

Land Registration in Indonesia: Between Policy and Legal Certainty

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Abstract

Legal certainty of land is an absolute must to maintain the stability of land use in development and to realize legal certainty of land ownership for people who want to deal with the land. Legal certainty as intended in land registration will result in the granting of a land title certificate by the National Land Agency as an institution that organizes state administration to those entitled, and can be relied on by the owner of his property to act as a strong means of proof of a person's land rights. The procedure used to collect data in this study is documentation, namely the guidelines used in the form of notes or quotations, searches for legal literature, books and others related to the identification of problems in this study both offline and online. Analysis of legal materials is carried out using the content analysis method which is carried out by presenting the material of legal events or legal products in detail to facilitate interpretation in the discussion. Article 1 paragraph (1) of PP No. 24 of 1997 states that Land Registration is a series of activities carried out by the government continuously, sustainably and regularly, including the collection, processing, opening and presentation as well as maintenance of physical data and legal data in the form of maps and lists regarding land plots and apartment units, including the provision of proof of rights for land plots that already have rights and ownership rights for apartment units with certain rights that burden them. There is an appeal from the government in the context of implementing land registration, namely that the community should not expect the land registration committee to come to survey community lands that have not been registered and then the lands are registered in order to guarantee legal certainty, but the community may on its own initiative gather people or residents

whose land does not yet have a certificate and prepare letters or legal basis for ownership of the lands.

1. Introduction

The increasing population indirectly results in an increasing need for land, but the increasing population also encourages increased development for settlements, and at the same time the amount of land availability begins to feel very limited because its nature tends not to increase. This condition can trigger an increase in land conflicts such as land ownership without rights, illegal land cultivation, and overlapping land use. The relationship between humans and land is so strong that a legal force is needed in it. This legal force can be obtained if the landowner registers his land as ordered by the Indonesian Land Law. By registering land rights or granting land rights to the subject of rights, administratively this will certainly achieve a guarantee of legal certainty for the subject, meaning that the subject of rights is administratively guaranteed to use the land ownership rights for anything as long as the use of the rights is in accordance with its designation. Therefore, if all land areas have been registered and utilized by the rights holders, ideally there will be a legal guarantee of certainty of rights to all registered land areas and the positive impact can reduce land problems, especially those concerning the use and utilization of land, and it is not impossible that land prices will increase from time to time due to the presence of a sign of registration of a person's land rights.¹

The imbalance between land supply and land needs will automatically cause land problems as stated above. It is not uncommon for land that is owned or controlled to still give rise to disputes, both between owners and even non-owners who want the land, or with other parties who have felt that the land was once theirs, or even with the government. Disputes can arise due to unclear land ownership status, illegal land control and so on.² It is certain that the influence of many people who do not understand the function of land registration. Moreover, according to them, land means perfect as an owner if the land they control has a letter (any letter, whatever the name and whoever issued it), as long as it is related to its creation with a government agency, then the community will interpret their land as having been registered, (for example: proof of payment of Land and Building Tax (PBB) or other letters, such as a letter of sale and purchase under hand, a sale and purchase

¹ Zaki Ulya, "Eksistensi Badan Pertanahan Aceh Sebagai Perangkat Daerah Di Aceh Dalam Aspek Kepastian Hukum Bidang Pertanahan", *Jurnal Konstitusi*, 12 No. 3, (2015): p. 569

² Zainuddin, Zaki Ulya, "Domein Verklaring Dalam Pendayagunaan Tanah Di Aceh", *Jurnal Hukum Samudra Keadilan*, 13 No. 1, (2018): p. 140

known/approved by the village head/sub-district head/district head and so on). This wrong understanding must not be allowed to continue to develop and efforts must be made so that the true meaning is in accordance with legal understanding and provides comfort for use or business and if it is to be transferred, the owner is not obstructed and in legal legal traffic.³

The holding of land registration will have legal consequences, namely the granting of a letter of proof of land rights, commonly referred to as a land certificate, to the holder of the land rights in question, which serves as a strong means of proof. A certificate is a letter of proof of rights that serves as a strong means of proof regarding the physical data and legal data contained therein, as long as the physical data and legal data are in accordance with the data in the measurement letter and the land rights book in question.⁴ Legal certainty of land is an absolute must to maintain the stability of land use in development and to realize legal certainty of land ownership for people who want to deal with the land. The legal certainty referred to in land registration will result in the granting of a land title certificate by the National Land Agency (BPN) as the state administration institution to those entitled to it, and can be relied on by the owner of his property to act as a strong means of proof of a person's land rights.⁵

