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*Corresponding author: Alberto Easter Tarigan, Department of Law Science, Faculty of Law, Universitas HKBP Nommensen, Medan, Indonesia.

E-mail: albertopaskah.tarigan@student.uhn.ac.id

DATA IN SUMMARY | LAW, POLITICS, PUBLIC ADMINISTRATION

Dispute Resolution of Certified Land Rights in Sale and Purchase Transactions: Case Study of Lawsuit for Unlawful Acts

Alberto Paskah Tarigan^{1*}, D. Deborah²

^{1,2} Department of Law Science, Faculty of Law, Universitas HKBP Nommensen, Medan, Indonesia. Email:

albertopaskah.tarigan@student.uhn.ac.id¹, deborah@uhn.ac.id²

Abstract: The resolution of disputes over certified land rights in purchase and sale transactions is a crucial issue in agrarian law in Indonesia. Legal uncertainty often arises due to double claims, incomplete documents, or disputes between parties claiming to have the same land rights. The existence of a land rights certificate is the result of the land registration process. As stated in Article 19, paragraph (2) of the UUPA, land registration includes several series of activities that end with the provision of valid proof of rights as a valid means of proof. This study analyzes the dispute resolution mechanism and the role of legal institutions and land administration in ensuring legal certainty. Thus, it can be said that a right to land has a certificate as proof of its rights. On the other hand, if a land right does not have a certificate, it means that the land is registered as required by the applicable laws and regulations; the method used is a qualitative approach with case studies in several areas that experience land rights disputes. The study results show that mediation and arbitration can be adequate alternative settlements before litigation. In addition, transparency in the land certification process and legal education for the community are the main highlights of reducing conflicts. These findings are expected to provide recommendations for policymakers and the public in maintaining the stability of land rights in Indonesia.

Keywords: Land Disputes, Certificates, Purchase and Sale Transactions, Mediation, Agrarian Law.

1. INTRODUCTION

The Great Dictionary of the Indonesian Language (KBBI) states that the soil on the earth's surface or the layer of the planet is once above. Article 4 of the Land Law is based on the right to control from the state as referred to in Article 2; it is determined that there are various rights to the earth's surface, called land, which can be given to and owned by people, either alone or jointly with other people and legal entities (Supriadi, 2022)". The soil of the earth's layers has natural wealth to meet the needs of living beings individually or in groups (Ridwan & Sodik, 2023).

The land is managed by legal subjects, both individuals and legal entities. Law Number 5 of 1960 (UUPA) guarantees legal certainty for the community in utilizing natural resources. The government allows land registration, as stipulated in Article 19 paragraph (1) of the UUPA, to ensure legal certainty. Registration of the proper transfer is carried out by the Land Deed Making Officer (PPAT) by Government Regulation 24 of 2016. In addition, Article 9, paragraph 2 of the Government Regulation, states that all Indonesian citizens have the same right to land to benefit themselves and their families. However, in practice, problems related to land rights often arise that require registration. Registration means recording names, addresses, and other information in a list (Pieter, 2015). Registration records names, addresses, and information in the list and records identities into the storage media used (Arba, 2020).



Article 19, paragraph 1 of the UUPA stipulates that government regulations regulate land registration. Initially, the applicable regulation was Government Regulation No. 10 of 1961, but it was repealed by Government Regulation No. 24 of 1997, promulgated on July 8, 1997, and took effect on October 8, 1997. The implementation of Government Regulation No. 24 of 1997 is further regulated by the Regulation of the Minister of State Agrarian Affairs/BPN No. 3 of 1997. Article 19, paragraph (2) letter c of the UUPA states that land registration by the government produces a certificate of proof of legal rights to prove ownership. Systematic and sporadic registration produces certificates that make it easier for individuals or legal entities to demonstrate ownership and provide legal guarantees. Registration aims to provide legal certainty, facilitate proof of rights, and protect disputed land rights holders. In Article 1 Point 1 of Government Regulation No. 24/2016, PPAT is defined as a public official authorized to prepare authentic deeds related to land rights or property rights of flats. To become a PPAT, applicants must have a legal education, pass the Notary Strata 2 program, and participate in PPAT special education. PPAT is also required to comply with the code of ethics stipulated in the Decree of the Minister of Agrarian and Spatial Planning or the Head of the National Land Agency No. 112/KEP-4.1/IV/2017, and the scope of work is limited to one provincial area where they serve (Wibowo, 2022). Inland purchase and sale transactions after the enactment of the UUPA, several important things need to be considered:

