

Implementation of PTSL (Complete Systematic Land Registration) as Legal Certainty in Securing Land Rights by the Community in Bali

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ABSTRACT

The aim of this research is to determine the implementation of PTSL (Complete Systematic Land Registration) as legal certainty in guaranteeing land rights by the community in Bali. This research is an empirical normative research, namely researching the implementation of land registration for legal certainty through PTSL. The results of this research show that Internal obstacles or barriers faced by the Land Office in implementing PTSL, include: Lack of number of implementing personnel and measuring equipment, Lack of coordination between the Land Office and the Village Office, Lack of counseling provided to the community, especially land rights holders regarding land registration issues. External obstacles or barriers faced by the community such as the requirements shown for completeness in submitting an application for certification through PTSL are incomplete.

INTRODUCTION

In the Republic of Indonesia, whose people's way of life, including its economy, is still mainly agrarian, the earth, water and space, as a gift from God Almighty, have a very important function in building a just and prosperous society as aspired to. To achieve the above ideals of the State, in the land sector, there needs to be a plan (planning) regarding the allocation, use and supply of earth, water and space for various interests of the people and the State. A general plan (national planning) that covers the entire territory of Indonesia, which is then detailed into special plans (regional planning) for each region. With this planning, land use can be carried out in a guided and orderly manner so that it can bring the greatest benefits to the State and the people. However, in achieving what is aspired to, it does not always go well and smoothly. Not as beautiful as imagined, there are always obstacles and in the end disputes arise which then never end so that they become the cause of other disputes which then become interrelated and run without end from time to time. Edi Prajoto said that: Land disputes are conflicts between two or more people who have the same interest in the status of land rights between one or more land objects which can result in certain legal consequences for the parties. (2006:21)

Earth, water and space as well as all the natural resources contained therein are a gift from God Almighty to all Indonesian people and therefore, it is only right that the utilization of the functions of the earth, water and space along with everything contained therein is aimed at achieving the greatest prosperity for all Indonesian people. Land is one part of the earth, a place where humans live and develop, land is a source for all human life needs. So important is land for human life, therefore it is not surprising that every human being wants to own or control it, which results in land problems, which often cause disputes. The importance of land for human life is because human life cannot be separated from land, especially Bali which considers land as a sacred motherland full of meaning. This can be understood and comprehended because land is a place to live, a place to feed, be born, a place to be buried, a place to perform rituals, a place for the spirits of their ancestors, so there is always a pair between humans and land, between society and land.

In Indonesia, land is a serious problem, not because the Indonesian people lack land, but because most of the Indonesian people are crowded together living on narrow (limited) land, this can be seen in big cities where many poor or disadvantaged people live on narrow and slum land with unhealthy environments. In contrast to people with a high economic level with all their needs met, some of them inventory their money in the form of land spread across strategic areas and leave the land abandoned without being utilized.

Land issues today have given rise to various problems that often lead to disputes between various parties. Therefore, the handling of agrarian tasks must be carried out in a conceptual and programmed way that includes all existing functions, namely land use, land reform functions, land rights management and land registration supported by solid administration.

Land plays an important role in human life. The supply of land is fixed, while the need for land continues to be urgent and cannot be avoided, so it is not surprising that land prices continue to compete and tend to increase. In addition, there are also many legal acts related to land, such as buying and selling, exchanging, granting and even providing credit with land as collateral. One important activity to support the success of this project is the need to make efforts to foster public understanding and awareness of the importance of this project through extensive outreach with various methods and means available.

In accordance with its purpose, land registration is to guarantee legal certainty, considering that land rights do not always remain attached to their holders because of the transfer of rights caused by the interests of the parties concerned. In reality, although the UUPA has been in effect since 1960, the application of these provisions in society is not yet comprehensive. This is not only because the community does not yet know the law, but can be caused by other factors, such as economic factors (costs), or it can also be caused by deliberate actions by the community. In addition, problems that cause unrest in society include those originating from the price of land that continues to increase, land brokers to land mafia. Therefore, the government considers it necessary that land problems need to be resolved as early as possible so as not to disrupt social stability, especially the progress of development. In addition, because land prices continue to increase, the weak economic group tends to sell or transfer their land to the strong economic group. However, along with the development of the era, Government Regulation Number 10 of 1961 concerning land registration which has been in effect for approximately 36 years needs to be further refined. On October 8, 1997, Government Regulation Number 24 of 1997 concerning land registration was enacted as a replacement for Government Regulation Number 10 of 1961, so that the old Government Regulation concerning land registration was declared invalid. After the issuance of PP 24 of 1997, concerning Land Registration, the regulations were more complete regarding land registration that could fulfill the needs of the community for a guarantee of legal certainty. Land Registration, among other things, is organized to provide information to interested parties, so that they can easily obtain the data needed in order to carry out legal acts regarding land plots or apartment units that have been registered. The presentation of the data is carried out by the ATR/BPN and the Regency/Municipal Land Office, land registration administration section. As explained above, it is clear that the new government regulation concerning land registration, in addition to continuing to implement the main points outlined by the UUPA, contains improvements and affirmations that are expected to be able to become an operational basis for the implementation of faster land registration and stronger legal certainty.