This is in accordance with Article 1 number 1 of Government Regulation Number 24 of 1997 concerning Land Registration (PP No. 24 of 1997), what is meant by land registration is: a series of activities carried out by the government continuously, which are continuous and orderly including the collection, processing, bookkeeping and presentation as well as maintenance of physical data and legal data in the form of maps and lists, regarding land plots of apartment units, including the provision of proof of rights for land plots that already have rights and ownership rights to apartment units and certain rights that burden them. According to Article 2 of PP No. 24 of 1997, it is emphasized that "land registration is carried out based on the principles of simplicity, safety, affordability, up-to-date and openness". According to Soedikno Mertokusumo, in land registration there are two types of principles, namely: First, the Specialiteit Principle, meaning that the implementation of land registration is carried out on the basis of certain laws and regulations which technically concern the issue of measurement, mapping, and registration of its transfer; Second, the principle of openness (principle of publicity), meaning that everyone has the right to know the legal data about the subject of the rights, the name of the land rights, the transfer of rights, and the burden of land rights at the Land Office, including filing objections before the issuance of a certificate, replacement certificate, lost certificate or damaged certificate.⁶

³ Muhammad Yamin dan Zaidar, "Pendaftaran Tanah Dalam Mewujudkan Kepastian Hukum Atas Kepemilikan Tanah Dan Upaya Meminimalisir Konflik Pertanahan", *Jurnal Hukum Samudra Keadilan*, 13 No. 2, (2018): p. 202

⁴ Yamin Muhammad dan Rahim Lubis, *Hukum Pendaftaran Tanah*, Bandung: Mandar Maju, (2011), p. 14

⁵ Hermit Herman, *Cara Memperoleh Hak Milik, Tanah Negara, Tanah Pemda dan Peraktek Pendaftaran Tanah di Indonesia*, Bandung: Mandar Maju, (2004), p. 10

⁶ Urip Santoso, *Pendaftaran dan Peralihan Hak atas Tanah*, Cet. 2, Jakarta: Kencana, (2010), p. 16-17

Meanwhile, according to Article 3 of PP No. 24 of 1997, the purpose of land registration is; First, to provide legal certainty and legal protection to the holder of rights to a plot of land, apartment units and other registered rights so that they can easily prove themselves as the holder of the rights concerned; Second, the provision of legal certainty and legal protection is carried out by providing a certificate of land rights to the holder of the rights concerned. The guarantee of legal certainty that is the purpose of land registration is certainty regarding the status of the registered land, certainty regarding the subject of rights and certainty regarding the object of rights; Third; to provide information to interested parties including the Government so that they can easily obtain the data needed to carry out legal acts regarding plots of land and apartment units that have been registered. The form of implementation of this information function is that physical data and legal data from plots of land and apartment units that have been registered are open to the public; Fourth, to organize orderly land administration. This is done by registering each plot of land and apartment unit, including registration in the event of a transfer, encumbrance and termination of the rights. Based on the descriptions above, it can be seen how important the implementation of land registration is in the community. The principle of publicity is an important principle in the context of land registration in order to achieve the purpose of land registration, namely legal certainty over land. Based on the description above, the problem can be drawn, namely how are the legal regulations regarding land registration in Indonesia? And how can the principle of publicity in land registration law in Indonesia create legal certainty for land rights holders?

2. Research Method

This research is a type of normative research that uses a documentary study using the content analysis method based on the data sources used, namely secondary data sources in the form of primary legal materials in the form of the Civil Code (KUHPerdota), Law No. 5 of 1960 concerning Agrarian Principles, Government Regulation Number 24 of 1997 concerning Land Registration.

