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Legal Certainty for Dispute Resolution of the Complete Systematic Land Registration Process (PTSL) through the Village Head in North Buton

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Abstract: This study aims to analyze legal certainty in dispute resolution of the Complete Systematic Land Registration (PTSL) process through Village Heads in North Buton Regency, focusing on the challenges faced in resolving land disputes related to customary rights and territorial boundaries. The PTSL process is expected to provide legal certainty for land rights, but in practice, disputes often arise involving parties claiming land rights, both from a state law perspective. The method used in this study is an empirical juridical approach with case studies in several villages in North Buton Regency. Data collection was carried out through interviews with the Village Head, village officials, the community, and the National Land Agency (BPN), as well as a study of related documents. The results of dispute resolution research are directed to non-litigation resolution with the direct involvement of the dispute head at the North Buton Regency BPN. Referring to the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, Completion of PTSL activities in the Cluster 2 category, namely land plots whose physical data and juridical data are eligible for the issuance of a Certificate of Land Rights but there are cases in the Court and/or disputes. To ensure legal certainty in the settlement of PTSL disputes through the village head, it needs to be stated in the form of a written agreement by the parties to the agreement that is legally made. Strengthening Coordination between the Village Government, the North Buton National Land Agency. In this study, it was found that the lack of coordination between related institutions led to the slow resolution of land disputes that occurred during the implementation of PTSL.

Keywords: Legal Certainty, Dispute Resolution, PTSL, Village Head, North Buton

INTRODUCTION

The Government's PTSL program still finds land in Indonesia that has not been certified or does not have a certificate. Land certificates are strong evidence of land ownership by the

community. The government does not charge the community for the land registration process, but only charges administrative fees.¹ The government's complete systematic registration arrangement (PTSL) wants all people's land plots to be measured and have legal certainty in the form of land certificates. According to Mola in the Business News news, PTSL was carried out from 2017 with a target of 5 (five) million plots of land and the Ministry of Agrarian Affairs and Spatial Planning of BPN. has carried out PTSL with many 5.2 million plots of land, in 2018 the government's target is 7 million plots of land.²

PMATR/KBPN Number 35 of 2016 concerning the Acceleration of the Implementation of PTSL has made several changes, most recently with the Regulation of the Minister of Agrarian Affairs and Spatial Planning of the Head of the National Land Office Number 12 of 2017 concerning the Acceleration of PTSL. The aforementioned regulation was amended again into the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 6 of 2018 (Permen of ATR/BPN No. 6/2018). The regulatory update occurred because it was to adjust to the provisions of laws and regulations related to land registration and other land provisions.³

Land in conflict in the PTSL program reached 8,000 cases. That number is certainly still very large, but statistically small compared to those listed.⁴ This number is almost the same as in 2021, which was 8111 cases. Among the cases, land disputes occur due to various factors, including inheritance disputes, land tenure without rights, double certificates, fake buying and selling and various other problems⁵. the provisions of Article 26 paragraph (4) letter K of Law No. 6 of 2014, Resolving community disputes in the village." Related to the obligations given by the village head in resolving disputes provided by the Law.⁶

The village is a place for the village community to complain if there is a dispute, the village facilitates the village community who are in dispute by prioritizing the family system. In terms of facilitating, the village invites the village community who disagree with the intention of the invitation, the village mediates patterns. However, this still does not have legal certainty for the parties to the dispute because it has not been contained in an agreement or minutes that contain the agreement of the parties. One of the disputes that occurred in the village can be resolved through the village head regarding the issue of land registration for the first time that has not been certified. Land is one of the important factors in the life of rural communities. "The first reason is that land is needed by the community for their settlements, as an occupation field, and for other needs. In traditional societies, there is a close relationship between humans or society. As one with the land, there was a kind of 'magical religious' relationship between the two. The second reason is that for the lives of village farmers and urban communities, land is one of the dominant need factors. Currently, the human need for land is very much felt due to population growth and rapid economic activity.⁷ In resolving land rights disputes that will be registered through the PTSL program, it is difficult to find a middle

¹ Isdiyana Kusuma Ayu, Legal Certainty of Land Tenure through Complete Systematic Land Registration in Batu City, p. 339

² Kosalya I, Dewi A, Suryani L. Dispute Resolution of the Complete Systematic Land Registration Process (PTSL) Based on the Regulation of the Minister of Agrarian Affairs Number 6 of 2018. *J Analog* 2022, p. 78.