Based on the fact that not all lands in Bali are registered, then what has been implemented and is still found in the community, both letters made by PPAT with various types of unconverted lands and considering that the implementation of land registration after the issuance of Government Regulation Number 10 of 1961 has not been able to achieve a real result in national development and considering that although Government Regulation

Number 10 of 1961 has been declared invalid after the enactment of Government Regulation Number 24 of 1997, which among other things is motivated by the increasing legal awareness of the Indonesian people will increasingly need legal certainty in the land sector in the form of land title certificates. Land title certificates are proof of land ownership/control. This land title certificate is the final product of the land registration process. So by implementing the program with the government's method, it will provide hope. The PTSL method is a government innovation through the ATR/BPN ministry to meet the basic needs of the community such as clothing, food, and shelter. The program is stated in Ministerial Regulation Number 12 of 2017 concerning PTSL and Presidential Instruction Number 2 of 2018. In this PTSL, the Government provides stimulus to land rights holders to be willing to certify their land by giving them (land rights holders) especially the low to middle economic groups who are in poor/underdeveloped villages, buffer zones of cities, poor urban areas, fertile and developing agriculture by providing various facilities or conveniences. In addition, PTSL also aims to foster public legal awareness in the land sector as an effort to participate in creating political stability and economic development. In contrast to PTSL, the implementation of Prona or the National Agrarian Operation Project is evenly distributed from village to district, while PTSL is based on region, such as village to village or city to city. The Prona Data System only measures and records registered land, while PTSL conducts systematic data collection, including unregistered land. However, all of them are trying to overcome existing land problems. PTSL is a Complete Systematic Land Registration that provides legal certainty for all people in claiming land, especially in Bali. That is why the author chose this title considering the urgency of this land problem.

LITERATURE REVIEW

- a. "Legal certainty means something that can be determined (bepaalbaarheid) from the law, in concrete matters. The parties seeking justice (yustisiabelen) want to know whether the law is in a certain situation or matter, before they get it with the case."
- b. "Legal certainty also means legal security, meaning protecting the parties against the arbitrariness of judges."
- c. Maria SW. Sumardjono, stated that:
Normatively, Legal Certainty requires the availability of legal regulations that are operationally capable of supporting its implementation. Empirically, the existence of these laws and regulations needs to be implemented consistently and consequently by the supporting human resources.
- d. In relation to the negative publication system, Djoko Prakoso and Budiman Adi Purwanto stated that the legal certainty intended as the purpose of land registration includes the certainty of the object, the certainty of rights and the certainty of the subject. With this legal certainty, the relevant rights holders are expected to obtain legal protection for their land ownership that has been certified. The series of land registration activities that produce legal

products, the determination of rights does not guarantee full legal certainty because it uses a negative system. Thus, the negative system itself legally contains weaknesses in the framework of providing legal certainty.

e. Legal certainty, according to Bachtiar Effendi, is as follows:

1. Certainty regarding the person or legal entity who is the holder of the rights to the land, legal certainty regarding who the holder of the rights to the land is called certainty regarding the subject of land rights.
2. Certainty regarding the location of the land, the boundaries of the land, the length and width of the land, the boundaries and the length and width of the land is called certainty regarding the object of land rights.

The framework of thought regarding the legal certainty of land ownership rights in this study is determined by the functioning of the legal structure. Legal substance and legal culture. With the following description:

In order to sociologically examine the legal certainty of land ownership rights, there are two parts that need to be examined. The first part is the process of issuing land ownership certificates by the Land institution and the second part is the process of testing land ownership certificates at the Judicial Institution which functions as a competitor for the Legal Certainty of Land Ownership Rights through Judge's Decisions at the State Administrative Court and the General Court.

