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Position and Legal Consequences of Evidence of Old Rights That Are Not Converted and Controlled by Other Parties (Study of Decision No. 94/Pdt.G/2023/PN Amb)

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Abstract: This research focuses on analyzing the legal position of holders of old certificates of title that have not been converted and the legal consequences of physical control of land by other parties who have land certificates. This study uses Decision No. 94/Pdt.G/2023/PN Amb as a case study to understand how courts balance the interests of disputing parties and apply agrarian law regulations in land ownership conflicts. This research was motivated by implementing the Basic Agrarian Law (UUPA) no. 5 of 1960, which requires converting Western rights such as Eigendom Verponding into rights recognized in the Indonesian legal system. This conversion process is regulated by Government Regulation (PP) no. 18 of 2021, but there are still many old rights holders who have not converted because they allow permits, the permit procedures are considered complicated and are permitted by law. Decision Case No. 94/Pdt.G/2023/PN Amb shows that the old right holder can maintain their rights if they can provide legal proof of ownership, even though another party physically controls the land. This research uses a normative juridical approach by examining statutory regulations, legal doctrine, and court decisions. The data analysis technique was carried out descriptively and qualitatively to evaluate the legal position of old rights and land certificates and their implications in agrarian disputes. Based on the analysis, physical control of land without legal proof of ownership is considered an unlawful act per Article 1365 of the Civil Code. The court in this case decided that the holder of the old right which had not been converted still had the right to the land, and the certificate obtained without a valid legal basis was declared invalid. This research highlights the importance of converting old rights to create legal certainty and prevent future land disputes. This conversion not only provides stronger legal protection for land owners but also ensures legal certainty for the next generation who inherits the land.

Keyword: Conversion, Certificate, Eigendom Verponding, Unlawful Acts, Legal Certainty.

INTRODUCTION

The issue of land ownership in Indonesia is a legal issue that continues to develop along with changes in agrarian regulations and policies. One of the most fundamental changes in the

Indonesian agrarian legal system occurred with the enactment of the Basic Agrarian Law (UUPA) no. 5 of 1960. UUPA replaced the previously applicable colonial agrarian law system and attempted to harmonize land ownership with national principles. One of the consequences of the enactment of the UUPA was the elimination of western rights such as Eigendom Verponding, which was a form of land ownership right recognized during the Dutch colonial period.

In this context, land owned based on western rights must be converted into rights recognized by UUPA, such as property rights, business use rights, building use rights, or use rights. This conversion process is further regulated in Government Regulation (PP) No. 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration. Even though this conversion process should have been carried out immediately after the enactment of the UUPA, many old rights holders have not yet carried out the conversion process. This can be caused by various factors, including the land owner's lack of knowledge, bureaucratic procedures that are considered complicated, and legal uncertainty.

Land disputes in Indonesia often involve overlapping ownership due to differences in legal status between old rights and land title certificates issued by the National Land Agency (BPN). The main problem faced by holders of old rights that have not been converted is the emergence of land ownership disputes, especially when the land is controlled by another party who has proof of ownership in the form of a land certificate.

Old rights such as Eigendom Verponding that have not been converted can still be recognized as proof of legal ownership, but do not have the same legal force as land certificates issued by BPN. Land certificates are evidence recognized by the Indonesian agrarian legal system as strong proof of ownership that has been verified by the competent authorities. In the case of a dispute, this raises the question of which has priority: the old title that has not been converted or the land certificate issued later.

One example of a case that reflects this conflict is Decision No. 94/Pdt.G/2023/PN Amb, where the Plaintiff is the heir of Nyimas Siti Aminah submitting a land ownership claim based on Eigendom Verponding which has not been converted, while the Defendants are the heirs of Herman Pieters, Hasan/Came Souisa, Tantui/Tansie Lai, and Djasmita Nicolaas Johannes Joseph Gaspersz have land certificates issued by BPN. Both parties claim legal ownership of the land, so the court is faced with a complex situation that requires an in-depth evaluation of both pieces of evidence of ownership.

