

## Reconstruction of the complete systematic land registration regulation based on justice value

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### Abstract

Complete Systematic Land Registration needs to be reviewed because it has not been effective enough because as of the target of 26,000 (twenty-six thousand) plot of land, the Central Java Land Office can only issue a total of 7,800 (seven thousand eight hundred) certificates only. The main issues studied are What are the Weaknesses of the Implementation of Complete Systematic Land Registration in Indonesia Today and How is the Reconstruction of Regulation on Systematic Complete Land Registration in Indonesia Based on Justice Value. The study was done using the constructivism paradigm and the type of research is a qualitative study with a socio-legal approach where the primary data taken from samples from central java's Land Office.

Research shows that the weakness of the implementation of the Complete Systematic Land Registration at this time is the lack of public understanding of this government program despite the fact that several times there have been socialization of several examples of funding sources and the completeness of juridical data. Therefore, it is necessary to Reconstruct a Complete Systematic Land Registration Regulation Based on Justice Value in Article 40 Paragraph (1) Regulation of the Minister of Agrarian Affairs and Spatial Planning of the Republic of Indonesia National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration, that are namely: Financing Source for Complete Systematic Land Registration and Article 4 paragraph (4) Regulation of the Minister of Agrarian and Spatial Planning of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration, which is the Implementation of Complete Systematic Land Registration Activities, especially in the clause of community objection because these two articles cause No stages of objection period before the issuance of the certificate so that the community is still charged with the cost of excess needs, some of which have been borne by the government through the Complete Systematic Land Registration Program.

**Keywords:** reconstruction, complete systematic land registration, justice value

### Introduction

Complete Systematic Land Registration is the activity of land registration for the first time which is carried out simultaneously for all objects of land registration throughout the territory of the Republic of Indonesia in one village/District or other name of the same level, which includes the collection and determination of the truth of physical and juridical data concerning one or several land registration objects for the purpose of registration<sup>[1]</sup>.

The acceleration of the implementation of Complete Systematic Land Registration as regulated in Article 3 paragraph (3) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning / National Land Agency Number 6 of 2018 concerning the Acceleration of the Implementation of Systematic Complete Land Registration is carried out in stages as follows:

- Determining the location of the activities of the Systematic Complete Land Registration acceleration;
- Establishing a Systematic Complete Land Registration Adjudication Committee;
- Counseling;
- Collection and processing of Physical Data and Juridical Data on plot of land;

- Land inspection;
- Announcement of Physical Data and Juridical Data;
- Issuance of the decision to grant land ownership rights;
- Bookkeeping the Rights of Land;
- Issuance of Land Ownership Certificate; and
- Handing over the Land ownership Right Certificates.

The Government's Land Office (BPN) launches a Complete Systematic Land Registration or Complete Systematic Land Registration program. This program will replace the Prona program, A free land certificate program from the National Land Agency (BPN) to the community. Nationally, the Ministry of Agrarian Affairs and Spatial Planning (ATR) and BPN proposes 5 (five) million plots of land to be collected and then a free certificate is made by each local BPN in each region. After going through the budget discussion process, it was agreed that only around 2 million plots of land would be given a Complete Systematic Land Registration in the 2019 fiscal year. Each year there will be an increase in the number of plots of land that become the object of a Complete Systematic Land Registry distributed throughout the territory of the Republic of Indonesia. In 2018 the target of implementing a Complete Systematic Land Registration is 7 (seven) million plots of land while in 2019 it will again increase to 9 (nine) million plots of land.

While the Complete Systematic Land Registration program is conducted centrally in one village only for the 2019 fiscal

<sup>1</sup> Yamin, Muhammad & Zaidar, Zaidar. (2018). PENDAFTARAN TANAH UNTUK MEMINIMALKAN KONFLIK ATAS TANAH. LITIGASI. 18. 10.23969/litigasi.v18i1.311.

year, in contrast to the Prona program, which can be distributed to several villages in one fiscal year, even up to 10 villages. In the Prona program, not all plots of land that are not certified in one village are given assistance as it is done in several stages like in Makassar for example <sup>[2]</sup>, whereas in the Systematic Complete Land Registration program, villages that are subjected to Complete Systematic Land Registration will have certificate made for all of them. The Head of the Central Java Land Office ensures that there are no costs in the process of land titles and the process of obtaining land certificates is free of charge, starting with registration fees for juridical data collection or physical checking, land measurement for all costs is borne from the State Budget seal, boundary marks in the form of stakes and filing. And on Complete Systematic Land Registration the data process is also faster when the registration data is declared correct and complete, the certificate can be directly issued to the certificate applicant.

