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Legal Standing of Land Rights Certificate on Eigendom Verponding Land

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Abstract: Many disputable incidents related to the ownership of land previously controlled by Western parties continue to occur, where the owner or heir asserts a claim to ownership of the land, even after the enactment of Law Number 5 Year 1960 on Basic Agrarian Principles, as well as the unchanged status of the land over a 20-year period. This research aims to investigate the legal position of land title certificates related to the concept of eigendom verponding land, as well as the legal protection available to holders of certificates declared invalid by Supreme Court Decision Number 109 PK/Pdt/2022. The methodological approach applied is the normative juridical research method. The research findings show that land previously owned by Western parties becomes direct ownership by the state, so that holders of former eigendom verponding land certificates must still be recognized. This conclusion is based on a theoretical analysis of legal norms derived from various hierarchies of laws and regulations that are interrelated and related to each other. Land that was once part of the eigendom verponding system and has now transitioned into direct state ownership, with the issuance of land title certificates, marks a manifestation of the legal protection afforded to individuals who initially held certificates that were later revoked, in accordance with the principle of legal protection. In this context, objections to the issuance of land rights certificates can no longer be raised in court, because essentially, objections to land rights certificates can only be made within five years of the certificate being issued, as stipulated in Article 32 paragraph (2) of Government Regulation Number 24 of 1997.

Keyword: Legal Standing, Legal Protection, Certificate, Eigendom Verponding..

INTRODUCTION

Indonesia enacted two systems of land law before independence, namely customary land law and western land law (Loupatty et al., 2019; Shebubakar & Raniah, 2023). In fact, the control and use of customary land is still tied to the structure of customary law (Indonesia., 2021; Shebubakar & Raniah, 2023). Various types of land rights derived from customary land law, such as freehold land, agrarisch eigendom land, crooked land, and gogolan land, have been described in detail by (Indonesia, & Soetojo, 1961) in his work. On the opposite side, land

rights rooted in western land laws such as eigendom, erfpacht, opstal, and gebruik, are more binding on individuals with western and European backgrounds as explained by (Hasanah, 2012).

In Indonesia, regulations regarding land ownership have been consolidated through the ratification of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (Dwi Kusumo, 2016). The transformation process changed the land ownership procedures that were previously bound by western legal principles, to then be bound by the provisions contained in Law No. 5 of 1960. As stated in a study conducted by (Salim et al., 2021), this transformation process changes the nature of rights such as opstal rights to building use rights, gebruik rights to use rights, and erfpacht rights to business use rights, where each is subject to different regulations and restrictions. The process of transformation of eigendom rights requires that the landowner must have the status of an Indonesian citizen on September 24, 1960. Proof of being an Indonesian citizen is supported by official documentation no later than six months after the ratification of Law Number--5 of 1960 (Suartini et al., 2020), meaning that it does not exceed March 24, 1961. If this requirement is not met, the land will be used as an object of building use rights (Sanjaya et al., 2021) for a period of 20 years. The conversion provision gives 20 years for the right holder to complete the conversion process, due to the eigendom status until September 24, 1980 (Mujiburohman, 2016; Wardani, 2023). Eigendom land will return to state property if it is not converted (Parlindungan, 1990). Those who still meet the requirements and who live on land that they once owned are given preference when applying for land rights.

In fact, there have been many incidents that have raised tensions related to land that was previously owned by the west and has not undergone transformation during the 20-year period after the ratification of Law No. 5 of 1960, where the owner or heir still maintains the belief that the land is still his ownership (Mujiburohman, 2021). If the owner or his successor is negligent or loses physical control over the land, it causes more complex problems (Pransisto, 2023; Zefanya & Lukman, 2022). Moreover, although Law No. 5 of 1960 has been part of the established legal framework for a long time, some landowners or their heirs still hold fast to the unupdated proof of ownership, believing in the validity of the document. This complicates the dynamics of land disputes in Indonesia due to lack of understanding, negligence, and non-compliance with applicable legal provisions in the community (Pransisto, 2023; Taolin et al., 2024). Thus, the ownership of land rights becomes a source of disputes due to changes in land status that occur.