This research aims to analyze the legal position of holders of old certificates of title that have not been converted and the legal consequences of physical control of land by other parties who have land certificates. This study focuses on Decision No. 94/Pdt.G/2023/PN Amb as a case study to understand how the court balances the interests of both parties and how agrarian law regulations are applied in land disputes involving old rights and land certificates. More broadly, this research also raises the issue of the importance of converting old rights to create legal certainty and prevent future land disputes.

METHOD

This research uses a normatif juridical approach by examining relevant legislation, legal doctrine and court decisions. A case approach is used to analyze decision No.94/Pdt.G/2023/PN Amb. With a focus on the legal position of the old rights holder and the legal consequences of physical control of the land by another party who has the certificate. Data was obtained through a literature study which includes primary legal material such as UUPA no 5 of 1960, PP no. 18 of 2021, PP no. 24 of 1997, Civil Code, and court decisions. Secondary legal materials such as academic literature, as well as recent legal journals, are also analyzed to support the theoretical framework. The data analysis technique uses descriptive

qualitative, by classifying and interpreting the data obtained to evaluate the legal position of old rights and land certificates, as well as their legal implications in agrarian disputes

RESULTS AND DISCUSSION

Legal Position of the Holder of Old Proof of Rights

Until now, there are still lands with Eigendom Verponding status that have not been converted since the end of the conversion period. In practice so far, before the enactment of Government Regulation Number 24 of 1997 concerning Land Registration (PP No. 24 of 1997), the conversion process of land rights originating from western rights could be carried out directly as long as the applicant was still the holder of the land rights. If the evidence is old or has not yet been transferred to someone else's name, and there is a map/measurement letter, then the bookkeeping can simply be done by placing a stamp/stamp on the evidence by writing down the type of right and the number of the right being converted. After the enactment of PP No. 24 of 1997, the implementation of the conversion of land rights is called proof of old rights (William Seven Liadi, 2019).

Basically, proof of old rights is currently not a proof of right but only as an indication of control of land. Until now, proof of old rights is still used as an indication that the name of the person on it is the legal owner of the land under control. Proof of old rights is used simply to prove that the land is not state land. However, the actual status of land that has not been certified is state land. If the owner of land with state land status registers his land for the first time, then the land rights imposed on that land are Ownership Rights (Meta Nadia Winata, 2021).

The UUPA and its implementing regulations have set a time limit for land owners to submit applications for conversion, but in practice, there are still many cases regarding disputes over former western land rights which for 20 (twenty) years after the enactment of the UUPA have not been converted and the owners or their heirs still feel that the land still belongs to him. This becomes even more complicated if in juridical control, the owner or heir does not physically control the land due to negligence (Dian Aries Mujiburohman, 2021).

Decision No. 94/Pdt.G/2023/PN Amb provides an important precedent regarding the legal position of old rights in this case, namely Eigendom Verponding which is in the physical control of another party. The plaintiff, Nandang Sumaryana, who is the heir of Nyimas Siti Aminah alias Nyimas Entjeh, has proof of Eigendom Verponding No. 986 on 288.2 hectares of land located in Batu Merah Village/Negeri, Pandan Kasturi Subdistrict, and Hative Kecil Subdistrict in Sirimau District, Ambon City, which, although not yet converted, was recognized by the court as a valid old title. The court acknowledged that as long as the old right has not undergone a legal change of ownership or transfer, the owner of the old right still has the right to the land. Even though this right is an old right, the court still recognizes its validity because the Plaintiff can show valid evidence regarding his inheritance rights.

Unlawful Acts by Parties in Physical Control of Land

Control over land is something that often occurs in everyday life, where land control is an act of controlling land that is owned or not owned to use or enjoy the land for one's own benefit. In reality, land control does not only occur on land that does not yet have a certificate or abandoned land or on customary land that has not yet been certified, but can also occur on land that already has a certificate.

Land control without rights is land control carried out by a person or legal entity to enjoy or use land that is not their own land without rights and also against the law. The reality shows that almost all cases related to land constitute an unlawful act, namely taking control of someone else's land without rights (Dikko Ammar, 2023).