Subject: Only Indonesian Citizens (WNI) are allowed to make transactions. Foreign Nationals (WNA) can be involved through inheritance but must relinquish the right within one year; otherwise, the right will be canceled. Indonesian citizens who have lost their citizenship must simultaneously relinquish their property rights.

Object: Buying and selling include land with property rights, business use rights, building use rights, and certified management rights. For land without a certificate, documents such as the Governor's Decree, the Regent's SKT, the Sub-district Decree, and the Village Head Decree (Dewi, 2018) are required.

However, in practice, PPAT often prepares sales and purchase deeds that are not by the provisions of existing regulations so that they can cause losses for the parties involved. Based on that, the objectiveness of this study is: (1) What is the process of verifying land certificates in buying and selling transactions to prevent disputes? (2) What is the mechanism for resolving certified land disputes through mediation or arbitration?

2. RESEARCH DESIGN AND METHOD

This type of research is normative-empirical law, which combines a normative law approach with empirical elements. This method discusses the application of normative legal provisions (laws) in legal events in society. Normative, or doctrinal legal research, examines the internal aspects of positive law and focuses more on conceptions, principles, and legal principles relevant to the legal issues being studied.

3. RESULT AND DISCUSSION

3.1. Factors Causing Disputes over Certified Land Rights in Sale and Purchase Transactions

Several factors that cause land rights not to be registered, especially in sales and purchase transactions, are often due to the lack of land registration. Land registration is essential in the Basic Agrarian Law (UUPA) as a first step in proving ownership of land rights. The UUPA requires the government to carry out land registration throughout Indonesia per Article 19 to ensure legal certainty. The regulations in question include (1) Measurement and Mapping, (2) Registration of



land rights, (3) Giving letters as proof of rights, (4) Land registration is carried out by considering the conditions of the state and society, the needs of economic traffic, and the possibility of its implementation by considering the Minister of Agrarian Affairs.

Government regulations regulate land registration fees. Article 1, paragraph (1) of Government Regulation Number 24 of 1997 states that land registration is a series of government activities carried out on an ongoing basis, including collecting, managing, recording, presenting, and maintaining physical and juridical data regarding land and flats. Following Article 19, paragraph (1) of the UUPA, the government issued Government Regulation Number 10 of 1961 to regulate land registration. However, due to many problems that have not been resolved, Government Regulation Number 24 of 1997 was issued after 38 years. Inland purchase and sale transactions that do not rename the certificate have a legal risk that can threaten land ownership. Buyers can lose land rights and not get legal certainty. To ensure legal certainty, the community must register the rights to the land purchased. Therefore, land purchase and sale transactions require authorized officials' intervention so that applicable laws and procedures carry out the ownership transfer.

Land ownership disputes arise because each party feels they have the right to the land. Therefore, the preservation of land rights in sale and purchase transactions, both certified and unregistered, must follow the provisions of Article 19 of the UUPA Article 23 paragraph (1) of the UUPA and Government Regulation Number 24 of 1997. The transfer of rights to land that has not been registered can result in losses for rights holders due to the lack of legal certainty. Land registration serves as a guarantee of legal certainty and land rights. However, it does not guarantee juridical proof of ownership by the provisions stipulated in Article 19 of the UUPA and Government Regulation (PP) number 24 of 1997 (Analin & Sembiring, 2022).