As documented in the Supreme Court Decision Number 109 PK/Pdt/2022, there was an incident where the Plaintiff, who is the successor of the ownership of the land that was previously registered as a *verponding eigendom right* with Numbers 3740, 3741, and 3742, did not carry out the conversion process to the object of dispute that was previously registered as *a verponding* eigendom right. Nevertheless, the enforcement by the Panel of Judges concluded that in its capacity as the holder of the rights that were originally recorded as western rights, the Plaintiff has a more substantial claim compared to the Defendant Party which cannot show evidence of ownership or rights to the land concerned. Thus, in its decision, the Panel of Judges highlighted that the Plaintiff has the right to submit an application for rights against the Head of the Bandung City Land Office. This decision reflects that the legal factors related to the regulations regarding *ex eigendom verponding land* are not detailed by the Panel of Judges.

In the context of agrarian and land law regulations that pay attention to the existence of land rights that were previously structured in the Eigendom verponding which is a legacy of the western legal system (Ramadhani & Safitri, 2019), making the land under the direct control of the government or state. There is also the issue of the legal status of the certificate which is canceled based on a court decision, where the Panel of Judges recognizes the existence of land Eigendom verponding in his consideration. In addition, there is the issue of legal protection for

those who have occupied land eigendom The land has not been converted and is not under the control of the Eigendom verponding or their heirs. In order to understand the implications of the Supreme Court Decision Number 109 PK/Pdt/2022, the study focuses on two main questions that are the focus of the analysis. First, an exploration will be carried out on the legal position of the holder of the land right certificate issued on the land Eigendom verponding, in line with the applicable legal provisions. Second, the purpose of this study is to investigate various alternative legal protections available to land rights certificate holders who are considered invalid based on legal norms as a result of the decision. In this context, we will discuss Legal Status of Land Rights Certificate on the Ground Eigendom Verponding, taking into account the two aspects mentioned earlier.

METHOD

Legal research that is normative juridical emphasizes the use of secondary data and literature information that is relevant to the issue being researched, is the approach adopted in conducting this research (Marzuki, 2005). In this context, sources such as laws, regulations, and literature are used to support the research conducted. In an effort to answer the research questions raised, the normative legal approach involves an analysis of various levels of norms, rules, principles, theories, philosophies, and relevant legal aspects.

In the context of normative law research, two substantial categories of materials used can be identified, namely secondary and primary materials. Primary legal material refers to the fundamentality of law, including but not limited to basic ideas and principles, as well as regulations contained in legislation. As a support in analyzing or interpreting, legal secondary materials consist of written works or literature produced from previous studies, which are generally presented in the format of scientific articles. Literature research, or the process of collecting various books, notes, and reports on problems that need to be solved, is a method of collecting data used to collect information for this paper. Qualitative analysis refers to a methodological approach applied in data processing in the context of research that focuses on the description and in-depth understanding of a particular phenomenon. This method focuses on collecting and interpreting data that is descriptive, exploring the various dimensions and contexts of a problem without relying on numerical data.

RESULTS AND DISCUSSION

The legal status of the certificate of land rights on eigendom verponding land related to the case in Supreme Court Decision Number 109 PK/Pdt/2022

According to the normative provisions documented in Law Number 5 of 1960 and a series of related regulations, including Presidential Decree Number 32 of 1979 and Government Regulation Number 18 of 2021, Indonesia officially recognizes the status of land ownership of eigendom verponding which is rooted in the Western legal tradition and is still in a stage that has not yet gone through the conversion process. This recognition did not automatically lead to direct control by the state after September 24, 1980.

There are two different definitions of eigendom. "eigen" denotes oneself or one's own egendom is understood as "private property" or property rights because "dom" refers to the dominium, which signifies property rights (Riyadi, 2017). In the context of legal regulations in Indonesia, the term "verponding" refers to a document or proof of tax payment for immovable property or real estate, which was given to landowners during the Netherlands colonial period, which is generally known as tax, petuk, pipil, girik, and so on. The definition that is expressly stated is a detailed and structured conceptualization documented in certain legal provisions, especially represented by Article 1 paragraph (1) of Law Number 33 of 1953, which refers to Law Number 15 of 1952 which regulates the collection of verponding tax, and the continuation of the provisions of related regulations contained in Law Number 72 of 1958, Especially regarding

the verponding tax in 1957 and the period after that. Meanwhile, public awareness of the concept of verponding has developed so that it recognizes verponding as a legal representation of land ownership rights.