The Central Java Land Office in their Systematic Complete Land Registration program targets certification of approximately 6,000 land plots. While the second stage there are 20,000 land plots that are still in the measurement data collection process. The Central Java National Land Agency (BPN) is also implementing a cross-sectoral program of 500 land plots covering 300 agriculture plots of land, 100 small industries sectors and 100 fishermen or fisheries for 100 plots of land. So that the total target which is the target of Complete Systematic Land Registration in Central Java is 26,000 (twenty six thousand) plots of land <sup>[3]</sup>. The target of Complete Systematic Land Registration in Central Java is divided into 4 Executing Systems for Complete Systematic Land Registration with each team carrying around 6,000 (six thousand) plots of land. Complete Systematic Land Registration needs to be a concern of the community because it makes it easy to arrange land certificates. The facilities include the registration fee collection, even though the component cost requirements such as stamp duty, land stakes and land taxation costs are still borne by the applicant. Complete Systematic Land Registration is also expected to be able to reduce the potential for land disputes and conflicts resulting from the unclear status of ownership / control of land in the eyes of the law can be minimized.

However, in reality the implementation of a Complete Systematic Land Registration in Central Java, especially Kendal Regency, is still not in line with the main objective of this program and is not yet just. Especially in the unclear administration costs and registration procedures. This happens because there are differences in perspective and meaning between the two parties, namely the government and the people who will register their land certificates. The community only knows that the Complete Systematic Land Registration program is all free of charge. However, when they took care of the Complete Systematic Land Registration, it turned out that there were some costs they had to pay for the processing of data and other documents.

This is what causes the community to be disappointed.

The government should explain that the free fees in the Complete Systematic Land Registration program are only for certain data and documents, and they must still pay for others. However, this socialization was less encouraged because the government wanted to attract the attention of the wider community with the slogan "Free Complete Systematic Land Registration" so that the community would be moved to register their land. The community was also less active in seeking information and asking officers before they registered their land at the first start. Here we see a different understanding between the government and the community in terms of Complete Systematic Land Registration <sup>[4]</sup>.

From the different meanings above impact on the success of the Complete Systematic Land Registration program. For example, from the target of 26,000 (twenty-six thousand) plots of land, the Central Java Land Office can only issue 7,800 (seven thousand eight hundred) certificates while the others are still in the process of measuring data collection. In this case, there are many factors that cause or constrain the implementation of a Complete Systematic Land Registry so that only 30% are implemented. Therefore, the author raises this problem further.

By raising the problem to public, it is expected that the author can find out the implementation of land registration with the Systematic Complete Land Registration program and know what factors become obstacles or constraints in the implementation of the Systematic Complete Land Registration program, both legal and technical constraints.

As for the main problem that the author discussed as follows:

1. What are the Weaknesses of the Implementation of Complete Systematic Land Registration in Indonesia?
2. How to Reconstruct Regulations on Complete Systematic Land Registration in Indonesia Based on Justice Value?

### Method of Research

The paradigm that is used in the research this is the paradigm of constructivism which is the antithesis of the understanding that lay observation and objectivity in finding a reality or science knowledge <sup>[5]</sup>. Paradigm also looked at the science of social as an analysis of systematic against *Socially Meaningful Action* through observation directly and in detail to the problem analyzed.

The research in writing this dissertation is a qualitative research. Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach (*approach*) the research is to use the approach of *Socio-Legal* <sup>[6]</sup>, which is based on the norms of law and the theory of the existing legal enforceability of a sociological viewpoint as interpretation or interpretation.

As for the source of research used in this study are:

1. Primary Data, is data obtained from information and information from respondents directly obtained through

<sup>2</sup> Ardiansyah. (2012). "Implementasi Program Larasita (*Layanan Rakyat Untuk Sertifikasi Tanah*) Di Kota Makassar". Jurnal Hasanudin. Makassar: Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Hasanuddin Vol. 2

<sup>3</sup> Ayu, Isdiyana. (2020). KEPASTIAN HUKUM PENDAFTARAN TANAH MELALUI PENDAFTARAN TANAH SISTEMATIS LENGKAP DI KOTA BATU. *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*. 31. 338. 10.22146/jmh.41560.

