



Land registration and the importance of community on land registration

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Abstract

The land registration process has been regulated in such a way in the applicable laws and regulations; besides that, Indonesia also has a National Land Agency in charge of carrying out land registration. However, in practice, many things affect the government's success in increasing the amount of land controlled by the community for registration of their land. There are still many community members in Indonesia who still do not know the importance of land registration, so there is still a need for a lot of socialization in the community related to the procedures and the process of land registration. Based on the background above, the writer is interested in raising the problem 1). How important is it for the community to register land? How are land registration and the process in the field; and 2)? To answer the two problems raised, this paper, empirical research, uses a sociological approach. The data is collected in the form of primary and secondary data with data collection techniques in the form of interviews, questionnaires, and literature studies which are then analyzed using inductive data analysis techniques. The results of this study are expected to assist the government in conducting socialization to the public about the importance of land owners registering their land so that not only the object of land registration gets legal certainty, but also the subject and also the status of the registered rights so that they get legal protection and can be useful for the rights holders.

Keywords: Registration, land, benefits, legal certainty

Introduction

Land is one of the natural resources that have an important role in human life, and this is proven from time-to-time land is one of the wealth that has a very close relationship with humans, where humans need land for many things, both to build a place to live, farming and for other purposes. The development of society today, whose population is increasing and denser, makes the need for land even more. In contrast, the amount of available land remains undeveloped, so if it is not properly managed and regulated by the government, there will be a risk of land scarcity and increasing land ownership disputes.

Owning, but more on regulating and managing land use so that land use can be more optimal and on target. Not all of the land in Indonesia can be owned by the community individually, and this is because there are lands that are indeed functioned for the government, development, designated as public facilities, and so on. Therefore, article 33, paragraph (3) states that "earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people" the meaning of the word controlled by the state is that the state is not heading in the sense of being handled by the state.

However, not all land controlled by humans is legally owned, so not all land held by humans has been registered at the local Land Office. Bearing in mind that land is an asset that is considered valuable to its owner, by Article 23 of Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA), it is determined that all types of land parcels, whether in the form of an owner judge, obtained due to the transfer or cancellation of rights, must be registered. This land registration must be carried out to

ensure legal certainty for the owner. This is stated in Article 19, paragraph (1) of the UUPA.

Land registration protects the owner and helps to know who the owner is, what rights the owner has, how much, and what the land is used for (Dalimunthe, 2000) ^[1]. The guarantee of legal certainty stipulated in this land registration includes certainty about the status of registered rights. This land registration makes the certificate proof of ownership rights to the land (Santoso, 2010) ^[2].

Land registration is an activity carried out by the government which is carried out in an orderly manner on an ongoing basis in terms of carrying out data collection, data processing, recording in books and presentations, as well as in terms of maintaining physical data and juridical data, in the form of maps and registers, on land. This activity also includes the issuance of proof of land rights (Republic of Indonesia Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter written PP Number 24 of 1997) ^[7], Article 1 number 1).

The land registration process has been regulated in such a way by the applicable laws and regulations. Besides that, Indonesia also has a National Land Agency in charge of carrying out land registration. However, in practice, there are many things that affect the government's success in increasing the amount of land controlled by the community for registration of their land. There are still many people in Indonesia who still do not know the importance of land registration, so there is still a need for a lot of socialization in the community related to the procedures and the process of land registration. Based on the above, the writer will discuss land registration, the field process, and the importance of the community to registering land.

Research Methods

This research is non-doctrinal or empirical research. Namely, analysis is carried out directly by looking at the reality in the community and the field and seeing how the law works in the community under study so that the level of legal effectiveness can be seen. The significance of the law in this study is related to implementing rules and regulations governing land registration and its benefits to the community. This study uses a comparative qualitative approach that will compare the applicable laws and regulations with their implementation in the field. The types and sources of this research data are primary data obtained from interviews, questionnaires, and document studies. In contrast, secondary data is obtained from legislation, journal articles, research results, and other legal materials. Data acquired will be analyzed using qualitative and descriptive analysis methods.