Article 570 of the BW provides an appropriate description of eigendom, defining it as a property right that gives unlimited freedom to the owner to use the property, as long as the individuals comply with the guidelines set by the applicable laws and regulations (Hasanah, 2012). It is also called, the holder of the right of eigendom can:

1. Utilize and enjoy the full right to an object, such as private land, with freedom and completeness.
2. Acquire ownership and control of real property, such as privately owned land, as much as possible.

As a form of material rights, the procedure for obtaining rights over eigendom land is as follows:

1. Mastering the field.
2. Attractive with other objects.
3. Have reached the deadline (the time has expired).
4. Inheritance.
5. Because there is a transfer of ownership, legal consequences and starting from the owner who has absolute property rights (eigendom).

Over time, the growth and evolution of land ownership, rooted in the legacy of western law, created the need for a transition or transfer of ownership before September 24, 1980. This date marks an important point after the enactment of Law Number 5 of 1960 on September 24, 1960 (Liadi, 2019). Presidential Decree No. 32 of 1979 and Regulation of the Minister of Home Affairs No. 3 of 1979 highlight the urgency of the conversion of land rights sourced from Western legal traditions. Article 1 of the two regulations emphasizes that land that has been converted from western rights, such as use rights, building use rights, and business use rights, will end on September 24, 1980 in accordance with the provisions of Law Number 5 of 1960. After the period of the right ends, the state will take over the control of the land (Salmi, 2015). In Article 1 of the Conversion Provisions of Law Number 5 of 1960, the right of western eigendom refers to the right of ownership of eigendom land. After the enactment of Law Number 5 of 1960, these rights will undergo a transformation towards property rights in accordance with the provisions in accordance with Article 21. Support for this conversion is reflected in the Regulation of the Minister of Agrarian Affairs Number 2 of 1960 concerning the Implementation of the Provisions of Law Number 5 of 1960 (Regulation of the Minister of Agrarian Affairs Number 2 of 1960). Article 2 paragraph (1) of the regulation stipulates the obligation for Indonesia citizens, both from individuals and as legal entities, who own land with eigendom rights by September 24, 1960, to report it to the Head of the Land Office, no later than March 1961. Furthermore, they must immediately register the land, which will be recorded in the original deed and grosse deed (Mujiburohman, 2021). Furthermore, Article 4 of the Regulation of the Minister of Agrarian Affairs Number 2 of 1960 gives the implication that the ownership of land will be transferred to building use rights for a period of validity of 20 years if the owner of the land title in the certificate does not meet the registration requirements set by the Land Office or cannot confirm his citizenship status as an Indonesian citizen.

Due to the existence of entities that have long held ownership of land, which includes those who have the right to verify eigendom, still retain the ability to transform their land rights through a registration process that can be carried out both systematically and sporadically through the Adjudication Committee and the Head of the Land Office, where in this process it is necessary to present a written document that strengthens the their claim is civil. This phenomenon causes a striking imbalance between the provisions in Law Number 5 of 1960,

which has a higher authoritative position in accordance with the provisions of Law Number 12 of 2011 and Government Regulation Number 24 of 1979 (Sari & Setyadji, 2022). The impact of this is that there is a tendency in court decisions that more often favor the party who holds the right to verponding eigendom.

In decision Number 109 PK/Pdt/2022, the judge confirmed the validity of the collateral confiscation implemented on the former state land of Eigendom Verponding Number 3740, 3741, and 3742 in the context of the case in question. Further affirmation was made by the judge who legalized the documents Acte van Prijgving van Eigendom Verpondings Nos. 3740, 3741, and 3742 Aan: George Hendrik Muller, Eigenaaren De Heer Marinus Johanes Meertens, Administrateur van en wonende op het Land Tjoemblong in de afdeeling Bandoeng... bekrad: De naamlooze vennootschaft cement Tegel fabrieken handeel "Simongan" landeigenaar en prijgeving de europach George Hendrik Muller. Subsequently, the document was translated from Netherlands to Indonesian Language. The document marks the process of transferring land ownership from the Cement Tegel Factory Handeel Limited Liability Company "Simoengan" to George Hendrik Muller as the owner.

