijsde*); and
3. Minutes of Execution for case decisions that require execution.

The scope of the Regulation of the Head of BPN No. 3 of 2011 concerning Management of the Assessment and Handling of Land Cases contains legal protection for voters of land rights, namely:

1. Decision-making to take land legal actions in the form of issuance, transfer and cancellation of land rights certificates, recording/deletion in the Land Book and other General Registers as well as other legal actions to implement court decisions that have permanent legal force are legal actions that must be carried out by authorized BPN official.
2. Decision-making to take land legal actions in the form of issuance, transfer and cancellation of land rights certificates, recording/deletion in the Land Book and other General Registers as well as other legal actions in the context of handling land cases carried out in accordance with the regulations are the duties and obligations of the employee or BPN official.

3. Errors in the process of handling land cases due to negligence of employees or BPN officials are administrative violations that can be subject to administrative sanctions.

In article 80 paragraph (3) of BPN Regulation No. 3 of 2011, it is stated that errors in the process of handling land cases due to negligence of BPN employees or officials are administrative violations that can be subject to administrative sanctions, which are regulated in article 81 of Regulation BPN No. 3 of 2011, namely:

1. All consequences that occur due to legal actions by BPN employees or officials in the context of handling disputes, conflicts and land cases regulated in this regulation have been carried out in accordance with applicable procedures that cause problems in the form of civil lawsuits, state administration, or reports of criminal acts BPN employees or officials are the responsibility of BPN.
2. BPN employees or officials who have carried out their duties in accordance with the applicable procedures in this regulation and are facing legal problems receive legal assistance and legal protection from BPN.

CLOSURE

Conclusion

In fact, it turns out that in the community there are still eigendom rights, opstal rights, erfpacht rights and the rights of indigenous people or the land of the sons who are subject to customary law that does not have written evidence, which is owned by local residents is often called customary land, for example, customary land, customary land. , Yasan Land, Gogolan Land and others. Based on the provisions of Article 9 above, it is clear that lands originating from Western Rights cannot be registered. If these lands cannot be registered, it will be detrimental to the land owners, because they will certainly lose their rights. Therefore we need a way so that this land can be registered, then the way that can be done is by converting the land originating from the western rights. With the conversion of land from western rights, it is hoped that the community will not be harmed by their rights because after they are converted, the rights will be registered. The conversion of former land rights is one of the instruments to fulfill the principle of legal unification through Law Number 5 of 1960. Regulation of the Minister of Land and Agrarian Affairs (PMPA) No. 2 of 1962 regulates provisions regarding affirmation of conversion and registration of former Indonesian rights to land rights. normative land. The conversion regulation is an implementation of the transitional provisions of the Act No. 5 of 1960. In the implementation of the conversion, it is submitted to the Head of the Land Registration Office concerned, accompanied by proof of his rights (if any, a measurement letter is included), proof of valid citizenship from those who have rights stating their citizenship. on September 24, 1960 and a statement from the applicant whether the land is residential land or agricultural land. Article 3 Regulation of the Minister of Agriculture and Agrarian Affairs No 2 of 1962, regulates rights that are not described in a land title certificate. The holding of the case title occurred after field research, when the field research turned out to be overlapping land, BPN carried out a case title, at the time of carrying out the case title it was seen whether there was an administrative defect or not. Settlement of land cases out of court can be in the form of land administration legal actions including; 1)

Cancellation of land rights due to administrative legal defects, 2) Recording in Certificates and/or Land Books and other General Registers; and 3) Issuance of letters or other land administration decisions because there are administrative legal defects in their issuance. Certificates of land rights containing administrative legal defects are subject to cancellation or an order to record changes to the maintenance of land registration data according to statutory regulations. Administrative law defects as referred to in Article 62 paragraph (1) of the Regulation of the Head of BPN No. 3 of 2011.

Suggestion

The author advises the Government, especially the Ministry of Agrarian Affairs and Spatial Planning to coordinate with authorized agencies or officials to simultaneously certify ex-customary land and ex-western land, so that all purposes of land registration can be created properly, that until now the certificates are still one the only strong evidence in the basis of land ownership in Indonesia. Enforce and carry out administrative order for all land activities so that there are no ongoing land problems or disputes, no one is harmed by the issuance of certificates issued by the local and Central Land Agency.

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