Geologically and economically, soil is the topmost loose layer of the earth's surface. Land used for planting plants is called cultivated land, yard land, agricultural land, and plantation land. While that used to build buildings is called building land. In the cultivated land from top to bottom, there are successively cultivated combs as deep as the plow cuts, humus formation layers and inner layers. The National Agrarian Project is a government effort with a subsidy to carry out mass land registration. Based on several projects that have been carried out in several regions, the acceleration of land registration was carried out and this was also mentioned as a government program in Repelita IV. In connection with this, the government has issued Decree of the Minister of Home Affairs number 189 of 1981 concerning the National Agrarian Operations Project. In considering the Regulation, it is stated that the law for land control and ownership as strong evidence; avoiding land disputes and to reduce vulnerability/sensitivity in the land sector, as an effort to create socio-political stability among the community. In the implementation of operations, the Governor/Regent/Mayor Regional Head is responsible for their respective regions. PTSL stands for Complete Systematic Land Registration, which is the first land registration program carried out simultaneously throughout Indonesia. This program is carried out for all land registration objects that have not been registered at the village, sub-district, or equivalent level. In the PTSL program, people with certain criteria and requirements can make land certificates for free. Land that cannot participate in the PTSL program is land that has been certified.

PTSL is one of the government's priority programs that makes it easier for people to get land certificates for free. Certificates are quite important for land owners, the purpose of PTSL is to avoid disputes and disagreements in the

future. Development activities in other fields are also carried out continuously, both in cities and in rural areas, this development is carried out in accordance with the program that is carried out with enthusiasm and gets support from the community. Therefore, the handling of agrarian tasks is carried out in a conceptual and programmed way of working covering all existing functions, namely land use, Landreform function, management of land rights and land registration supported by solid administration.

Legal certainty and certainty of rights for land rights owners are very important, to avoid and prevent conflicts and disputes caused by this problem. The main target of the National Priority Program is property rights. What is meant by property rights is the hereditary, strongest and most complete rights that can be owned by a person over land by considering the provisions of Article 6 of the UUPA (Article 20 of the UUPA). The subject of ownership rights is in principle Indonesian citizens either alone or together with other people, in addition to legal entities operating in the social and religious sector that have been appointed by the government can have ownership rights to their land as long as the land is used directly in the social and religious fields.

METHODOLOGY

This research is an empirical normative research, namely researching the implementation of land registration for legal certainty through PTSL. Why are two methods used in this scientific writing, none other than because the author wants to find the real legal dogmatics (Abdulkadir Muhammad) The research was conducted by studying the symptoms that occur in society with a lot of land that has not been registered, related to the implementation of the land registration process as a guarantee of legal certainty and adjusting to the applicable legal regulations on land registration, namely UUPA (Basic Agrarian Law) and PP Number 24 of 1997 concerning Land Registration. Thus, this study conducted an evaluation of the implementation of PTSL (Complete Systematic Land Certification) hereinafter referred to as PTSL, especially regarding its success or failure. Reducing or increasing land problems. By using the statute approach and case approach, it is then attempted to analyze and draw general conclusions that are in accordance with the problem that the importance of land registration in order to obtain legal certainty.

RESEARCH RESULTS

The Government's efforts to address interests in land are through the implementation of Mass Land Certification carried out by each Region by launching PTSL as the Implementation of the Agrarian Function Mechanism, this is in accordance with the purpose of the UUPA, which is to lay the foundations for providing legal certainty regarding land rights for all people.

The implementation of PTSL includes activities starting from the counseling stage, data collection, land status research, determining the location, PTSL participants and field activities including measurements and the final stage is a report on the results of the implementation of PTSL activities which are submitted to the Land Administration Improvement Project (PAP) section, for the purpose of making and issuing Certificates, this implementation is

tactically and operationally responsible to the Head of the Land Office and technical administration is responsible to the leader of the Land Administration Improvement Project (PAP).

The Government's hope is that with the launch of PTSL, landowners will feel safe and secure in cultivating and utilizing their land, considering that the land that God has given to the Indonesian nation and inherited from ancestors from generation to generation should not be manipulated by dirty hands, so in this case the Government appoints PTSL as an effort to prevent manipulation. The role of PTSL in the Community Environment, especially in Bali, is very much needed because land in Bali has very unique characteristics with the dualism of land law that still exists, namely customary land and land in general. This affirmation is intended to obtain legal certainty. PTSL is in principle a land registration activity in the context of issuing land title certificates, especially for people from the weak to middle economic groups. This activity is directed at villages/sub-districts whose regional conditions are poor/underdeveloped villages. However, in its implementation, almost every plot of land can be included. The role of PTSL in land policy is specifically to build a simple, fast, cheap, systematic, complete land registration system that provides legal certainty for land rights holders and can provide protection for community rights to land. In the implementation of PTSL there are obstacles where the lack of high dedication from the Officers/Committee who handle it because this activity is not paid for by the Government, so with the lack of supervision from the Officers/Committee, this activity is less orderly, directed, and coordinated. In fact, it is not uncommon to find many data errors on the physical certificate, for example, the most common is the inconsistency of the land area requested. And the legal awareness of the community also becomes an obstacle and the committee is also less than guiding the community so that it seems to be running alone. However, this task is still required in accordance with the completion target because it is a program from the Government that must be implemented because it is a priority.