3. Results and Discussion

a. Legal Regulations Regarding Land Registration in Indonesia

Development in the legal field is directed at the realization of a legal system directed at the realization of a National legal system based on Pancasila and the 1945 Constitution which includes the development of legal materials, legal apparatus, legal facilities and infrastructure, and legal culture as a manifestation of a State of Law that respects and upholds human rights to create an orderly, safe and peaceful society. Land is the highest surface of the earth, the relationship between humans and land is very close, used as a place to live and a place to earn a living for humans. Every human being needs land for daily life, even when they die humans still need land. The existence of land is increasingly felt as if it is becoming less, becoming narrower with the passage of time as more and more humans fill this earth. In human life, the existence of land cannot be separated from all human actions themselves, because land is a place for humans to live and continue their lives. In addition, land is an

economic object. Land is the main capital, and for the largest part of Indonesia, land is the only capital. The most important thing is land. A human being cannot live without land. Land is the surface of the earth called land.⁷

Article 2 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) confirms that: "On the basis of the provisions in Article 33 paragraph (3) of the 1945 Constitution and matters as referred to in Article 1, the earth, water and space, including the natural resources contained therein, are at the highest level controlled by the State, as the organization of power of the entire people". The meaning of the word controlled in this article is stated in the general explanation of the UUPA, meaning that the State is not the owner but the State is given authority as the organization of power of the Indonesian Nation, to be at the highest level and can regulate and organize its allocation, use, supply and maintenance, determine and regulate the rights that can be owned over (parts of) the earth, water and space and determine and regulate legal relationships between people and legal acts concerning the earth, water and space.

The phrase 'state property' according to the provisions of Article 519 of the Civil Code states: "There are objects that do not belong to anyone, other objects are state property, belong to a unitary body or belong to an individual. Article 520 of the Civil Code states: yards and other immovable objects that are not maintained and have no owners, such as the objects of those who die without heirs, or whose inheritance has been left behind, belong to the state". The understanding of these two articles reveals that in principle all land must have an owner, if the land has no owner or is not owned by someone then the land falls or will be controlled by the state.⁸

In this case, the State (government) with its authority has the right or can grant land rights to a person or legal entity with certain rights according to their needs and uses. With the authority of the State to control land rights, it aims to ensure that the land can be used to achieve prosperity for all Indonesian people. Granting land rights to a person or legal entity creates a legal relationship and this legal relationship can be carried out by the person who has the rights to the land to another party, for example selling, buying or exchanging the land and others. The rights that can be granted by the State are those regulated in Article 16 of the UUPA, namely "the rights to land as referred to in Article 4 paragraph (1) are ownership rights, business use rights, building use rights, use rights, rental rights, land clearing rights, rights to collect forest products and other rights that are not included in the rights mentioned above which will be determined by law as well as temporary rights as stated in Article 53. Then the rights to water and space as referred to in Article 4 paragraph (3) are water use rights, fish maintenance and fishing rights and space use rights".

The government has issued various policies in the land sector, which in general are further details of the provisions of the UUPA which regulate only the main points, needed to implement the basic principles of national defense law in order to meet the needs of society and development. One of the government policies in the land sector

⁷ Nurhayati. A, "Fungsi Pendaftaran Tanah Terhadap Hak-Hak Atas Tanah Menurut UUPA Tahun 1960", *Jurnal Wartha* Edisi 60, (2019): p. 1-2

⁸ Ismail Koto dan Faisal, "Penerapan Eksekusi Jaminan Fidusia Pada Benda Bergerak Terhadap Debitur Wanprestasi" *Journal of Education, Humaniora and Social Sciences (JEHSS)* 4, NO. 2 (2021), p. 777

is the formation of a regulation of the Republic of Indonesia Government Regulation No. 24 of 1997 concerning Land Registration (PP No. 24 of 1997). The legal basis for the regulation on the implementation of land registration in Indonesia is regulated in Article 19 of the UUPA which has been determined as the basis for land registration, which states "To guarantee legal certainty, the government shall conduct land registration throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulation". The registration in paragraph (1) of this article includes land measurement, mapping and bookkeeping, registration of land rights and the transfer of these rights, granting of valid proof of rights as strong evidence and land registration is carried out by considering the state and community conditions, the needs of socio-economic traffic and the possibility of its implementation, according to the considerations of the Minister of Agrarian Affairs. In the explanatory memorandum of the UUPA, it is stated that for land registration as referred to in Article 19 of the UUPA, which is directed to the government to carry out land registration throughout the territory of Indonesia which aims to guarantee legal certainty in the nature of *Recht Kadaster*, to move towards providing certainty of land rights. Land registration is carried out by the National Land Agency. The task of implementing land registration is carried out by the Head of the Land Office, except for certain activities which are assigned to other officials by this Government Regulation or the relevant legislation. In implementing land registration, the Head of the Land Office is assisted by the PPAT and other officials who are assigned to carry out certain activities which are assigned by this Government Regulation or the relevant legislation (Article 5, 6 paragraph (1) and (2) of PP No. 24 of 1997). Land registration for the first time is carried out for land that has never been registered or has never been certified, this is in accordance with the provisions regulated by Article 11 of PP No. 24 of 1997, which states: "the implementation of land registration includes activities of first-time land registration and maintenance of land registration data".