<sup>4</sup> Mujiburohman, Dian. (2018). POTENSI PERMASALAHAN PENDAFTARAN TANAH SISTEMATIK (PTSL). *BHUMI: Jurnal Agraria dan Pertanahan*. 4. 10.31292/jb.v4i1.209.

<sup>5</sup> Faisal, (2010), *Menerobos Positivisme Hukum*, Rangkang Education, Yogyakarta.

<sup>6</sup> Johnny Ibrahim, (2005), *Teori dan Metodologi Penelitian Hukum Normatif*, Bayumedia, Surabaya.

interviews and literature studies where in this case various Government's Land Office in central java, Indonesia.

2. Secondary Data, is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Primary Legal Material and Secondary Legal Materials and Tertiary Legal Material.

In this study, researchers used data collection techniques, namely literature study, interviews and documentation. In this study, the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data [7]. Qualitative data analysis is the process of searching for, and systematically compiling data obtained from interviews, field notes and documentation by organizing data into categories, describing it into units, synthesizing, compiling into patterns, selecting important names and what will be studied and make conclusions.

## Research Result and Discussion

### 3. Weaknesses of the Implementation of Complete Systematic Land Registration in Indonesia

The Technical Weaknesses is as follows:

- a. Lack of HR (Human Resources) in the implementation of Complete Systematic Land Registration

The lack of human resources in this case is quantitative, namely the limitations of workers working on the acceleration of a Complete Systematic Land Registration according to their fields. This is because almost every year in Kendal BPN there are employees who retire. With a very large target (26,000 land plots) that must be completed in about 5 months it would not be possible to finish it all because of limited human resources. Though each person can only work on about 100 plots of land per day.

If viewed from the Acceleration and Task Force Adjudication Team which consists of about 23 people and added some additional employees needed, it still cannot carry out the Systematic Complete Land Registration effectively with very many targets, because all the Acceleration and Task Force Adjudication Teams also have to do existing work at the Kendal Land Office, so they have multiple jobs.

- b. Time Limitation

Complete Systematic Land Registration should be carried out for a period of one year starting from the beginning of the year in January and ending in December, but in practice ( Based on Research Conducted in Complete Systematic Land Registration in 2019 in Kendal Regency) only takes place in July and must end in December 2019 because in January 2018 are spent to preparing for the implementation of the Complete Systematic Land Registration 2018. This has caused it to be ineffective in the work or cultivation of the Systematic Complete Land Registration so that it has not achieved the specified targets.

- c. Lack of public awareness in Completing Administrative Requirements

In this case community awareness plays an important role in the implementation of a Complete Systematic Land Registration because if the community as an applicant is not deft in fulfilling administrative requirements, it will hinder

or influence the process of implementing a Complete Systematic Land Registration and is clearly very time consuming.

- d. Socialization and Counseling

In carrying out the socialization and counseling the constraints obtained are related to time. The time here is intended in the event that the Land Office sometimes comes late to the location in accordance with the specified time not because the Land Office is lazy or not on time but because there are many things that must be done at the Land office [8]. Then another obstacle comes from people who do not understand how to fill out the registration form properly so that the time should be done for socialization about one month, in reality it is carried out for more than one month, which is one month and a half.

- e. Juridical Data Collection and Collection

Constraints experienced when taking juridical data are many participants who do not understand how to fill in the Complete Systematic Land Registration application form, then the settlement is carried out by means of a data collection process involving POKMAS to help fill in land data such as Letter C, Identification Number, date of birth, and address of the participant.

- f. Measurement to Obtain Physical Data

The obstacle experienced is the terrain of land which is the object of a Complete Systematic Land Registration. If the parcels are flat then using GPS will be very easy so that in one day physical data can be obtained around 10-20 plots of land, whereas if the terrain is hilly it will be a little difficult to use GPS because the signal obtained is less strong. This was experienced when measurements were made in the villages of Cepiring, Kangkung and Weleri based on the topography of the area.

- g. Certificate Submission

Constraints experienced are villages that are not ready to receive all documents for certificate issuance so certificates cannot be submitted, there are internal village administration problems, limited time and incomplete legal data.

