

Government Policy on the Provision of Certificate of Ownership Rights: A Strategic Step for Legal Protection of the Community

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Abstract. Since 2017, the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency has been tasked by President Joko Widodo to complete land registration across Indonesia by 2025 through the Complete Systematic Land Registration Program (PTSL). Based on Ministerial Regulation ATR/BPN Number 12 of 2017, updated with Number 6 of 2018, this program aims to provide legal certainty and protection of land rights for the community. However, many people, especially in North Gorontalo Regency, still do not understand how to obtain land certificates due to a lack of information and education about PTSL. This research aims to explore government policies that provide land ownership certificates as legal protection for the community. Better coordination is needed between local governments and the Ministry of ATR/BPN to raise public awareness of the importance of land certificates, which not only guarantee ownership but can also be utilized as business capital. The PTSL program is expected to improve community welfare and reduce land disputes. Research findings indicate that public understanding in North Gorontalo Regency remains low, with obstacles such as a lack of information, complicated procedures, and limited access. Government policies need to include regulatory simplification and increased transparency as well as public services.

Keywords : PTSL, Legal Protection, Certificate of Ownership, Community

1. INTRODUCTION

Based on Pancasila and the Republic of Indonesia's 1945 Constitution, the Unitary State of the Republic of Indonesia is a legal state with the goal of achieving a clean, prosperous, just, and well-ordered existence for the country, state, and society. Everyone has the right to possess personal property, according to Article 28 H, paragraph 4 of the Republic of Indonesia's 1945 Constitution, and no one may take it away from them without cause (Nur Mohamad Kasim, 2009).

Every individual and legal entity can have ownership rights over land. This is because individuals and legal entities are considered legal subjects with rights and obligations similar to those of individuals within the scope of applicable laws and regulations. In land law, landowners can be individuals, business entities, or other legal entities, such as companies or government agencies.

Control over land does not always indicate ownership status. An individual or legal entity may have de facto control over land without holding formal ownership rights, such as a Certificate of Ownership Rights (SHM) or a Building Use Rights Certificate (SHGB) issued by the relevant authority, in this case, the Land Office.

In addition to requiring rights holders to register their existing land rights in compliance with applicable regulations, Law Number 5 of 1960 has imposed an obligation on the government to conduct land registration throughout Indonesia in order to provide legal certainty and assurance of land rights in the country. The Basic Agrarian Law's Article 19 paragraph (1) goes into additional detail about this. (Samun Ismaya, 2013).

To improve the welfare of the people through land certification, until 2016, the Government of the Republic of Indonesia, through the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, has been and continues to carry out massive land registration throughout Indonesia through PRONA. Starting in 2017, this process has been conducted through a program called Complete Systematic Land Registration (PTSL) (San Yuan Sirait dkk., 2020).

The ownership status of land for an individual is determined based on legal and formal evidence, such as a Certificate of Ownership Rights (SHM) or a Building Use Rights Certificate (SHGB). These certificates are issued by the National Land Agency. They serve as legal and official proof indicating who holds ownership rights over the land, as well as its boundaries and area. Therefore, to ascertain the status of land ownership, it is insufficient to merely look at possession. Individuals or legal entities must obtain formal ownership legitimacy issued by the relevant government authority authorized to issue these certificates. Without legal proof such as a Certificate of Ownership Rights (SHM) or a Building Use Rights Certificate (SHGB), recognition of possession of the land is not valid.

There are several requirements that must be met for a legal entity to hold ownership rights over land. These requirements may vary depending on the regulations applicable in each country or region. Generally, legal entities must fulfill requirements such as registering with the relevant authorities or institutions, obtaining the necessary business licenses, and complying with provisions related to the type of land owned.

The implementation of the Basic Agrarian Law (UUPA) is expected to provide legal certainty regarding land rights for all Indonesian citizens. The provision of guarantees for legal certainty concerning land rights for the entire population of Indonesia, which is one of the objectives of enacting the UUPA, can be realized through two efforts (Urip Santoso, 2012). The availability of written, comprehensive, and clear legal instruments that are implemented consistently in accordance with their spirit and provisions. The organization of land registration enables land rights holders to easily prove their ownership rights and allows interested parties, such as prospective buyers and creditors, to obtain necessary information

regarding the land involved in legal transactions, as well as enabling the government to implement land policies.

According to the Basic Agrarian Law (UUPA) and its implementing rules, a number of objects of ownership rights fall into one of two categories: persons or legal organizations. Only Indonesian people are permitted to own Ownership Rights, according to Article 21 paragraph (1) of the UUPA, whereas legal entities created by the government are qualified to do so, subject to the requirements outlined in Article 21 paragraph (2) of the UUPA (Sidik & Kasim, 2023).