Article 1 paragraph (1) of PP No. 24 of 1997 states that "Land Registration is a series of activities carried out by the government continuously, sustainably and regularly, including the collection, processing, opening and presentation as well as maintenance of physical data and legal data in the form of maps and lists regarding land plots and apartment units, including the provision of proof of rights for land plots that already have rights and ownership rights for apartment units and certain rights that burden them". Article 1 paragraph (20) of PP No. 24 of 1997 states that "A certificate is a proof of rights as referred to in Article 19 paragraph (2) letter c of the UUPA for land rights, management rights, *waqf* land, ownership rights or apartment units and mortgage rights, each of which has been recorded in the relevant land book". Land registration based on PP No. 24 of 1997 as mentioned above consists of the first registration, namely; registration of land that has not been attached to a right (not yet certified) and maintenance of land registration data, namely; registration of land that has been attached to a right (already certified) includes registration of transfers and encumbrances of rights and registration of changes to land registration data in the form of changes to physical data such as separation, division or merging of registered land plots and changes to legal data such as encumbrances or transfers of rights to

registered land.⁹

Land registration is a series of activities carried out by the government to collect physical data and legal data from land plots to be registered. So it is said that land registration is an administrative process that is the authority of the land office to produce a certificate as proof of ownership rights to a plot of land. There is an appeal from the government in the context of implementing land registration, namely that the community should not expect the land registration committee to come to survey community lands that have not been registered and then the lands are registered in order to ensure legal certainty, but the community may on their own initiative gather people or residents whose land does not yet have a certificate and prepare letters or legal basis for ownership of the lands, then submit to the local Land Agency Office so that the lands are certified.

If we observe the contents of Article 19 of the UUPA, we can see that the purpose of land registration is: to guarantee legal certainty and to guarantee legal certainty, the UUPA requires the government to register land throughout the territory of the Republic of Indonesia, by carrying out land registration, legal certainty will be created in the land sector, this is to facilitate ownership and proof of someone's land rights. A very vulnerable problem in the lives of Indonesian people is the land problem, land disputes often occur in the midst of social interaction, which results in criminal acts that disturb the peace in an area. Land registration is one effort to avoid land disputes. The UUPA states that to guarantee the certainty of legal rights to land rights, the UUPA requires the government to carry out land registration throughout the territory of the Republic of Indonesia which is *Recht Kadaster* in nature, meaning that it aims to guarantee legal certainty, by carrying out land registration, the parties it faces, its location, area and boundaries, who owns it and what burdens are attached to the land.

A certificate is a proof of rights that serves as a strong means of proof. However, with one clause that this applies as long as it has not been proven, on the other hand, some parties consider it can weaken the position of the certificate as strong evidence. Often what is called certificate cancellation occurs for various reasons, for example on the grounds of an original or fake certificate, so to guarantee legal certainty, there needs to be clear legal protection for certificate holders against acts of falsification of land title certificates. In order to obtain legal certainty for the owner, the land title must be registered. To guarantee legal certainty, the government conducts land registration throughout the territory of the Republic of Indonesia according to the provisions regulated by government regulations. Land registration is carried out for the entire territory of the Republic of Indonesia as well as the provision of valid proof of rights as valid and strong evidence.

The land certification program is an activity of the Republic of Indonesia government in implementing the first land registration (for unregistered/uncertified land) simultaneously and massively in various regions. The purpose of the land certification program carried out by the government is to create legal certainty and protection, the availability of land information and the implementation of orderly land

⁹ Rahmat Ramadhani, *Buku Ajar: Hukum Agraria (Suatu Pengantar)*, UMSU Perss, Medan, 2018, hal. 97 & 104

administration as referred to in Article 3 of PP Number 24 of 1997 concerning Land Registration. A.P. Parlindungan emphasized that land registration not only functions to protect the owner, but also to find out the status of the land plot, who the owner is, what his rights are, how large it is, what it is used for and so on.¹⁰

In addition to the above objectives, the land certification program carried out by the government is also considered as an effort by the government to help the community to have certificates of land rights that they control at a low cost and can be effective in order to boost the community's economy through ways of utilizing certificates as collateral for business capital accompanied by empowerment in the small and medium business sector of the community.