From these obstacles do not interfere with the implementation of the PTSL process because from its supporting factors it can provide positive value especially to the community in order to further increase awareness of the importance of land registration to obtain rights in ownership of Certificates that can create a sense of security and peace among the community. In short, with PTSL it can be obtained as a double benefit for the community, with land certificates it is expected to foster more developed economic capabilities and increase public legal awareness in the land sector as an effort to participate in creating safe and peaceful political stability and the realization of orderly in the land sector which includes Orderly land law, Orderly land administration, Orderly land use, Orderly land and environmental maintenance.

DISCUSSION

Obstacles that Arise in the Process of Implementing Land Registration through PTSL

The obstacles referred to can come from the community or from the government itself as follows:

a. The obstacles faced by the Land Office are:

1. The limited number of implementing personnel (measuring officers, legal data collectors and computer personnel) and the lack of registration infrastructure or available measuring equipment while the work that must be completed in the implementation of the land registration process through PTSL is quite a lot. So that the work of the PTSL committee is not optimal, because they also continue to serve regular land registration at the Land Office.
2. Lack of counseling given to the community, especially land rights holders, regarding land registration issues. Counseling was only conducted in 2006, while PRONA 2007 did not provide counseling, but for PTSL it was sufficient, plus assistance from third parties.

b. Obstacles originating from the Land Office.

Coordination between the Land Office and the Sub-district Office in the area concerned with the PTSL program is less effective, so that the filing at the Sub-district cannot be completed immediately, thus delaying the implementation of PTSL.

c. Meanwhile, the obstacles that come from society include:

1. At the time of registration, the land rights registration requirements needed to complete the application for certification through PTSL were incomplete, so the applicant was forced to complete all the necessary requirements first, and this took time to take care of.
2. People tend to think that with Petok D alone, their land rights already have legal force and evidentiary force. So they feel safe from interference from other parties on the land they own.
3. At the time of data collection, the applicant is often not present.
4. At the time of submission/collection of the certificate, the owner was outside the city and the person collecting the certificate was not the person concerned.

Efforts Made by the Land Office to Overcome Obstacles in the Implementation of the Land Registration Process Through PTSL

The Land Office makes efforts in the following ways:

1. Counseling

The counseling activity was carried out by the Land Office assisted by the Village Committee. The targets of this counseling were PTSL recipients, Village Heads, Community Leaders, District Staff and other related parties.

The counseling materials provided by the Land Office include:

- a. Locations where the PTSL project will be carried out
- b. The purpose of holding land registration activities through PTSL
- c. Procedures for land registration through PTSL

- d. The rights and obligations of PTSL recipients are in accordance with applicable laws and regulations.
 - e. The benefits that will be obtained.
 - f. Schedule of Activities
 - g. Notification of the conditions that must be met.
2. Community Participation and Land Office Equipment
The community is requested to participate in carrying out activities to complete the files (application files) assisted by community leaders and the Kelurahan apparatus. So that it can run smoothly.
 3. A PTSL implementation schedule is provided from the time of registration to the submission or collection of certificates.
 4. If the applicant is not present at the time of data collection or is out of town, the signature does not have to be that of the applicant but can be that of his/her attorney/representative.
 5. At the time of submission/collection of the certificate, if the applicant is unable to collect it himself/herself, he/she can provide power of attorney and make a power of attorney to be able to collect the certificate.

Meanwhile, efforts made to overcome obstacles from the Land Office include:

- a. Adding technical equipment, namely by procuring measuring instruments, borrowing from the local Regional Office or BPN RI or also renting the measuring instruments, because measuring instruments are tools for implementing operational activities in land registration, especially in terms of PTSL. And with the obstacle of a shortage of measuring officers or other officers, the effort made is to increase the number of implementing personnel considering the work that must be completed in the implementation of PTSL is a lot. The addition of personnel is by utilizing other technical unit staff at the Land Office, but HR capabilities must go through technical training for measurement, assignments/assistance from the local Regional Office and acceptance/appointment of CPNS, DI, D3 and S1 Geodesy to increase the number of implementing personnel. With the addition of the number of equipment and implementing personnel, it is hoped that the implementation of land registration through PTSL will run well.
- b. Conducting counseling and approaches to provide awareness to the community about the importance of certificates because the public awareness factor is very important in terms of supporting the implementation of the rules. The counseling is carried out every time there will be a program about PTSL.
- c. Division of tasks by the Village apparatus to complete the files to be sent to the Land Office. So that the implementation of rights registration and certificate issuance runs smoothly and on time.