Land defense can appear in various forms, including administrative, civil, and criminal, related to elections, transactions, registration, and customary rights. The parties to the dispute can consist of owners, holders of dependent rights, buyers, tenants, and cultivators—objects at stake. Land defense can appear in various forms, including administrative, civil, and criminal, related to elections, transactions, registration, and people's rights. Parties to the dispute can consist of owners, holders of dependent rights, buyers, tenants, and cultivators. The objects at stake include privately owned land, state assets, customary land, ex-western land, national land, plantation land, and other types of ownership (Mahfiana, 2023). In practice, by the Civil Code and the UUPA, the PPAT should make the land purchase and sale agreement. However, making land deeds often does not follow the procedures set by PPAT. This non-compliance arises due to various situations and conditions in transactions that force PPAT to ignore the procedure for making a land sale and purchase deeds, as stipulated in Government Regulation Number 24 of 1997 concerning Land Registration and Government Regulation Number 37 of 1998 concerning the Position of Land Deed Making Officer and its implementing regulations. The preparation of land deeds that do not follow the correct procedures includes the following:

1. signing the sale and purchase deed before the buyer pays off the payment and tax obligations by Law Number 20 of 2000 concerning BPHTB.
2. The sale and purchase deed agreement is not signed in the presence of the Land Deed Making Officer (PPAT).
3. The signing of the deed by the buyer and seller is not done simultaneously in front of PPAT.
4. The conformity of the certificate with the land book has not been checked even though the deed has been signed.
5. Deeds are made outside the PPAT's work area and without a Witness, often when the PPAT prepares deeds for specific clients with privileges.



6. The deed signing is carried out outside the PPAT office and without witnesses, even though it should be done at the PPAT office in the presence of the relevant party unless a legitimate reason obstructs it.
7. There is a difference between the price in the deed and the actual transaction value, which affects the calculation of taxes by Law Number 21 of 1997 concerning Land and Building Rights Acquisition Duty (Limbong, 2023).

3.2. Land certificate verification process in sale and purchase transactions to prevent disputes

Land has an important role in human life, so legal certainty about its ownership needs to be. For this reason, consistent regulations and legal guidelines are needed. One of the steps that can be taken is to register the land with the National Land Agency (BPN) to get a certificate as proof of ownership. Land-related problems often arise due to property rights violations detrimental to other parties. The government has issued regulations in the field of land to provide legal certainty and legitimacy to the community in the control and use of land by applicable provisions, as stipulated in Article 19 of the UUPA, which emphasizes the importance of land registration to ensure legal certainty in Indonesia. The main objectives of land registration, according to the UUPA, include the following:

1. Providing certainty regarding land ownership status through a valid certificate.
2. Protecting the rights of owners and other parties interested in land with precise registration.
3. Increase investor confidence through a transparent registration system.
4. Supporting regional planning with accurate land ownership and use data.
5. Reducing the potential for ownership settlement through complete and precise registration.
6. Regulating land use reasonably and efficiently supports sustainable development and community welfare (Karim et al., 2023).

Land verification in buying and selling transactions is essential to avoid mistakes. Here are the general steps in the verification process:

1. Ensure the certificate is genuine by checking the seal, signature, and other security elements.
2. Check the certificate number and ensure it matches the National Land Agency (BPN) data.
3. Contact BPN to ensure the certificate is registered and there are no land-related legal problems.
4. Review the ownership history to ensure no claims from other parties and no ongoing legal issues.
5. Get a Land Certificate (SKT) to prove the land is not problematic.
6. Include all information related to land in the agreement, involve witnesses, and use the services of a notary for the sale and purchase deed.
7. Immediately carry out the name change process at BPN after completing the transaction to ensure the rights are handed over to the buyer.
8. Keep all documents, including proof of payment and agreements, to avoid future problems.

By following these steps, risks related to land ownership can be minimized. It is recommended that a legal professional or notary provide further guidance. The use of PMPJ services by Notaries/PPAT can prevent legal problems. Notaries have an essential role in making Land Deeds, including ensuring the validity of documents and protecting the parties in transactions. With a deep understanding of the law, notaries advise on rights and obligations and ensure transactions are by applicable regulations, thereby reducing the risk of land salvation. In Indonesia, the role of notaries in preparing Land Deeds is regulated by various legal regulations to ensure that the ownership of documents meets the legal requirements without defects (Tarigan et al., 2024). They thoroughly



inspect the documents to ensure all legal requirements are met before making the Land Deed. The rules governing it include