³ Minister of ATR: There are 8,000 Land Dispute Cases <https://www.cnbcindonesia.com/news/20220224160041-4-318095/menteri-atr-ada-8000-kasus-sengketa-tanah> accessed on April 11, 2023

⁴ La' La'bi JMA, Nur SS, Lahae and K. Complete systematic land registration (PTSL) for tongkonan land. *Supremacy J Thought*, Researcher of the Sciences of Sos Huk and Its Teaching 2018 p. 118.

⁵ M Marsella, "Perspectives on Land Dispute Handling at the National Land Agency," *Law Enforcement* 2, no. 2 (2015) p. 101.

⁶ Hypocrisy LO. The Obligation of the Village Head in Resolving Disputes over Land Rights of the Village Community. [Dissertation] Malang: Faculty of Law, University of Brawijaya; 2018.

⁷ Munawir LO, Safa'at R, State TAS, ... Duty of Village Head as Mediator in Solving Hah Dispute concerning Villager Land. *JL Pol'y* ... 2018; 72, p. 118.

ground between the two parties to the dispute. The land became unmanaged as a result of the uncertainty of the status of the land. this is completely contrary to the spirit of the UUPA in terms of guaranteeing legal certainty. useful to increase the effectiveness of the PTSL program and ensure legal certainty for the community.⁸ This study aims to analyze legal certainty in land dispute resolution through Village Heads in North Buton Regency and identify the challenges faced in the PTSL process.

METHOD

This study uses an empirical juridical approach, which combines normative legal studies with field research to analyze legal certainty in the settlement of land disputes related to the Complete Systematic Land Registration Process (PTSL) through the Village Head in North Buton Regency. This approach was chosen because it can explore legal phenomena that occur in the field and provide a deeper picture of land dispute resolution practices and challenges faced in the implementation of the PTSL program.⁹

The type of research used is descriptive research, which aims to describe the situation and conditions related to the implementation of PTSL in North Buton Regency, with a focus on the role of the Village Head in resolving land disputes. The data was collected through in-depth interviews with various related parties, namely the Village Head, village officials, communities involved in land disputes, and the National Land Agency (BPN). In addition to interviews, documentation studies were also conducted to obtain secondary data in the form of regulations, policies, and reports related to the implementation of PTSL in the area.¹⁰ The data obtained from interviews and document studies were then analyzed qualitatively. This analysis was conducted to explore the relationship between applicable regulations and the implementation of PTSL in the field, as well as identify factors that affect the success or obstacles in land dispute resolution. By using descriptive analysis techniques.

RESULTS AND DISCUSSION

Dispute resolution Complete systematic land registration (PTSL)

The main consideration is effective and efficient dispute resolution in the context of land. a). Increased Legal Certainty: Effective handling and settlement of land cases can increase legal certainty for land rights holders, investors, and the general public. b). Encourage Investment and Development: A prompt and fair dispute resolution process can create an environment conducive to investment and economic development.¹¹

Settlement of Land Rights Disputes can be resolved through court or alternative court channels (litigation or non-litigation).¹² The PTSL dispute resolution program is directed to non-litigation resolution with the direct involvement of the dispute officer at the North Buton Regency BPN. Referring to the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency, the completion of PTSL activities consists of 4 (four) clusters, including:¹³ a). Cluster 1, which is land parcels whose physical data and juridical data are eligible for the issuance of a Land Rights Certificate; b). Cluster 2, which is

⁸ Ministry of Agrarian and Spatial Planning/National Land Agency. (2018). Guidelines for the Implementation of the Complete Systematic Land Registration Program (PTSL). Jakarta: Ministry of ATR/BPN.