## 2. Legal weaknesses

What is meant by legal constraints are factors or circumstances that limit, hinder or prevent the achievement of targets related to legal issues. Legal constraints are caused by 3 factors namely:

- a. Legal events

Legal events are all events or events that can have legal consequences, between parties who have a legal relationship. In the implementation of the Complete Systematic Land Registry of 2019 which includes a legal event is a matter of inheritance. This can be an obstacle for the implementation of a Systematic Land Registration Complete because if the plot of land which will be registered in a complete systematic registration is a plot of land in which the acquisition is in the form of a transfer of rights and the name listed in Letter C has passed away a long time ago and has just been submitted for land registration (Tax Dismissal), then requires a death certificate, an inheritance certificate (signed by all heirs ), number of heirs, inheritance requirements etc. this can take

<sup>7</sup> L. Moleong, (2002), Metode Penelitian Kualitatif, PT Remaja Rosdakarya, Bandung.

<sup>8</sup> Ardani, Mira. (2019). Peran Kantor Pertanahan dalam Kegiatan Pendaftaran Tanah Sistematis Lengkap. Gema Keadilan. 6. 44. 10.14710/gk.6.1.44-62.

a long time <sup>[9]</sup>.

Not to mention if many heirs and scattered while for the distribution of land based on heirs must obtain an agreement of all heirs. Therefore, the Acceleration Adjudication Committee or the National Narcotics Agency provides an alternative solution in the form of a shared name above the certificate requested, so that if one day all heirs can gather and want to divide their land will be easier because the rights have been listed (land can be divided in accordance with the provisions agreed upon). So, the obstacle lies in having an inheritance certificate that is approved and signed by all heirs while the heirs are in different cities or even countries.

#### b. Legal Deeds

Legal action in general is an act which by law has been given legal consequences based on the assumption that the legal subject who did so wants the legal consequences to arise. Legal actions can be in the form of acts that are appropriate or according to legal regulations and acts that violate the law.

In the case of the implementation of the Complete Systematic Land Registration in 2019 the legal act referred to for example is the Sale and Purchase. In the case of buying and selling if you do not yet have a land certificate, then use Letter C. Before 1997 or before the enactment of Government Regulation Number 24 of 1997 concerning Land Registration, in conducting the sale and purchase of land there must be evidence of receipts, seals and Letter C, whereas after 1997 or after the promulgation of Government Regulation Number 24 of 1997 concerning Land Registration, in conducting land buying and selling there must be AJB (Deed of Sale), 2 witnesses, and stamp duty. So, the obstacle here is that when buying and selling and still using receipts and seals, the party implementing the Complete Systematic Land Registration will find it difficult to manage the land registration process.

#### c. Proof of Ownership (Letter C) are Missing

Letter C is a book that is stored by village officials, usually the village secretary. This book can be used as proof of land ownership because the land recorded in the book has been controlled for years, on the basis that the Land Office officials or Land Office can see who is entitled to uncertified land ownership in a village. So if letter C is lost, it will be very difficult for the Land Office to carry out a Systematic Complete Land Registration, because Letter C is the preliminary evidence to get a juridical proof of land rights, namely certificates. Therefore, if Letter C is lost, Participants in Complete Systematic Land Registration must first take care of losing Letter C so that they can then fulfill the main requirements for registration of Systematic Complete Land Registration.

### 3. The Reconstruction of Regulations on Complete Systematic Land Registration in Indonesia Based on Justice Value

From the results of research conducted by researchers, it appears that there are obstacles in the implementation of a complete systematic land registration that has implications for the process of the implementation of the irregularities. To overcome the problems that occur community /

applicants Complete Systematic Land Registration, Local Government and the Kendal Regency Land Office must be able to establish cooperation in expediting the implementation process. These efforts, according to the authors, among others :

a. In order to overcome the problems or obstacles shown above, especially in terms of the level of public understanding of this Complete Systematic Land Registration, the Kendal District Land Office must make efforts to resolve by conducting counseling. Counseling is one of the stages of the implementation of a Complete Systematic Land Registration, and there is some material delivered, but the Kendal District Land Office must emphasize more or more intensively and concretely explain the financing material and emphasize that the implementation of this certification program is very easy to do. Submission of material must use simpler and better language if counseling uses the local language of Kendal Regency, because the average community of Kendal Regency is rarely able to respond quickly to the use of Indonesian. At this counseling stage there should be a question and answer session until there is nothing confusing the community. In addition the Kendal District Land Office can use the brochure as a means of delivering information that can be carried everywhere by participants / applicants. Brochures can be distributed to the Kendal community at the time of the outreach and are provided at the Kendal District Land Office. The Kendal Regency Land Office must succeed in changing the mindset of the people of Kendal Regency who believe that the most important land is to be able to take advantage of it and meet the necessities of life. The Land Office must succeed in raising awareness that land also needs legal protection so that at some point when a problem occurs that results in entering the court area, the land owner can prove ownership. This was also done so as not to cause problems in the implementation of the Systematic Complete Land Registry for the years ahead.