Then the judge ruled that Afschrift Number 344/1932, Acte van Overschrijving, Van Eigendom - Verpondings 3740 - Aan George Hendrik Muller, Egenaaren Nummer 344 this translation from Netherlands to Indonesian is the Deed of Transfer of Rights from Verponding NumberOwnership of 3740 to George Hendrik Muller. In addition, another document known as the Deed of Ownership in the name of the King, Copy No. 833/1935, which regulates the Transfer of Property from Verponding No. 3741 to George Hendrik Muller, officially referred to as Acte van Eigendom, Afschrift No. 833/1935, van Overschrijving, Verpondings Nummer 3741 Aan George Hendrik Muller is declared legally valid.

Acte van Eigendom, Afschrift No. 523/1936, van Overschrijving, Verpondings Nummer 3742 Aan George Hendrik Muller, has been translated from Netherlands to Indonesian using the name of the King, and a copy of the Title Deed No. 523/1936, which regulates the transfer of rights from Ownership Verponding No. 3742 to George Hendrik Muller and is valid under the law of passing and assignment of land rights from Plaintiff I, Plaintiff II, and Plaintiff III to Defendant IV PT Dago Inti Graha have been inaugurated through Deed Number 01 on August 1, 2016. This transaction was carried out in the presence of Notary Tri Nurseptari, S.H., who acted as the Bandung City Land Deed Making Officer. The transaction involves 3 (three) plots of land on Jalan Sarimanah Raya No. 72 (Sarijadi), Bandung.

It should be emphasized that the Plaintiff, as a former holder of the land rights of the former western rights, has the ability to show the history of ownership of the object of dispute. This confirms that the Plaintiff gets a more solid legal foundation compared to the Defendant which does not include proof of ownership or a strong legal basis. Therefore, the Plaintiff has a stronger basis to defend the arguments raised in the dispute, as well as a party that has a stronger right to register the land that is the object of the dispute.

Based on the consideration of the Panel of Judges described earlier, the Supreme Court found that there was sufficient justification to give approval to the review application filed by Heri Hermawan Muller and his associates. In this context, the Supreme Court also decided to annul the Supreme Court Decision Number 934 K/PDT/2019, issued on October 29, 2019, which granted the cancellation of the Bandung High Court Decision Number 570/PDT/2017/PT BDG, issued on February 5, 2018. The purpose of this decision is to make corrections to the decision of the Bandung District Court Number 454/Pdt.G/2016/PN Bdg, which was issued on August 24, 2017, where one of the aspects shows the inconsistency of the land certificate owned by the Defendant in the applicable legal realm.

In the context of the theory of legal norms presented by Hans Kelsen, norms are considered hierarchical entities that are arranged in stages. In this structure, the lower norms hierarchically depend on the norms that have a higher level of hierarchy. Likewise, the norms that exist at the

higher levels of the hierarchy depend on the norms that exist at the higher levels, and so on, until they reach the top of the hierarchy in the form of basic norms (grundnorms), a concept published by Kelsen in 2010. Its relationship with the 1945 Constitution of the Republic of Indonesia is reflected in Article 33 paragraph (3), which outlines the principle that land, water, and natural resources in it are controlled by the state and must be utilized as much as possible for the benefit of the prosperity of the people. From these basic principles, it can be concluded that the main purpose of the use of natural resources, such as space, land, water, and natural resources contained in them, is to improve the welfare of the community. Thus, a legal framework is needed that directs the process of resource conversion in a systematic way, which is outlined in the hierarchical structure of the applicable laws and regulations.

Article 2 paragraph (1) of Law Number-5 of 1960 emphasizes that the power of the state in managing the functions of the earth, sea, space, and natural resources contained in it has been determined. This authority includes the regulation of lands that have been granted rights both to individuals and legal entities, as well as those that have not been granted rights. Thus, lands that are already owned by individuals or legal entities are also included in the authority to regulate state power.