⁹ Kosalya, Op., Cit. p. 81

¹⁰ Roberts, A. (2024). The Role of the Village Head in Land Dispute Resolution through PTSL. *Journal of Village Administration*, 10(1) p. 47

¹¹ David Spencer, *Mediation: Principles and Practice*, Kluwer Law International, 2014, p. 45

¹² Kosalya, Op., Cit. p. 81

¹³ Article 25 Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning COMPLETE SYSTEMATIC LAND REGISTRATION

a land plot whose physical data and juridical data are eligible for the issuance of a Land Rights Certificate but there is a case in Court and/or a dispute.

c). Cluster 3, namely land plots whose physical data and juridical data cannot be recorded and a Certificate of Land Rights is issued because the subject and/or object of the right has not met certain requirements stipulated in this Ministerial Regulation; and d. Cluster 4, which is a land plot whose objects and subjects have been registered and have been certified as Land Rights, both those that have not been mapped and those that have been mapped but are not in accordance with field conditions or there are changes in physical data, must be mapped into the Complete Systematic Land Registration Map.

Cluster 2 land plots where physical data is disputed, the settlement mechanism refers to PP ATR/BPN NO. 21 OF 2020, Dispute and Conflict Handling is carried out through stages: a. Case study; b. Early degrees; c. Research; d. exposure of research results; e. Coordination Meeting; f. Final degree; and g. Case Resolution.¹⁴

The Case Assessment is outlined in the form of a staff review that contains: a. title, b. subject matter that describes the disputed subject, the complainant's objections or demands, the location, area and status of the object of the Case, c. the history of the Case, d. available data or documents, e. the classification of the Case; and f. other matters considered important.¹⁵

The initial degree is carried out with the aim of, a). determine agencies or institutions or parties that have authority and/or interests related to the case being handled. b). formulate a Handling Plan. c). Determine the provisions of applicable laws and regulations. d). Determine the juridical data, physical data, field data and materials required. e). Prepare a research work plan; and f). Define the target and time of completion.¹⁶

The results of the interview with the head of the dispute section of North Buton Regency the stages of land dispute resolution through, case study, initial degree, research, exposure of research results, coordination meeting, final title and case resolution. The stages that are a reference for dispute resolution in defense are considered by the community and the North Buton land dispute chief, a process that is so long and long.

One of the problems with the granting of final authority in the final title is the authority of the Regional Office, such as the Case Settlement Recommendation Letter submitted to the Head of the Land Office if the final title is carried out by the Ministry and/or the Regional Office, but the implementation of Case Settlement is the authority of the Land Office. The authority of the final title proposal which is the authority of the regional office makes it difficult to resolve land disputes in the North Buton Regency area. So that the settlement model is more conducive to the mediation of the parties to the dispute by involving the Village Head Government as the Government.

One of the tasks of the PTSL Adjudication Committee has the following duties: facilitating the resolution of disputes between the parties concerned regarding disputed data; Case Handling is declared completed with the following criteria: b Criterion Two (K2) in the form of:¹⁷ 1. a Case Settlement Instruction Letter or a letter of determination of the right party but the decision to settle cannot be followed up because there are conditions that must be met which are the authority of other agencies. 2. a letter of recommendation for Case Settlement from the Ministry to the Regional Office or the Land Office as per its authority and the Regional

¹⁴ Article 6 Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia NO 21 OF 2020 concerning HANDLING AND SETTLEMENT OF LAND CASES

¹⁵ Article 7 Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia No. 21 of 2020 concerning the Handling and Settlement of Land Cases

¹⁶ Article 8 Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia NO 21 OF 2020 concerning HANDLING AND SETTLEMENT OF LAND CASES

¹⁷ Article 17 letter b Perma ATR/BPN NO. 21 OF 2020

Office to the Land Office or a proposal for Settlement from the Land Office to the Regional Office and the Regional Office to the Minister

The stages of resolving land disputes based on the Regulation of the Head of BPN Number 21 of 2020 include three main steps¹⁸. First, administrative settlement, where parties aggrieved by illegal actions can report their cases to the National Land Agency or related agencies for investigation and mediation. The purpose of this step is to find a solution that can be accepted by all parties without going through a legal process. Second, judicial settlement, which is an option if the administrative route does not result in an agreement. In this stage, the court will evaluate the evidence and listen to arguments from both sides before issuing a binding decision. Third, the implementation of court decisions, where court decisions must be carried out in accordance with applicable law, including the return of rights to the entitled parties and the provision of compensation to the aggrieved parties.