The President of the Republic of Indonesia has signed Presidential Instruction (Inpres) Number 2 of 2018 concerning the Acceleration of Complete Systematic Land Registration (PTSL) which was planned until 2025. Although much earlier there had been many land rights certification programs rolled out by the government since the enactment of the UUPA as an embodiment of the constitutional mandate of Article 33 paragraph (3) of the 1945 Constitution which states that; "The earth, water, space and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people".

The forms of activities are also diverse and have continued to evolve since the 1980s until now. Some historical glimpses related to the government's efforts to modify the land certification program in Indonesia include; National Agrarian Operation Project (PRONA) in 1981, the emergence of the People's Service for Land Certification (LARASITA) in 2006 followed by the community asset legalization program Cross-Sector Certification Program; Community Self-Help Mass Certification Program; Land Reform Object Land Redistribution Certification Program, Land Consolidation and Transmigration Land in the 2010 era.

In early 2017, the government introduced PTSL as a maneuver to accelerate land registration in Indonesia, driven by the National Land Agency (BPN). The implementation of PTSL was initially based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (Permen ATR/Head of BPN) Number 35 of 2016 concerning the Acceleration of the Implementation of Complete Systematic Land Registration in conjunction with the Regulation of the Minister of Agrarian Affairs and Spatial Planning/BPN Number 1 of 2017 concerning Amendments to the Regulation of the Minister of Agrarian Affairs and Spatial Planning/BPN Number 35 of 2016 concerning the Acceleration of the Implementation of Complete Systematic Land Registration. Then the Regulation of the Minister of ATR/Head of BPN Number 1 of 2017 was revoked and the Regulation of the Minister of ATR/Head of BPN Number 12 of 2017 concerning the Acceleration of the Implementation of Complete Systematic Land Registration was enforced, while several provisions of the Regulation of the Minister of ATR/Head of BPN Number 35 of 2016 still apply as long as they do not conflict with the Regulation of the Minister of ATR/Head of BPN Number 12 of 2017.

The last legal basis that applies in the implementation of PTSL is regulated by

10 AP. Parlindungan, *Pendaftaran Tanah di Indonesia*, Cetakan Keempat, Mandar Maju, Bandung, 2009, hal. 79

the Regulation of the Minister of ATR/Head of BPN Number 6 of 2018 concerning Complete Systematic Land Registration. In Chapter IX Closing Provisions Article 47 of the Regulation of the Minister of ATR/Head of BPN ATR/BPN Number 6 of 2018 it is written that; "When this Ministerial Regulation comes into effect, the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 12 of 2017 concerning the Acceleration of the Implementation of Complete Systematic Land Registration (State Gazette of the Republic of Indonesia 2017 Number 1127), is revoked and declared invalid."

The affirmation of the article above shows that the Regulation of the Minister of ATR/Head of BPN Number 6 of 2018 concerning Complete Systematic Land Registration is the only legal foundation for 'bhumi bakti adiguna' people in implementing the PTSL program for the community. So that in the technical application of PTSL implementation must be based on the provisions that have been regulated in the Regulation of the Minister of ATR/Head of BPN Number 6 of 2018 as referred to above. Article 1 number 2 of the Regulation of the Minister of ATR/Head of BPN Number 6 of 2018 defines that; "Complete Systematic Land Registration, hereinafter abbreviated as PTSL, is a first-time Land Registration activity carried out simultaneously for all Land Registration objects throughout the territory of the Republic of Indonesia in one village/sub-district or other name of the same level, which includes the collection of physical data and legal data regarding one or more Land Registration objects for registration purposes.

There is an affirmation of the sentence 'First-time Land Registration carried out simultaneously' in the provisions above which shows that PTSL is a systematic land certification program. One of the characteristics of first-time land registration systematically is the initiative that comes from the government. The initiative in question includes technical arrangements for the implementation of the program of activities for providing a budget for these activities, both those covered by the State Revenue and Expenditure Budget (APBN), Regional Revenue and Expenditure Budget (APBD) and other legitimate sources of financing according to laws and regulations.