Part of Law Number 5 of 1960, which includes Articles 1 to 8, details the procedure for the conversion of land rights with the intention of strengthening the legal foothold that supports the implementation of the conversion. Essentially, there are two main classifications in the context of land rights conversion, namely those that originate from the western legal paradigm, including erfpacht rights, eigendom rights, opstal rights, gebruic rights, and bruikleen rights, and those rooted in Indonesia's land law heritage such as altijddured erfpacht rights, eigendom agrarische rights and gogolan rights, then regarding the provisions for the conversion of western rights in the form of eigendom are explicitly regulated in the provisions of Article I paragraph (1) of Law No. 5 of 1960 in essence, it states that it is automatically transformed into a Proprietary Right, except if the owner does not meet the conditions set forth in Article 21. Furthermore, it is described in paragraph (2) and paragraph (3), that the right of eigendom belonging to a foreign subject is given a period of 20 years.

Furthermore, Government Regulation No. 24 of 1997 concerning Land Registration (Government Regulation No. 24 of 1997) still maintains the recognition of the transformation of western rights, as previously described in Article 24 paragraph (1). The article mandates in essence the proof of registration of rights derived from the conversion of old rights in the form of written evidence, statements from witnesses, and/or statements from the parties concerned that are considered valid by the Adjudication Committee in systematic land registration or by the Head of the Land Office in sporadic land registration.

Article 95 paragraph (1) of Government Regulation Number 18 of 2021 concerning Management Rights, Use Rights, Property Rights over Flats, and Land Registration is the legal basis for conversion. The law reaffirms the legal provisions related to the conversion of western rights, which essentially states that evidence in the form of documents of former western rights is declared invalid and the land becomes land directly controlled by the state, then in paragraph (2) discusses the requirements for the registration of the former western right land such as the land is controlled, the control is carried out in good faith and carried out openly, and not a problem by other parties.

Land use rights, building use rights, and business use rights from the conversion of western rights whose deadline will expire on September 24, 1980, in accordance with the provisions contained in Law No. 5 of 1960, then the land becomes land that is directly controlled by the state according to the provisions of Presidential Decree No. 32 of 1979.

Thus, according to the interpretation of the Theory of Legal Norms presented by Hans Kelsen, the various provisions of laws and regulations that the author has explained above, including but not limited to the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the

Republic of Indonesia), Law No. 5 of 1960, Government Regulation Number 18 of 2021, and Presidential Decree Number 32 of 1979, provide the basis that former western rights land becomes land directly controlled by the state (Sutanto, 2022). Thus, the certificate of land rights issued on the basis of physical control of the land is considered valid, because the holder of western rights in the form of eigendom verponding in casu The Petitioners for Review must physically control the land in accordance with the provisions of Article 95 of Government Regulation Number 18 of 2021, not seen from the origin of the land object of the case from the former land of western rights in the form of eigendom verponding, and referring to the provisions of Article 32 paragraph (2) of Government Regulation Number 24 of 1997 the opportunity for the Petitioner for Review should have passed or expired, then related to the provisions of Article 24 paragraph (1) of Government Regulation Number 24 of 1997 which still recognizes the conversion of old rights, including western rights, should be amended to provide legal certainty that the former western right land can no longer be converted as stipulated in theLaw No. 5 of 1960, especially Government Regulation No. 24 of 1997 is sourced from Law No. 5 of 1960 itself.

Legal Protection for Land Rights Certificate Holders Who Are Declared Invalid Based on the Supreme Court Decision Number 109 PK/Pdt/2022

In the legal realm, there is often a mismatch between the conception of das sollen and das sein of the subject of law, resulting in behavior that is contrary to legal norms, such as violation of the law (onrechmatigdaad) and default that causes loss of the rights of other legal subjects. Thus, legal protection is imperative for legal subjects, especially to provide a guarantee of legal certainty for land rights holders who have not yet converted. Although human rights principles have been mandated in legislation, there are often discrepancies between these principles and the implementation of applicable laws and factual situations on the ground. Although Law No. 5 of 1960 and Regulation of the Minister of Agrarian Affairs No. 2 of 1960 affirm the urgency of the conversion of lands that were formerly western rights within a period of 20 years ending on September 24, 1980, where land that has not been automatically converted into land directly controlled by the state, there are still legal subjects who have not carried out the conversion in accordance with the provisions listed in theLaw No. 5 of 1960, so that there is an overlap of ownership. In an effort to provide legal clarity for land rights owners who have not yet converted and to prevent potential violations of their rights, the government has formulated a special legal protection system for them (Permadi, 2016).