In practice, the transfer of land ownership rights to individuals or legal entities is typically carried out through mechanisms such as purchase, donation, inheritance, or the granting of lease rights. Individuals or legal entities that hold ownership rights over land are also obligated to maintain and care for the land in accordance with applicable regulations and to preserve the surrounding environment.

The Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency has been challenged by President Joko Widodo since 2017 to complete land registration across Indonesia by 2025 through the Complete Systematic Land Registration Program. Based on Ministerial Regulation ATR/BPN Number 12 of 2017, which was refined by Ministerial Regulation ATR/BPN Number 6 of 2018 regarding Complete Systematic Land Registration, this initiative aims to enhance land registration processes throughout the country. (Yulin Kamumu dkk., 2023).

Ministerial Regulation ATR/BPN Number 6 of 2018 states that Complete Systematic Land Registration, or PTSL, is an initial land registration activity carried out simultaneously for all land registration objects across the territory of the Republic of Indonesia within a village, sub-district, or equivalent area. This is in accordance with Presidential Instruction Number 2 of 2018 regarding the acceleration of Complete Systematic Land Registration throughout the territory of the Unitary State of the Republic of Indonesia in order to register all parcels of land within the territory of the Unitary State of the Republic of Indonesia as required by Article 19 of Law Number 5 of 1960 on the Basic Agrarian Law. This process includes the collection of physical and juridical data regarding one or more land registration objects for the purpose of their registration. (Yulin Kamumu dkk., 2023).

Article 2, Paragraph 2 of the Ministerial Regulation of the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia No. 6 Year 2018 Regarding Complete Systematic Land Registration aims to achieve legal certainty and legal protection of land rights for the community based on simple, fast, smooth,

safe, fair, equal, transparent, and accountable principles. This will lead to improved social welfare and national economic prosperity, as well as reducing and preventing land-related conflicts and disputes.

In the current era of globalization, society is becoming increasingly critical of all aspects. However, many people still do not seek legal certainty in land ownership, specifically in terms of certificates, even though a program related to Complete Systematic Land Registration has been implemented by the president throughout Indonesia, organized by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency. One example can be seen in North Gorontalo Regency in Gorontalo Province, where the Complete Systematic Land Registration program has been conducted, as it is one of the regions with significant agricultural land potential.

The community of North Gorontalo utilizes the land they own for farming and agriculture, making it essential for them to have legal ownership of the land, particularly in terms of certification, to sustain their economic activities in agriculture. Ironically, not all land in North Gorontalo Regency has been certified, and many community members are unaware of how to certify their land. Additionally, there is a lack of understanding regarding the programs organized by the government. This has sparked the author's interest in writing a journal titled "Government Policy on the Provision of Ownership Certificates: A Strategic Step for Legal Protection of the Community.

The lack of understanding and awareness among the community regarding the procedures and requirements that must be met to obtain certificates can also pose an obstacle. Many people are not clearly aware of the steps they need to follow and the documents they must prepare to acquire Ownership Rights. In fact, the government has already provided legal protection for all landowners to safeguard their assets as community ownership.

Practical alternative solutions that can be offered for this issue include the government and all relevant stakeholders promptly addressing several areas for improvement to encourage the community to register their land for certification. Moving forward, it is essential that legal protection for land ownership rights through this program is effectively and orderly realized.

2. LITERATURE REVIEW

Land registration, as regulated in Articles 19, 23, 32, and 38 of the Basic Agrarian Law (UUPA), is implemented according to Government Regulation No. 24 of 1997, which serves as a refinement of Government Regulation No. 10 of 1961 concerning land registration. According to these provisions, land registration is initially carried out through two methods: systematic land registration and sporadic land registration (Devi, 2019).

The goal of land registration is further explained in Article 3 of Government Regulation No. 24 of 1997, which is in accordance with the Land Registry's guiding principles. In particular, the purpose of land registration is to give the owners of residential units, land parcels, and other registered interests legal clarity and protection so they may readily confirm their ownership. Additionally, it seeks to provide information to interested parties, such as the government, so that they may easily get the information they need for legal proceedings involving registered land parcels and residential units. Additionally, this guarantees that land matters are properly administered.

Systematic land registration refers to the first-time simultaneous registration of all unregistered land objects within a Village/District. This activity is initiated by the government based on long-term and annual work plans and is executed in designated areas by the Minister of Agrarian Affairs/Chief of the National Land Agency. If a Village/District has not yet been designated as a systematic land registration area, then registration is performed through sporadic land registration. (Yagus Suyadi dkk., 2023).

Sporadic land registration refers to the first-time registration of one or more land registration objects within a Village/District, conducted either individually or in bulk. Sporadic land registration is carried out at the request of interested parties, specifically those who hold rights over the relevant land registration objects or their representatives (Boedi Harsono, 2013). According to Maria S.W. Sumardjono, the benefits of land registration can be reaped by three parties: first, the land rights holders themselves as proof of their rights; second, interested parties, such as prospective land buyers or creditors, who need information about the land that is the subject of legal transactions; and third, the government, which aims to support its land policy (Rilly Juang Rumawung, 2019).