After the birth of Law No. 6 of 2023 concerning Job Creation (UUCK), it also has an impact on changes to land registration regulations in Indonesia. UUCK resulted in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration which also serves as an additional legal basis for the implementation of PTSL. This regulation came into effect on February 2, 2021 and revoked the previous regulation. Another relevant regulation is the Regulation of the Minister of ATR/BPN No. 6 of 2018 concerning Complete Systematic Land Registration, which regulates the acceleration of land registration throughout Indonesia.

b. The Principle of Publicity in Land Registration in Indonesia to Create Legal Certainty for Land Rights Holders

Land registration is an important thing to implement, as time goes by, the dynamics of land law also continue to develop. Law is the basis for various implementations, one of which is for orderly administration and legal certainty of mortgage status that has been regulated in positive law in Indonesia. Because

Indonesia adheres to positivism, it must be based on applicable law, for example, the implementation of mortgage registration which was previously done manually is now done digitally.¹¹ The task of registering land throughout Indonesia is assigned to the Government, which Article 19 paragraph (1) of the UUPA stipulates has a single purpose, namely to guarantee legal certainty. According to the explanation of the UUPA, the implementation of land registration activities is an obligation of the Government with the aim of guaranteeing legal certainty in the nature of *rechtscadaster*. *Rechtscadaster* means for the interests of land registration only and only concerns what the rights are and who the owner is, not for other interests such as taxation. Land registration, in addition to functioning to protect the owner, also functions to find out the status of a plot of land, who the owner is, what his rights are, how large it is, what it is used for and so on.

In addition, there are still provisions in Article 23, 32 and 38 of the UUPA which require land registration to be carried out by holders of Ownership Rights, Cultivation Rights and Building Rights. The requirement for rights holders to register their land is intended to provide legal certainty for them in the sense of legal certainty for the rights holders. Therefore, registration of every transfer, deletion and burden, first registration or because of conversion or burden will cause many legal complications if not registered, especially since the registration is strong evidence for the rights holder. Article 1 of Government Regulation Number 24 of 1997 clearly describes the definition of land registration, namely a series of activities carried out by the Government continuously, continuously and regularly, including the collection, processing, bookkeeping and presentation as well as maintenance of physical data and legal data, in the form of maps and lists, regarding land plots and apartment units, including the provision of proof of rights for land plots that already have rights and Ownership Rights for apartment units and certain rights that burden them. In order to provide legal certainty and protection, the relevant land rights holder is given a land rights certificate, while to carry out the information function, data related to the physical and legal aspects of registered land plots are declared proven to be public (principle of publicity), while in terms of achieving the goal of orderly land administration, each land plot or apartment unit, including the transfer, burden and elimination of land rights and ownership rights of apartment units, must be registered. In connection with the instruction to the Government to carry out land registration with the main aim of ensuring legal certainty, the question that arises is why the Government is interested in providing legal certainty for land rights. This is related to the issue of granting land rights, namely in determining who has the right (subject) to a particular land plot, where it is located, the boundaries and how large the land plot is and what type of rights (object) are actually. If every person who is given rights wants to know the data on a plot of land to which they have been given rights and is invited to investigate the situation themselves, it will certainly require a lot of money and time, while the results will not necessarily be correct.

In order to provide correct land rights data and for the public to obtain it easily, the Government has established an announcement institution. This announcement

¹¹ Zainuddin dan Rahmat Ramadhani, "The Legal Force Of Electronic Signatures In Online Mortgage Registration", *Jurnal Penelitian Hukum De Jure* 21 No. 2, (2021): p. 244

institution is commonly called land registration. With this announcement/land registration institution, legal certainty regarding land rights will be guaranteed, both concerning the subject and the object of the rights. With the confirmation of land rights in an announcement institution at a government agency, every incident regarding land rights can be followed in an orderly manner, so that legal certainty for land rights can be controlled properly. That is why land registration is carried out with the aim of guaranteeing legal certainty for land rights. Certainty of the owner, location, boundaries, area and type of land rights. Certainty is a word derived from certain, which means certain; fixed; must not not; something that is certain. The principle of legal certainty is a guarantee where a law must be implemented in a good and proper manner. The main purpose of law is certainty. If there is no certainty in law, the law will lose its identity and meaning, and if the law does not have an identity, the law is no longer used as a guideline that applies to everyone. The existence of legal certainty in a country causes efforts to regulate law in a legislation set by the government. Regulations that are not based on momentary decisions are the applicable legal system. A concept to ensure that the law is implemented properly so as not to cause harm to anyone, the law must be a guideline, protect and protect society from various crimes or harassment of individuals or groups is the understanding of the principle of legal certainty in the implementation of the State.