According to Boedi Harsono, the protection provided by the government for land registration and land-related issues based on Law No. 5 of 1960 adheres to a negative publication system with a positive tendency. In this system, the legality of legal acts is seen in the transfer of rights, not solely in their registration. The buyer does not automatically get a new land right just because the transaction is registered. The nemo plus juris principle, which essentially states that a person is not able to transfer rights that he does not have, is in line with the negative paradigm that underlies the publication system where the state does not guarantee the validity of the information disseminated. As a result, even though the land registration process has been completed, the party who obtained it is still vulnerable to the possibility of lawsuits from other parties who provide legal ownership claims over the land (Palantung, 2021).

The plaintiff filed a complaint with the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency for negligence in the process of determining the recipient of the land certificate at the initial registration stage. As a result of this allegation, the legal subject matter of the lawsuit is directed to these agencies, where the land certificate becomes a form of protection that secures land rights and provides legal certainty for the recipient. This affirmation is also relevant in the context of land rights in the western region, in line with the provisions of Article 19 paragraph (2) letter c of Law No. 5 of 1960, where the certificate is

considered to be a means of evidence that has perfect evidentiary power. Certificates are perceived as concrete evidence, both physically and juridically, that is considered valid as long as it can be proven that the owner does have a valid claim to the land, which can be shown through certificates and other written documents (Soerodjo, 2003). Parties who feel aggrieved by the issuance of other certificates by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency can file a lawsuit in court so that their certificates are declared legally valid, but if the judge's decision states that it is invalid, then the Minister of Agrarian Affairs and Spatial Planning/National Land Agency and the Head of the Regional Office of the National Land Agency according to their authority can cancel the certificate.

Normatively, Article 32 paragraph (2) of Government Regulation No. 24 of 1997 is integrated with the intention of providing legal certainty related to land ownership certificates that have been issued, especially for those that have exceeded more than five years since their issuance. However, in its implementation, decisions issued by the State Administrative Court (PTUN) are often not in line with these provisions. This phenomenon emerged as a result of the adoption of the negative publication system as a foothold in the land registration structure in Indonesia. This system affirms the legal position of the rightful landowner, resulting in ambiguity in the redaction of the Article that does not explicitly apply the concept of rechtsverwerking, which is the idea of loss or neglect of a person's rights due to negligence in carrying out certain legal actions. The ambiguity in the formulation of the Article provides a loophole for potential demands related to the issuance of certificates, even though it has exceeded the five-year time limit. This appointment reflects that the desired level of legal certainty in accordance with Article 32 paragraph (2) of Government Regulation No. 24 of 1997 for individuals who hold certificates of ownership rights to land has not been fully realized. Holders of land ownership rights whose validity period has reached or exceeded five years do not receive adequate legal protection, in accordance with the provisions of Article 32 paragraph (2) of Government Regulation No. 24 of 1997, which results in legal uncertainty. This condition may be caused by the possibility of other parties claiming to be the rightful owners of the land, as well as objecting to the rights owned by the holder of the ownership right certificate.

Article 4 of Government Regulation No. 24 of 1997 emphasizes the significance of written documents as a means of supporting in submitting applications for land registration rooted in customary and western rights. This provision features important aspects of the legal protection measures implemented by the government against individuals or entities that hold western rights to land. The land registration process is carried out systematically and is constantly monitored by the Head of the Land Office, who also forms and supervises the adjudication committee responsible for the management of the adjudication process. In order to ensure that every person whose rights have been recognized by law has appropriate legal protection and to provide the means to resolve land cases where their ownership overlaps due to unconverted land objects, it is clear that the registration of former western rights land should be completed as soon as possible.