According to the author, because all inhibiting factors have alternatives and solutions or efforts, technical obstacles do not become obstacles to completing PTSL targets and objectives, therefore the achievement of targets only depends on the strategy, management, and performance of the Land

Office. In addition, with the awareness of the community about the importance of registering their land rights, order in land will be achieved.

Talking about land regulation by government institutions is in the context of national-scale development. One aspect of national development is related to land policy. Land issues are issues that are directly related to the people. because land is a basic need for society as a whole. therefore, extra careful and thorough handling and regulation are needed. (H. Muchsin and Imam Koeswahyono, 2008).

CONCLUSIONS AND RECOMMENDATIONS

Internal obstacles or barriers faced by the Land Office in implementing PTSL, include: Lack of number of implementing personnel and measuring equipment, Lack of coordination between the Land Office and the Village Office, Lack of counseling provided to the community, especially land rights holders regarding land registration issues. External obstacles or barriers faced by the community such as the requirements shown for completeness in submitting an application for certification through PTSL are incomplete. There are still many people, especially PTSL participants who still have land originating from inheritance that has not been returned to their own name, The community still assumes that petok D is a fairly safe proof, At the time of data collection the applicant is often not there, At the time of submission/collection of the certificate the owner is outside the city and the person concerned is not the one collecting the certificate

Efforts to overcome obstacles from the Government: Coordinating with the Head of the Village where the PTSL is being implemented, Proposing to the Land Office to add implementing personnel and technical equipment so that it can run well, Conducting counseling and approaches to provide awareness to the community about the importance of certificates because the public awareness factor is very important in supporting the implementation of regulations. Efforts to overcome obstacles from the Community: Requesting participation from the community to hold activities to complete files assisted by community leaders and Village officials, Providing counseling on the importance of land title certificates as strong evidence according to law. Counseling activities are carried out by the Land Office assisted by the Village Committee. The targets in this counseling are PTSL recipients, Village Heads, Village or Traditional Community Leaders, District Staff and other related parties.

For Indonesia, whose society is characterized by agrarian, then to achieve the above ideals, the way is partly by carrying out restructuring (reorganization) and partly continuing programs that are considered good. Among them is mass certification through PTSL. Legal counseling, especially land law, should not only be carried out in the context of PTSL, but should be carried out continuously and sustainably by authorized officials for the success of the land registration program in order to increase public knowledge and legal awareness in the Land Sector. Considering that there are still many people who hold land rights who do not have certificates, especially for the weak economic group, to overcome this, mass certification through PTSL needs to be held more often.

ADVANCED RESEARCH

Further research can add other contingent for assistance from a third party, it is better to consider human resources as well because every problem that arises is always a third party who actually carries it out, for example, measurements by third parties often miss compared to measuring officers who are directly carried out by land office officers.

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REFERENCES

- Achmad Ali, 1996, *Unveiling the Veil of Law (A Philosophical and Sociological Study)*, Chandra Pratama, Jakarta.
- AP. Protection, 1984, *Comments on the Basic Agrarian Law*, Alumni, Bandung.
- Bachtiar Effendie, 1993, *Collection of Writings on Land Law*, Alumni, Bandung.
- Bachtiar Effendie, 1993, *Land Registration in Indonesia and its Implementing Regulations*, Alumni, Bandung.
- Boedi Harsono, 1999, *Indonesian Agrarian Law, History of the Formation of the Basic Agrarian Law, Contents and Implementation*, Djambatan, Jakarta.
- Djoko Prakoso, Budiman Adi Purwanto, 1985, *The Existence of PRONA as the Implementation of the Agrarian Function Mechanism*, Ghalia Indonesia, Jakarta.
- Iman Sudiyat, 1982, *Several Land Ownership Problems in Various Developing Societies*, National Land Agency.
- Irawan Soerdjono, 2002. *Legal Certainty of Land Rights in Indonesia*, Arkola, Jakarta.

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Muchtar Wahid, 2008, *Understanding Legal Certainty of Land Ownership Rights*, Republika, Jakarta.

Law Number 5 of 1960 concerning Basic Agrarian Principles.

Government Regulation Number 24 of 1997 Concerning Land Registration.

Sudjito, 1987, *Mass Land Certification and Strategic Land Dispute Resolution*, Liberty Publisher, Yogyakarta.