Land registration is very important, because by registering the land, a person can find out information related to the land, such as: what is owned, land area, land location, and whether the land is burdened with a mortgage or not. The implementation of land rights registration or land rights is carried out based on the provisions of the UUPA and PP Number 24 of 1997 which has used the principle of publicity and the principle of specialization. The principle of publicity is reflected in the existence of land registration which states the subject of the rights, type of rights, transfer and burden, while the principle of specialization is reflected in the existence of physical data about the land rights such as land area, land location, and land boundaries. Both of these principles are included in a list so that they can be easily known by anyone who wants to know, so that those who want to know the data on the land no longer need to go directly to the land location to conduct an investigation because the data can easily be obtained at the Land Office. So the transfer of land rights does not take a long time and can run smoothly and orderly. In order to provide legal certainty to land rights holders, Article 32 of the PP on Land Registration has emphasized that a certificate is a strong evidence. A certificate is not simply given to someone who has land rights, a land certificate is obtained through the process of registering land rights to the Land Office because by registering the land, the status of the land will be known.

The nature of the certificate as proof of rights is contained in Article 32 of Government Regulation Number 24 of 1997, namely: First, a certificate is a valid proof of rights as a strong means of proof regarding the physical data and legal data contained therein, as long as the physical data and legal data are in accordance with the data in the measurement letter and the relevant land book; Second, in the event that a certificate has been legally issued for a plot of land in the name of a person or legal entity who obtained the land in good faith and actually controls it, then other

parties who feel they have rights to the land can no longer demand the implementation of these rights if within 5 years from the issuance of the certificate they do not submit a written objection to the certificate holder and the Head of the relevant Land Office or do not file a lawsuit with the Court regarding land control or the issuance of the certificate.

The provisions of Article 32 Paragraph (1) of PP 24 of 1997 are an elaboration of the provisions of Article 19 Paragraph (2) letter c, Article 23 Paragraph (2) and Article 38 Paragraph (2) of the UUPA, which state that land registration produces a valid certificate of evidence as a strong means of proof. Based on the provisions of Article 32 Paragraph (1) of PP 24 of 1997, the land registration publication system adopted is a negative publication system, namely that the certificate is only a strong certificate of proof of rights and is not an absolute certificate of proof of rights.

This means that the physical data and legal data listed in the certificate have legal force and must be accepted by the judge as true information as long as there is no other evidence that proves otherwise. Thus, the court is the one who has the authority to decide which evidence is correct and if the certificate is proven to be incorrect, changes and corrections must be made as appropriate.

The provisions of Article 32 paragraph (1) of PP 24 of 1997 have weaknesses, namely the state does not guarantee the accuracy of the physical data and legal data presented and there is no guarantee for the certificate owner because at any time they will receive a lawsuit from another party who feels aggrieved by the issuance of the certificate. To cover the weaknesses in the provisions of Article 32 paragraph (1) of Government Regulation Number 24 of 1997 and to provide legal protection to the certificate owner from lawsuits from other parties and make the certificate an absolute proof, the provisions of Article 32 paragraph (2) of PP 24 of 1997 were made.

A certificate as a letter of proof of rights that is absolute if it fulfills the elements cumulatively, namely: The certificate is issued legally in the name of a person or legal entity; Land is obtained in good faith; Land is actually controlled; Within 5 years since the issuance of the certificate, no one has filed a written objection to the certificate holder and the Head of the local Regency/City Land Office or has not filed a lawsuit in court regarding land ownership or issuance of the certificate. In order to be able to issue a certificate, proof of rights is required, followed by the recording of rights. Recording of rights in land rights, management rights, waqf land, ownership rights for apartment units is done by registering it by recording it in a land book containing legal data and physical data of the land area in question and as long as there is a measurement letter, it is also recorded in the measurement letter.