According to the theory of legal protection put forward by Satjipto Rahardjo (Rahardjo, 1991) the conception of legal protection refers to efforts to maintain individual interests by providing appropriate rights and authority in the context of these interests. In Philipus M. Hadjon's view, legal protection is interpreted as an effort to maintain individual integrity and recognition of human rights granted to legal subjects in line with existing legal norms. Hadjon highlights the existence of two types of legal protection that function within a social framework, namely the repressive and preventive approaches, as explained in his work (Hadjon, 1987). Then Mochammad Isnaeni, in this context, separates legal protection into two classifications: external and internal. External legal protection emerged as a result of initiatives taken by the government in formulating legal regulations with the aim of providing protection for individuals or groups in vulnerable positions. On the opposite hand, internal legal protection

refers to an agreement agreed between the subjects involved in a particular context or agreement (Isnaeni, 2017).

From the perspective of legal protection theory, there are arguments that affirm the relationship between justice in the implementation of the law and the legal protection provided to individuals who have land ownership claims. The land registration system implemented in Indonesia, which adopts a negative approach with a positive tendency, because it is able to provide official documents certifying ownership rights as strong evidence, is a concrete example of legal protection efforts in the land sector.

An individual who acquires ownership of land in good faith from a person who is legally considered to have a right to land is protected by the principle of good faith. In addition, based on the principle of nemo plus juris law, an individual is prohibited from exceeding the limits of his rights, with any violation considered legally null and void (van rechtswegenietig), resulting in the absence and absence of legal repercussions. In a situation where losses are incurred, the subject who suffers the loss is entitled to restitution from the party who committed the breach. The principle of nemo plus juris is designed to guarantee legal protection for individuals who have certain rights, with the aim of reclaiming the rights to land that was transferred without their knowledge. Thus, this principle always allows for a lawsuit from an individual claiming ownership of the land against the owner recorded in the certificate. The nemo plus juris principle stipulates that the action is invalid for individuals who do not have the right to the land. Thus, law enforcers have emphasized that the owner who has the legal right always retains the possibility of returning ownership that has been inadvertently transferred from the original owner to himself. This phenomenon shows substantial importance in maintaining the integrity of legal land tenure rights, especially within the framework of a land registration system with a negative system.

The choice to apply the land legal system of negative publications (with a positive tendency) must be based on the basic principles of law, which aim to achieve order, order, tranquility, and justice. This is because the purpose of land law policy in negative publication stelsel (with a positive tendency) is closely related to the overall goal of the land law system, namely to produce a just, prosperous, and prosperous society. Despite the publication approach that emphasizes negative aspects, the official in charge of land registration still bears an obligation that mandates the implementation of research, examination, and careful supervision of essential parameters such as land boundaries, geographical location, land area, and land status and condition, both those involved in disputes and those who are not. There is also a requirement for land registration officials to publish within the time limit mentioned in Government Regulation No. 24 of 1997 to provide access for all objecting parties. If a land title certificate is issued incorrectly, the holder or owner of the certificate may be granted legal protection through the cancellation process. To prevent losses to the certificate holder concerned or other parties, the officials or authorized agencies must take the necessary steps.

Of course, in addition to the completeness of the regulations, the level of expertise possessed by the authorities carrying out land registration activities is also equally important to ensure accurate data and legal protection for certificate holders. This also applies to the level of thoroughness and proficiency to evaluate the accuracy of the information needed to support land registration, from data collection to the issuance of certificates, especially by officials who carry out land registration activities in the field.

This indicates that the protection provided by the government for land registration based on Law No. 5 of 1960 follows a negative publication system with a positive tendency. This system refers to the nemo plus juris principle which affirms that this doctrine states that individuals cannot transfer rights that they do not have, and that the government does not guarantee the validity of published information. Buyers remain vulnerable to potential legal action from other

parties claiming legal title to a piece of land, even if the land registration process has been completed.