Guarantee of legal certainty in the settlement of PTSL disputes through the village head

The land registration system in Indonesia is not a purely negative system, but a negative system with a positive tendency. The negative connotation mentioned is that if the existing information becomes inaccurate, it can always be changed and corrected. Although a negative system is used, the registration committee is not satisfied with the positive publication system. This means that the registration committee does not simply agree to the conditions that have been collected, and it is mentioned by the party requesting registration, either in the first bookkeeping, or in the registration or recording of the changes beforehand, research must be carried out to avoid errors.¹⁹

The Village Head is in charge of organizing Village Government, implementing Village Development, Village Community Development, and Village Community Empowerment.²⁰ village heads in carrying out their duties are obliged to resolve community disputes in the village. The provisions of **Article 135a (1) of the HIR** regulate the existence and role and function of village judges in deciding disputes that arise among villagers.

Guarantee of legal protection in terms of land which is currently regulated in the Basic Agrarian Law (UUPA). Specifically for the regulation regarding evidence of land ownership as stipulated in article 19 paragraph 2 of the UUPA and Government Regulation No. 24 of 1997 article 1, that a certificate is proof of a sign of land rights. Land registration activities will produce a proof of land rights called a certificate. With a land certificate, legal certainty regarding the type of rights to it, the subject of the right, and the object of the right become real.²¹

Land certification as proof of the landowner that he is the rightful owner of the land as well as the clarity of the land object. With this land certificate, the land owner will get certainty and legal protection.²² In theory, "law as a tool social engineering." According to Pound, "law as a tool social engineering" is a means that aims to change the behavior of citizens, according to the previously determined goals.²³ In this case, the function of law as a means to change the behavior of citizens, which shows that law as an agent of change in pioneering and gaining the

¹⁸ Wardani, Widyarini Indriasti. "Efforts to Resolve Disputes Over Ownership of Land Rights Registration through PTSL." *Journal of Notary Deeds* 3. no. 1 (2024): 115-130

¹⁹ Prakoso, D., & Purwanto, B. A. (2017). The existence of PRONA as the implementation of the agrarian function mechanism. Jakarta: Ghalia Indonesia. Pp

²⁰ Article 26 paragraph 1 of Law No. 6 of 2014 concerning Villages

²¹ Manthovani R, Istiqomah I. Land Registration in Indonesia. *J Master of Political Science* 2021, p. 15. <https://doi.org/10.36722/jmih.v2i2.744>.

²² Abdul Muthallib, "The Influence of Land Rights Certificates as Evidence in Achieving Legal Certainty," *Jurisprudence: Journal of Sharia Sciences, Legislation, and Islamic Economics* 12, no. 1 (2020) p. 30, <https://doi.org/10.32505/jurisprudensi.v12i1.167>

²³ Soekanto, S. (2009). *Fundamentals of Legal Sociology*. Jakarta: Raja Grafindo Persada. p. 385

trust of the community.²⁴ The reality of the law in essence is the public will which is not just a law in book, but a balance between written law as the needs of the community in order to create legal certainty as a form of the role of the community in realizing the goals of the law.

The Village Head, as the spearhead of village administration, plays a key role in facilitating the PTSL process, including in resolving land disputes that occur. Village Heads are expected to be able to overcome problems that arise during the process, although they are often hit by challenges in the form of lack of legal understanding and limited resources. In addition, the lack of coordination between the Village Head, the National Land Agency (BPN), and the local is one of the inhibiting factors in the settlement of the dispute.²⁵ Legal certainty in land management must be maintained through complete documentation, lawful procedures, and oversight of administrative decisions issued by the authorities.²⁶

Article 1338 of the Civil Code, an agreement made legally, applies as a law for the person who made it. This article is known in civil law as the principle of *pacta sunt servanda* or also known as the principle of legal certainty, this principle is related to the consequences of the agreement. The principle of *pacta sunt servanda* is the principle that the judge or a third party must respect the substance of the contract made by the parties, as appropriate as the law. Thus a treaty becomes a law for the one who makes it and needs to be obeyed, a peace made in a peace treaty is binding on the parties who make it.²⁷

The role of the Village Head in the implementation of Complete Systematic Land Registration (PTSL) in North Buton Regency is very strategic, because the Village Head acts as a liaison between the community, the government, and related institutions such as the National Land Agency (BPN). The Village Head has the obligation to facilitate the collection of physical and juridical data, as well as coordinate the verification process of the land to be registered. In practice, the Village Head often acts as a mediator in resolving land disputes involving the local community.