An unlawful act is an action by someone who deliberately violates or opposes a provision, so that the violation causes harm to other people. The definition of against the law put forward by

Article 1365 of the Civil Code, which clearly states the consequences of a person's actions or mistakes, namely losses to other people, obligates the person whose actions are due to compensate for these losses (R. Juli Moertiono, 2020).

In accordance with the provisions in Article 1365 of the Civil Code, an unlawful act must contain the following elements (Nola Polwanti, 2021):

1. Actions that conflict with other people's rights

Actions that conflict with other people's rights (inbreuk op eens anders rech) are among the actions prohibited by article 1365 of the Civil Code. The rights that are violated are a person's rights that are recognized by law, including but not limited to personal rights (persoonlijkheidsrechten), property rights (vermogensrecht), the right to freedom and the right to honor and good name.

2. Actions that are contrary to their own legal obligations

Actions that are contrary to their own legal obligations are also included in the category of unlawful acts if the action is contrary to the legal obligations (recht splicht) of the perpetrator. By the term "legal obligation" (recht splicht), what is meant is that an obligation is given by law to a person, whether written law or unwritten law. So, it is not only contrary to written law (wettelijk plicht), but also contrary to other people's rights according to law (wettelijk recht).

3. Actions that are contrary to morality

Actions that violate decency which society has recognized as unwritten law are also considered unlawful acts. Therefore, if an act of violating morality causes harm to another party, the party who suffers the loss can claim compensation based on the unlawful act.

4. Actions that are contrary to prudence or the necessity of good social relations

Actions that are contrary to prudence or the necessity of good social relations or what is known as zorgvuldigheid are also considered to be acts against the law. So, if someone commits an action that is detrimental to another person, without violating written articles, he or she may still be charged with an unlawful act, because the action is contrary to the principle of prudence or necessity in social relations. This obligation in society is of course not written down, but is recognized by the society concerned.

In the case of Decision No. 94/Pdt.G/2023/PN Amb, the Defendants physically control the Verponding Eigendom land. They use the land and even sell or transfer some of the land to other parties without any valid legal basis. Physical possession without legal proof of ownership in Indonesian agrarian law does not provide automatic ownership rights. According to Article 19 of the UUPA, land must be registered to obtain legal certainty, and a land certificate is authentic proof of ownership.

The court stated that the Defendants committed an unlawful act because they controlled and sold land without legal proof of ownership. This action is included in the category of unlawful acts, as regulated in Article 1365 of the Civil Code, which states that every act that violates the law and brings loss to another person, requires the person who caused the loss through his fault to compensate for the loss. In this decision, the court rejected the Defendants' claim to land which was based only on physical control and invalid evidence.

Legal Consequences of Physical Control by Another Party

Mastery according to Satjipto Rahardjo has factual elements and an inner attitude. This factually means that there is a real relationship between a person and the goods (land) that are in his power so that at that time he does not need any other legitimacy except that the goods are in his hands. Meanwhile, inner attitude means the intention to control or use it (Satjipto Rahardjo, 2014).

Boedi Harsono, in relation to land control rights, stated that the concept of control can be used in a physical sense and in a juridical sense. Also civil aspects and public aspects. It was further stated that juridical control is based on rights that are protected by law and generally gives the

right holders the authority to physically control the land they are entitled to. Even though juridical control gives the authority to physically control the land that is owned, in reality, physical control can be exercised by another party, such as if the land is rented out. Or if the land is physically controlled by another party without rights, then the land owner based on his juridical control rights has the right to demand the return of the land to him.

Land control rights contain a series of authorities, obligations and/or prohibitions for the right holder to do anything regarding the land they own. "Something" that is permissible, obligatory or prohibited to do, which is the content of tenure rights, is the criterion or benchmark for differentiating between tenure rights over land regulated in land law, such as between Ownership Rights and Cultivation Rights (Boedi Harsono , 2003).

In the case of Decision No. 94/Pdt.G/2023/PN Amb, regarding the physical control of Defendants IV, VI, VII and Legally, the Defendants submitted proof of ownership in the form of a photocopy of Certificate of Ownership No. 379/ Pandan Kasturi Village, photocopy of Ownership Certificate No. 78/ Tantui Village, and photocopy of Building Use Rights Certificate No. 337/ Small Hative Village.