The lawsuit filed against the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency was filed over potential negligence that may have occurred in the process of registering land ownership for the first time. In the plaintiff's view, this negligence is believed to have occurred in ensuring the validity of the receipt of the land certificate, which is considered a crucial element in ensuring effective legal protection for the landowner. It is important to note that the land certificate, in accordance with the provisions of Article 19 paragraph (2) letter c of Law No. 5 of 1960, is considered to be strong evidence in terms of proving ownership, assuming that the physical and legal information contained therein is considered valid. In line with this thought- (Soerodjo, 2003), emphasized that land certificates have an important role as legal evidence, which is able to confirm the validity of their ownership in the form of relevant written certificates and documentation. If there is a judge's decision declaring the certificate issued to one of the parties invalid, the authority is given to the Minister of Agrarian and Spatial Planning/Head of the National Land Agency and the Head of the Regional Office of the National Land Agency to cancel the certificate. This principle has been outlined earlier in the relevant legal framework. The party that suffers losses due to the issuance of the certificate by the Minister of Agrarian and Spatial Planning/Head of the National Land Agency has the right to file a lawsuit with the court to clarify the legal status of the certificate concerned. According to the provisions contained in Article 24 paragraph (1) of Government Regulation No. 24 of 1997, it is explained that in the process of registering land that has previously been the subject of traditional and modern rights, a written substance is required to support the application. In addition, the state also emphasizes the obligation to provide legal protection to individuals or entities who hold the rights to land that have been owned for a long time. The procedure for land registration is systematically measured by the Head of the Land Office and processed by the adjudication committee, as explained by (Syahri, 2014). Emphatically, the process of registering land that was previously western rights land is required to be carried out without delay, aiming to ensure the effectiveness of the legal protection function for individuals who have legitimate ownership claims according to the prevailing legal view. This is important so that the solution to the problem of overlapping land ownership can be handled in an adequate way, especially when the land object has not undergone a proper conversion process. It is important to note that in Article 95 of Government Regulation Number 18 of 2021, emphasis is placed on the need to have in-depth knowledge of the land that was once a western title, without taking into account the full extent of the protection afforded to the previous rights owners. The author highlights the urgency to revise regulations related to the concept of "conversion" as stipulated in Article 24 paragraph (1) of Government Regulation No. 24 of 1997, as a strategic step to clarify the land registration process which is the main focus in order to provide adequate legal certainty.

It should be emphasized that in the context of legal protection for land rights certificate holders, as explained in Supreme Court Decision Number 109 PK/Pdt/2022, there is a need for a careful analysis of several variables regulated in Article 32 paragraph (2) of Government Regulation No. 24 of 1997. Based on the provisions contained in the article in question, it is stated that in essence after a piece of land has been given a certificate in the name of an individual or legal entity in good faith, and the individual or legal entity has effectively controlled the land, other parties who object to the right to the land are given five years from the date of issuance of the certificate to declare a lawsuit to maintain their ownership rights. An exception occurs if the party concerned has expressed an objection in writing to the certificate holder and to the head of the relevant land office, or has filed a lawsuit with the court regarding the status of land ownership or the issuance of the certificate. Therefore, it can be concluded that one of the

aspects of legal protection for the landowner who is the subject of the case discussed can be found in the applicable legal provisions.

CONCLUSION

Based on the description above, conclusions can be drawn:

1. Because Government Regulation No. 24 of 1997 still recognizes the process of conversion of western rights, land that has been registered on the land of former eigendom verponding rights still has vulnerability to lawsuits in the future. According to Hans Kelsen, based on the theory of legal norms that he proposed, legal norms are always sourced and based on norms that are above them, but below the legal norms are also the source and basis for norms that are lower than them. First, the 1945 Constitution of the Republic of Indonesia specifically regulates the earth, including land. After that, in a series of regulations related to conversion, including Law No. 5 of 1960, Government Regulation No. 18 of 2021, and Presidential Decree No. 32 of 1979, it was affirmed that the registration of land originating from the process of conversion of western rights reached its final on September 24, 1980, by affirming that land previously owned by western rights holders became land directly controlled by the state. Thus, the certificate of land rights given on the land of the former eigendom verponding must still be recognized for its existence. Therefore, the provisions contained in Government Regulation No. 24 of 1997 that still recognize the validity of land rights converted from western rights must be adjusted to the principles stipulated in Law No. 5 of 1960.
2. The form of legal protection for the holder of a land right certificate that is declared to be invalid based on the theory of legal protection is basically the land used for the right of eigendom verponding which has become land directly controlled by the state that is proposed for ownership by the applicant and has obtained a certificate of land rights in the name of the applicant, should not be canceled again by a court decision because it is based on the provisions of Article 32 paragraph (2) Government Regulation No. 24 of 1997 essentially objecting to the issuance of a land right certificate can only be made within 5 (five) years from the issuance of the land right certificate, this provision is a form of protection from the government to the certificate holder in line with the theory of legal protection.

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