Village Heads need to be given further training on land law, land rights, and how to resolve disputes in a legal and fair manner. The training is important to strengthen their capacity in dealing with the complexity of disputes that often occur in PTSL programs.²⁸ One of the main problems faced in the PTSL process in North Buton Regency is disputes related to territorial boundaries between the parties and land control is not in accordance with juridical data, the registered land fields are not physically authorized for a long time and are not used.

Strengthening Coordination between the Village Government, the North Buton National Land Agency

The importance of coordination between the Village Head, BPN, and the community in the PTSL process cannot be underestimated. In this study, it was found that the lack of coordination between related institutions led to the slow resolution of land disputes that occurred during the implementation of PTSL. The Village Head as a party closer to the community does not always have direct access to information owned by BPN or customary

²⁴ Rasjidi, Lili., & Rasjidi, Ira Thania. (2007). *Fundamentals of Philosophy and Legal Theory*. Bandung: PT. Image of Aditya Bakti. p. 385

²⁵ Roberts, A. (2024). The Role of Village Heads in Land Dispute Resolution through PTSL in North Buton Regency. *Journal of Village Administration*, 10(1), p. 46

²⁶ Tarma Wijaya, et al., Land Dispute Resolution in Indonesia: An Analysis of the Regulation of the Head of BPN Number 21 of 2020, *Iustitia Omnibus: Journal of Legal Science*. Vol. 6 No. 1, December (2024), p. 42

²⁷ La Ode Munawir, *Alternative Settlement of Land Rights Disputes through Village Heads (Basic Studies, Theory and Practice)*, CV. Literasi Nusantara Abadi, Malang 2022, p. 87

²⁸ Roberts, A. (2024). The Role of Village Heads in Land Dispute Resolution through PTSL in North Buton Regency. *Journal of Village Administration*, 10(1), p. 45

institutions. As a result, there are often misunderstandings or even overlapping claims to the land that is the object of PTSL.

Emphasized the importance of more intensive dialogue between Village Heads, BPN, and customary institutions to ensure that the PTSL program can run smoothly and not cause disputes. In some cases, the village government plays a greater role in resolving land disputes through mediation, but if there is no good synergy with BPN or customary institutions, dispute resolution is hampered. Therefore, strengthening communication and collaboration between all parties involved in PTSL is very necessary. One of the solutions that can be implemented is the establishment of a joint forum involving representatives from the village government, BPN, and the community to discuss land issues in a transparent and constructive manner.²⁹

BPN must also provide more open information to the Village Head regarding the status of land registered through PTSL, including land that has a K 2 dispute status, so that the Village Head can clearly inform the community about the procedures and steps that need to be taken to resolve the problem (Ministry of ATR/BPN, 2018).

CONCLUSION

Legal Certainty for Dispute Resolution of the Complete Systematic Land Registration Process (PTSL) through the Village Head in North Buton. Dispute resolution is directed to non-litigation resolution with the direct involvement of the Dispute Officer at the North Buton Regency BPN. Referring to the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, Completion of PTSL activities in the Cluster 2 category, namely land plots whose physical data and juridical data are eligible for the issuance of a Certificate of Land Rights but there are cases in the Court and/or disputes. **To ensure legal certainty in the settlement of PTSL disputes through the village head, it needs to be stated in the form of a written agreement by the parties** to the agreement that is legally made, valid as a law for the one who made it so that legal certainty is realized, this principle is related to the consequences of the agreement. The principle of *pacta sunt servanda* is the principle that the judge or a third party must respect the substance of the contract made by the parties, as appropriate as the law. Thus a treaty becomes a law for the one who makes it and needs to be obeyed, a peace made in a peace treaty is binding on the parties who make it. **Strengthening Coordination between the Village Government, the North Buton National Land Agency.** In this study, it was found that the lack of coordination between related institutions led to the slow resolution of land disputes that occurred during the implementation of PTSL. The Village Head as a party closer to the community does not always have direct access to the information owned by BPN.

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