3. METHODS

This research employs a normative or doctrinal legal research approach, which is library-based research focusing on secondary data, supplemented by field data. Secondary data in the legal field is considered from the perspective of its binding authority. (Suratman & Philips Dillah, 2020). The statutory approach (Statute Approach) is relevant, along with the theoretical approach (Theoretical Approach), as well as other legal materials related to the substance of this research. The primary data source consists of regulations, while the secondary data sources include legal literature, academic journals, and related research reports. (Irwansyah, 2022).

4. RESULTS AND DISCUSSION

Factors that hinder the provision of ownership certificates to the community

There are several factors that can hinder the provision of ownership certificates to the community, including ownership disputes. When there is a dispute regarding land ownership, the certification process can be obstructed. These disputes may involve different parties, such as previous owners, heirs, or other parties claiming rights to the land. Land disputes are regulated by the law concerning land disputes. In other words, Regulation of the Head of the National Land Agency No. 3 of 2011 defines it as a land dispute involving legal entities, organizations, or individuals. In short, disputed land is land whose ownership is contested by two competing parties claiming ownership of that land. The types of cases in these land disputes range from forged documents to illegally altered property boundaries (Sukmawati, 2022).

Administrative issues are one of the factors that can hinder the land certification process. This can occur when the necessary documents for certification are incomplete or do not meet the requirements set by the Land Office. Administrative problems may include evidence of land acquisition or legal documents that have not been fully signed by witnesses but have already been submitted to the Land Office, or failure to attach proof of the Tax Notification Letter (SPPT). Additionally, original land certificates, which are a primary requirement for issuing certificates, may still be held as collateral for loans at banks, further contributing to the obstacles in the certification process.

This usually occurs during the examination of the documents submitted by the community, whether concerning the accuracy of physical data or juridical data for the application for land registration by the applicant. Therefore, the Land Office will review and make further corrections to the necessary documents to ensure that they meet the requirements for document completeness as specified (Yulin Kamumu dkk., 2023).

Technical issues sometimes, like discrepancies between land boundaries and maps or differences in physical data, can hinder the certification process. Further surveys and investigations are needed to ensure that the land being certified meets all applicable requirements. Financial issues also pose a challenge, including administrative costs, survey fees, and certificate issuance charges. If the landowner is unable to address these expenses, the certification process may be delayed or even not proceed at all.

Sometimes, there are conflicts of interest among landowners, the government, and other parties that can hinder the certification process. For example, specific political or economic interests may influence decisions in the land certification process. Limited infrastructure, such

as poor road access or inadequate communication technology, can also impede the land certification process. Restricted access due to extreme and steep geographical locations, such as in North Gorontalo Regency in Mutiara Laut Village, Tomilito District, prevents land officials from conducting surveys and mapping.

Community awareness regarding the importance of land certification can also be a hindering factor. Many landowners lack an understanding of the benefits and necessity of having land certificates, leading them to be inactive in initiating or participating in the certification process. One reason for this lack of information is insufficient outreach from the government, compounded by the complexities in land issues and various regulations that are difficult to comprehend, especially for those living in rural areas. Additionally, the perception that the process of obtaining land certificates is convoluted and expensive makes people reluctant to register their land with the relevant authorities (Nirwan Junus dkk., 2023).

The government's policy of providing ownership certificates to the community as an expression of legal protection

The Indonesian government has implemented several policies for legal protection regarding land certification, including the simplification of regulations, enhancement of transparency, improvement of public services, utilization of technology, and strengthening of law enforcement.

The government continues to simplify and update regulations related to land certification. This is done to facilitate and expedite the certification process while reducing bureaucratic complexities. Issuing the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 6 of 2018 concerning Complete Systematic Land Registration, the regulation outlines the procedures for systematic and complete land registration, aiming to accelerate the overall land certification process. In Article 2, paragraph 2 of the aforementioned ministerial regulation, it is stated that the aim is to provide legal certainty and legal protection for community land rights based on principles of simplicity, speed, efficiency, safety, fairness, equity, transparency, and accountability. This is intended to enhance the welfare and prosperity of the community and the national economy while reducing and preventing land disputes and conflicts.

Transparency refers to the openness of all actions and policies taken by the National Land Agency. The principle of transparency fosters mutual trust between the National Land Agency and the community by providing information and ensuring easy access to accurate and adequate information (Pradipta & Rani, 2020). The government is working to enhance

transparency in the land certification process. This includes facilitating access to information regarding the requirements, procedures, and costs associated with land certification.