1. The primary regulation that regulates the Indonesian notary profession is Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions.
2. Further implementation of the Notary Position Law is regulated by Government Regulation 44 of 2016 concerning the Role of Notaries in the Preparation of Land Deeds.
3. The National Land Agency issues several regulations related to the preparation of Land Deeds, including Regulation of the Head of the National Land Agency Number 3 of 1997 concerning the Appointment of Notaries to Face Land Deeds and Regulation of the Head of the National Land Agency Number 6 of 1997 concerning Provisions for the Implementation of the Making and Ratification of Land Deeds by Notaries.
4. In addition, other provisions regulate the role of notaries in making Land Deeds, such as the Guidelines for the Granting of Power of Attorney in the Preparation of Land Deeds by Notaries issued by the National Land Agency (Adjie & Reynaldi, 2023).

3.3. How is the mechanism for resolving certified land disputes through mediation and arbitration or mediation-arbitration

The complexity of the root cause of land conflicts often slows down the solution and does not always meet the principles of legal certainty and justice. Therefore, involving various parties in finding a fair solution is important. "Access to justice" refers to the opportunity of every citizen, regardless of background, to obtain justice through the judiciary, including for the poor and uneducated. Justice includes equal rights before the law but also requires special protection for vulnerable people. The author wants to explain whether Indonesian law provides public access to land issues. Through out-of-court settlements, such as mediation-arbitration, it is hoped that individuals or legal entities can feel legal certainty. This method combines mediation and arbitration and is voluntary and non-binding until an agreement is reached. This method in Indonesia is still new. BANI started in 2006 and has been applied to settlement-assisted land cases with third parties to provide helpful advice (Kurniati, 2016). The advantage of mediation in conflict resolution is the presence of mediators who are trusted to bridge the interests of both parties, even though they do not have the authority to impose decisions. The mediator only guides the negotiations until the agreement outlined in the agreement is reached. Mediation has been applied to resolve registered and unregistered land cases, focusing on conflict resolution. The mediation process goes through several stages, from pre-mediation to post-mediation, per Supreme Court Regulation 1 of 2016. The stages of mediation include Pre-mediation, Mediation strategy, Collection of information, Mediation Plan, Building trust

Examples of cases include the settlement of title certificates in Cilegon, which was resolved through mediation in 2007, as well as the Rancamaya land case in Bogor, where the land has been controlled by farmers since 1949 but were certified in the name of PT Suryamas Duta Makmur without their knowledge. This case was also resolved peacefully with the help of Komnas HAM (Dewi & Setiasih, 2024). In contrast to mediation, arbitration involves handing over the settlement to one or more neutral arbitrators who render a final and legally binding award. If one party does not comply with the decision, enforcement can be requested through the court. Although arbitration offers advantages, this process is not always quick and cheap; Some cases can be complicated and cost more time and money. The Law regulates land disputes on Land Disputes and the Regulation of the Head of BPN No. 3 of 2011, which defines land ownership conflicts between parties who claim each other. Broadcasting settlement can be done through the courts in the general and state administrative courts. However, this process is often ineffective, time-consuming, and expensive. Analysis of court cases shows the need for a better understanding of the substance of the issue so that decisions can provide justice and legal certainty. Land issues are often complex and involve many entities, so mutual understanding is essential for a fair decision. Settlement through the court can result in high costs,



even exceeding the value of the disputed property, so many people choose not to file a case in court and prefer to complain about their problems to the land office (Sukmawati, 2022).

4. CONCLUSION

This research shows that land certificates are vital in buying and selling transactions as proof of ownership law. Certificates provide legal certainty and protection for the parties involved. However, maintaining certified land rights often faces challenges such as double claims, administrative errors, and fraud. Several methods to complete the settlement, such as mediation, arbitration, and litigation, each with advantages and disadvantages that must be adjusted to the situation. The government and related institutions, such as the National Land Agency (BPN), provide information, verify claims, and facilitate settlements. This study recommends increasing public socialization and education about the importance of land legality, correct transaction procedures, and stricter law enforcement to prevent future destruction. This research is expected to contribute to developing land law in Indonesia and increase awareness of the importance of legal land ownership.

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