4. Conclusion

Article 1 paragraph (1) of PP. No. 24 of 1997 states that Land Registration is a series of activities carried out by the government continuously, sustainably and regularly, including the collection, processing, opening and presentation as well as maintenance of physical data and legal data in the form of maps and lists regarding land plots and apartment units, including the provision of certificates of proof of rights for land plots for which rights already exist and ownership rights for apartment units and certain rights that burden them. Article 1 paragraph (20) of PP. No. 24 of

1997: A certificate is a certificate of proof of rights as referred to in Article 19 paragraph (2) letter c of the UUPA for land rights, management rights, waqf land, ownership rights or apartment units and mortgage rights, each of which has been recorded in the relevant land book. Land registration is a series of activities carried out by the government to collect physical data and legal data from land plots to be registered. So it is said that land registration is an administrative process that is the authority of the land office to produce a certificate as proof of ownership rights to a plot of land. In order to provide legal certainty and protection, the holder of the land rights in question is given a land rights certificate, while to carry out the information function, data related to the physical and legal aspects of the registered land plots are declared proven to be public (principle of publicity), while in terms of achieving the goal of orderly land administration, each land plot or apartment unit, including the transfer, burden and elimination of land rights and ownership rights of apartment units, must be registered.

References

- A, Nurhayati. (2019). "Fungsi Pendaftaran Tanah Terhadap Hak-Hak Atas Tanah Menurut UUPA Tahun 1960", *Jurnal Wartha* Edisi 60.
- Herman, Hermit. (2004). *Cara Memperoleh Hak Milik, Tanah Negara, Tanah Pemda dan Peraktek Pendaftaran Tanah di Indonesia*, Bandung: Mandar Maju.
- Hisbullah, Rakhmat Wiwin dkk. (2018). "Asas Publisitas Pada Pelaksanaan Program Nasional Agraria Dalam Rangka Mewujudkan Efektivitas Pelayanan Publik", *Jurnal Madani* 2 No. 1.
- Koto, Ismail and Faisal. (2021). "Penerapan Eksekusi Jaminan Fidusia Pada Benda Bergerak Terhadap Debitur Wanprestasi" *Journal of Education, Humaniora and Social Sciences (JEHSS)* 4, No. 2.
- Marzuki, Peter Mahmud. (2011). *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group.
- Parlidungan, AP. (2009). *Pendaftaran Tanah di Indonesia*, Cetakan Keempat, Bandung: Mandar Maju.
- Poerwadarminta, W.J.S. (2006). *Kamus Umum Bahasa Indonesia* Edisi Ketiga, Jakarta: Balai Pustaka.
- Ramadhani, Rahmat. (2018). *Buku Ajar: Hukum Agraria (Suatu Pengantar)*, Medan: UMSU Perss.
- Santoso, Urip. (2010). *Pendaftaran dan Peralihan Hak atas Tanah*, Cet. 2, Jakarta: Kencana.
- Santoso, Urip. (2010). *Pendaftaran dan Peralihan Hak atas Tanah*, Cet. 2, Jakarta: Kencana.
- Ulya, Zaki. (2015). "Eksistensi Badan Pertanahan Aceh Sebagai Perangkat Daerah Di Aceh Dalam Aspek Kepastian Hukum Bidang Pertanahan", *Jurnal Konstitusi*, 12 No. 3.
- Yamin, Muhammad dan Rahim Lubis. (2011). *Hukum Pendaftaran Tanah*, Bandung: Mandar Maju.
- Yamin, Muhammad dan Zaidar. (2018). "Pendaftaran Tanah Dalam Mewujudkan Kepastian Hukum Atas Kepemilikan Tanah Dan Upaya Meminimalisir Konflik Pertanahan", *Jurnal Hukum Samudra Keadilan*, 13 No. 2.

Zainuddin dan Rahmat Ramadhani. (2021). "The Legal Force Of Electronic Signatures In Online Mortgage Registration", *Jurnal Penelitian Hukum De Jure* 21 No. 2.

Zainuddin, Zaki Ulya. (2018). "Domein Verklaring Dalam Pendayagunaan Tanah Di Aceh", *Jurnal Hukum Samudra Keadilan*, 13 No. 1.