b. From the results of research conducted by researchers show that the form of coordination of the Regional Government to the Kendal District Land Office is only to know and instruct the District Head who is in the Kendal Regency. The budget obtained by the Kendal District Land Office for the implementation of the Systematic Complete Land Registration program is purely from the State Revenue and Expenditure Budget and there are no other budget sources in its implementation. Whereas in the Regulation of the Minister of Agrarian Number 6 of 2018 Article 40 concerning sources of financing can come from various sources, one of which is from the Provincial, Regency / City and Village Funds. This shows that the collaboration between the Kendal Regency Land Office and the Regional Government can be increased again, which from the beginning was merely knowing and instructing to increase the budget for the implementation of a Complete Systematic Land Registration by the Regional Government through the Regional Revenue and Expenditure Budget or *Pal* procurement subsidy assistance (sign limit ) to each village. Addition of costs through the Regional Revenue and Expenditure Budget is not without reason, with the implementation of the Systematic Land Registration Program Complete by the Land Office can assist the Regional Government in the success of the performance in the field of land in its autonomous region.

<sup>9</sup> Ambarsari, Ningrum & Azizah, Noor. (2019). URGENSI PENDAFTARAN PADA TANAH YANG BELUM BERSERTIFIKAT. *Al-Adl : Jurnal Hukum*. 11. 91. 10.31602/al-adl.v11i1.2021.

Furthermore, based on the description above, it can be seen that the Regional Revenue and Expenditure Budget and Corporate Social Responsibility funds can be an alternative financing for the Implementation of a Systematic Complete Land Registration, for each Head of the Provincial BPN Regional Office and the Head of Regency / City Land Affairs Office to coordinate with provincial and district / city regional governments or State / Regional-Owned Enterprises in the framework of land certification financing through the Regional Budget / Corporate Social Responsibility. If the financing of land certification through the Regional Revenue and Expenditure Budget / Corporate Social Responsibility is agreed, the Head of the Provincial BPN Regional Office and the Head of the Regency / City Land Office should report to 3 Ministers of Agrarian Affairs and Spatial Planning Cq. The Secretary General, accompanied by the text of the grant agreement signed by the parties, while the procedure for grants to finance the legalization of assets refers to the Secretary General Letter Number 3661 / 2.3-100 / VIII / 2019 dated August 24, 2019 terms of Technical Guidelines for the Management of Direct Grants in Money to Fund Activities Legalization of Assets. Based on the above description of the Reconstruction of a Systematic Land Registration Regulation based on Justice Value is by reconstructing article 40 paragraph (1) Regulation of the Minister of Agrarian and Spatial Planning of the Republic of Indonesia National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration, namely: Source of Financing Systematic and Complete Land Registration Article 4 paragraph (4) Regulation of the Minister of Agrarian Affairs and Spatial Planning of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration, namely the Implementation of Complete Systematic Land Registration Activities, especially in the community objection deadline clause because these two articles cause No grace period. community's objection before the issuance of the certificate so that the Community is still charged with the cost of excess needs which some of the needs have been borne by the government in a systematic manner through the Complete Systematic Land Registration program.

### Conclusion

1. in general, the implementation of a Complete Systematic Land Registration in Kendal District has been well implemented. This can be proven by achieving the target set by the Ministry of Agrarian Affairs and Spatial Planning which is 35,000 plots of land, although some weaknesses still occur in the field. Weaknesses in the implementation of the Complete Systematic Land Registration at this time is the lack of public understanding of this government program despite the fact that several times there have been socialization of several examples of funding sources and the completeness of juridical data.
2. The Reconstruction of a Complete Systematic Land Registration Regulation based on Justice Value is by reconstructing article 40 paragraph (1) of the Regulation of the Minister of Agrarian and Spatial Planning of the Republic of Indonesia National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration, namely: Source of Financing for Systematic Complete Land Registration and Article 4 paragraph (4) Regulation of the Minister of Agrarian and Spatial Planning of the National

Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration, which is the Implementation of Complete Systematic Land Registration Activities, especially in the clause of community objection because these two articles cause No stages of objection period. before issuing a certificate so that the community is still being charged with excess costs, some of which have been borne by the government through the Complete Systematic Land Registration Program.

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