The Panel of Judges considered that the Plaintiff's position as heir of Nyimas Siti Aminah/Nyimas Entheh (Osah) was based on the Determination of the Cianjur Religious Court Number 44/Pdt.P/2008/PA Cjr dated 2 April 2008 and the power of attorney from all heirs made in before a Notary dated May 20 2019, was never canceled or proven by the Defendants as invalid evidence. Meanwhile, on the other hand, the Panel of Judges considered that the evidence of letters in the form of photocopies without showing the original by Defendants IV, VI, VII, and This evidence does not show that Defendants IV, VI, VII, and XV are entitled to the object of the dispute.

Based on this, the Panel of Judges decided that the Plaintiff was the owner/holder of legal rights to the land object of dispute and declared that all letters/documents owned by the Defendants insofar as they concerned and/or were related to the land object of dispute were invalid and not has legal force, and declares any legal actions that have been carried out by Herman Pieters, Hasan/ Came Souisa, Tantui/ Tansie Lai and Djasmita Nicholaas Johannes Joseph Gaspersz or the Defendants with any parties insofar as they concern and/or relate to the land object of dispute is invalid and null and void, and has no binding legal force on the land object of the dispute. Apart from that, control and ownership of the disputed land object were returned to the Plaintiff.

In connection with this case, Article 5 UUPA no. 5 of 1960 explains that "Agrarian law that applies to earth, water, and space is customary law, as long as it does not conflict with national and State interests, which is based on national unity, with Indonesian socialism and with the regulations contained in the Law with this and other statutory regulations, everything takes into account elements that rely on religious law." This explanation provides an illustration that the agrarian law adopted is customary law, where everything related to land, especially ownership of land rights, can be traced from generation to generation as recorded in the office of the Village Head where the land is located. Therefore, a person who has a certificate of title to land does not mean that the original and legal owner of the land could be that ownership of the certificate issued because of a legal defect which, if physically proven, is clearly true.

Then UUPA no. 5 of 1960 also makes it clear that certificate ownership is not absolute ownership of land, but the certificate is strong evidence. In other words, the state does not guarantee the validity and absoluteness of the data contained in the certificate. As in Supreme Court Decision No. 459/K/Sip/1975 dated 18 September 1975 states that "Considering the negative stelsel regarding land registers/registrations that apply in Indonesia, the registration of a person's name in the register does not mean absolute ownership of the land if its inequity can be proven by another party."

This explanation is strengthened by Article 32 PP no. 24 of 1997 which states that:

Paragraph 1: "A certificate is a proof of title which is valid as a strong means of proof regarding the physical data and juridical data contained therein, as long as the physical data and juridical data are in accordance with the data contained in the Measurement Letter and Land Book of Rights concerned".

Paragraph 2: "In the event that a certificate of land has been legally issued in the name of a person or legal entity who acquired the land in good faith and actually controls it, then other parties who feel they have the right to the land can no longer demand the implementation of that right if within 5 (five) years from the issuance of the certificate, no written objection has been submitted to the certificate holder and the Head of the Land Office concerned, or has not submitted a lawsuit to the Court regarding control of the land or the issuance of the certificate."

1. Adrian Sutedi further added, in Article 360 Paragraph 2 of the National Land Code, immunity will not be granted to registered owners if.
 2. There is fraud involving the owner or his proxy.
 3. Land registration was obtained through forgery or by using invalid legal instruments.
- If any property rights or other rights are obtained in violation of the law (Moh. Ibrahim, 2021).

CONCLUSION

The position of the holder of an old certificate of title that has not been converted carries the risk of legal uncertainty and can give rise to land ownership disputes, especially when the land is physically controlled by another party and a certificate of ownership rights has arisen for the land controlled. The Court in the case of Decision No. 94/Pdt.G/2023/PN Amb emphasized that physical control by another party without legal evidence is an unlawful act and cannot be recognized as a basis for land ownership. Therefore, converting old rights into rights recognized in the Indonesian agrarian legal system is very important to provide legal certainty and avoid future disputes. This conversion also provides stronger protection for landowners and minimizes conflicts related to land ownership.

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