The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency has also launched a new application called "Sentuh Tanahku" in 2019, which provides the community with ease and transparency regarding various information using only a mobile phone. This includes the requirements for service processing, the process for checking document submissions, and an interactive simulation of costs, allowing the community to predict the expenses needed for these services.

Activities or a sequence of activities intended to satisfy each citizen's and resident's service demands in compliance with relevant laws and regulations pertaining to goods, services, and/or administrative services rendered by public service providers are referred to as public service. The government is dedicated to enhancing land certification-related public services. This entails speeding up the issuance of land certificates, giving landowners accurate information, upgrading the land administration system, and raising the proficiency of public service personnel.

The competence of service personnel must be established based on the knowledge, skills, abilities, attitudes, and behavior required. This relates to the responsibility of service staff, such as knowledge, discipline, and politeness, in rendering service. (Riani N, 2021).

The use of technology, specifically electronic public services in the field of land management, was initially implemented through the Land Office Computerization (LOC) program in 1997. This program was later renamed Land Activity Computerization (KKP), which underwent transformations from using KKP-Desktop to Geo-KKP, and finally to a web-based application known as KKP-Web. These land services continue to be improved and developed, evolving into an electronic-based system. This transformation is viewed as necessary because land registration and cadastre functions are managed independently and do not collaborate effectively. Improvements in technology or other areas only address one or a few parts as needed; thus, they are treated as an integrated system that is studied, analyzed, and enhanced as a whole. (Wisnu M. Nugraha, 2022).

The government has adopted digital technology in the land certification process. For example, by using Geographic Information Systems (GIS) and blockchain technology, the mapping and recording of land ownership can become more accurate, faster, and more reliable.

The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency has also launched applications that facilitate the community and land office staff in the land certification process. One such application is "Sentuh Tanahku," which contains the requirements for

service processing, the process for checking document submissions, and more. Additionally, there is the "Loketku" application, which simplifies online registration and explains the mechanism for electronic service requests.

The Gorontalo Provincial Office of the National Land Agency has launched an application to facilitate services, namely the Infodank (Integration of Online Application Document Forms) application, which allows applicants or the community to easily download application forms and complete their documents before coming directly to the Land Office.

The government is also working to enhance law enforcement against illegal actions related to land certification, such as the forgery of certificates or signatures. This firm action is expected to provide better legal protection for landowners. One concrete step in this effort is the eradication of the land mafia. The government continues to wage war against the land mafia to prevent their growth and limit their activities. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) will persist in combating the land mafia to ensure their presence does not flourish.

The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency continues to make efforts to expedite the registration of all land parcels and collaborates with law enforcement agencies such as the Indonesian National Police, the Supreme Court, and the Judicial Commission. A Task Force for Anti-Land Mafia has been established, and a joint team between the Ministry of ATR/BPN and the Indonesian National Police has successfully uncovered several recent land mafia cases.

"I would like to express my deepest gratitude and appreciation for the successful collaboration of the Anti-Land Mafia Task Force in uncovering cases involving the land mafia. The seriousness of eradicating the land mafia down to its roots is the order of the President. Therefore, it is our shared commitment, and we will continue to carry this out at the Ministry of ATR/BPN," said Hadi Tjahjanto at a press conference regarding the handling of land mafia at the Multi-Purpose Room of Satya Haprabu Ditreskrimum, Polda Metro Jaya, Jakarta, on Monday, July 18, 2022 (Siaran Pers, 2022).

Through these efforts and policies, the government hopes to provide better legal protection and encourage land owners to conduct land certifications legally.

5. CONCLUSION

Based on the previous results and discussions, the author concludes that the factors hindering the issuance of ownership certificates to the community are external factors, which include ownership disputes, administrative issues, technical problems, cost issues, conflicts of interest, limited infrastructure, and a lack of public awareness.

The government's policy in providing ownership certificates to the community as a form of legal protection is the simplification of regulations through the issuance of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 6 of 2018 concerning Complete Systematic Land Registration. This regulation outlines the procedures for systematic and complete land registration, aimed at accelerating the overall process of land certification.

In the aforementioned ministerial regulation, Article 2, paragraph 2 states that the purpose of this regulation is to provide legal certainty and legal protection for community land rights based on principles of simplicity, speed, efficiency, safety, fairness, equity, transparency, and accountability. This aims to enhance the welfare and prosperity of the community and the national economy while reducing and preventing land disputes and conflicts.

Other efforts include increasing transparency, enhancing public services, utilizing technology, and strengthening law enforcement. One concrete step is the eradication of the land mafia; the government continues its war against the land mafia. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) will persist in combating land mafia to prevent their growth and limit their activities. The Ministry of ATR/BPN is also working to expedite the registration of all land parcels and collaborating with law enforcement agencies such as the Indonesian National Police, the Supreme Court, and the Judicial Commission.

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