Results and Discussion

1. Land Registration and Process in the Field

Land registration has a very important role for the owner to prove that the land is owned because by registering the ground, a person can have legal certainty as an owner by proving the existence of a certificate of land. This provides legal assurance and protection to holders of basic rights by using proof of land registration as a means of structuring ownership and as a means to manage the use and use of land (Sutedi, 2012) ^[3], on data from registered land, and also for the creation of order in land administration (Regulations of the Government of the Republic of Indonesia number 44 of 1997 article 3).

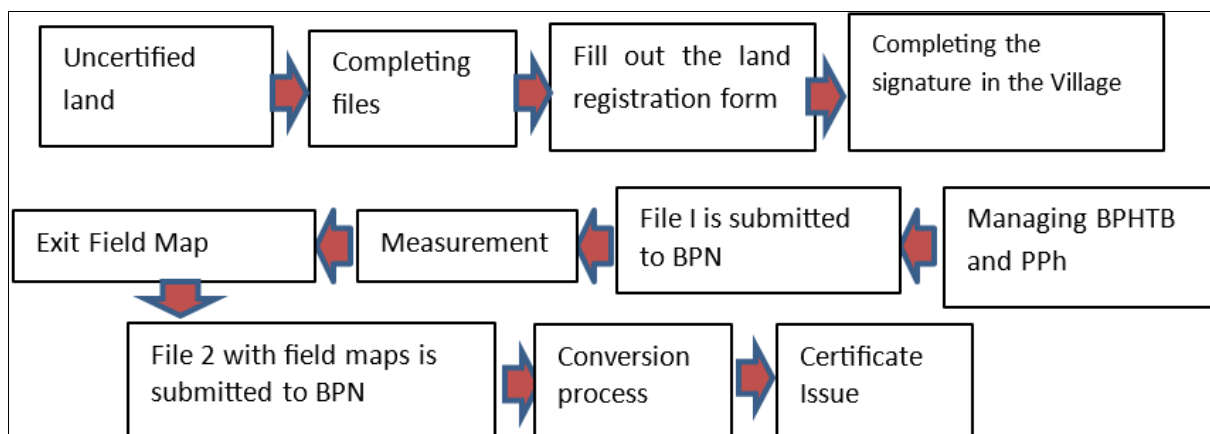
There are two types of land registration in Indonesia, namely land registration for the first time and land registration for data maintenance. For the first time, land registration there is two kinds: systematic and sporadic. Systematic land registration is carried out simultaneously on the government's initiative, but if land registration is carried out sporadically in the industry of the owner himself. Land registration for the first time with other data maintenance, where land registration is the first time, the registered land has never been registered with the land office. Still, it does not have a certificate as a form of ownership of rights, while maintenance of land registration data is a registration activity for actions. The law carried out by the owner changes the status of land ownership, such as the transfer of rights to buying and selling, grants, inheritance, and other legal actions, namely the installation of mortgage rights.

The land registration process can be carried out by the land owner for his land at the Land Office so that the data on the ground is issued a certificate if it is for land registration for the first time and there is a change in land data for land registration in the context of maintaining land data. Land registration activities were first registered at the Land Office, including a). Collection and processing of physical data; b). Proof of rights and bookkeeping; c). Issuance of certificates; d). Presentation of physical data and juridical data; and e). Storage of general lists and documents (Regulations of the Government of the Republic of Indonesia number 44 of 1997 acticle 13 point 2)

In the activities of collecting and processing physical data in it, there are several activities carried out in it, namely land measurements and mapping of the land; then, from the results of the measurements and mapping, a map is made to be used as a basis for registration, then the boundaries of the land parcels are determined, which are then included in the land register. And the final result is the issuance of a measuring document for the registered land object.

In this activity of proving rights and bookkeeping, proof of old rights is carried out, followed by evidence of new rights which are then recorded as new rights and issued land certificates. In the activity of presenting physical data and juridical data, the land office completes the land file that has been produced in the previous activity process, namely carrying out land registration administration in the general register consisting of registration maps, land registers, certificates of measurement, land books, and also a list of names. These documents are stored in the State Archives at the land office.

The stages of land registration for the first time from the community version as land owners who register their land at the land office differ from those at the land office. The applicant's understanding does not only involve the land office but also has to take care of files in the village where the land to be registered is located, then the regional revenue office to ensure that the land and building tax (PBB) has been paid in full and submits a BPHTB (Bea Transfer of Land and Building Rights) which is a levy which is a levy imposed on the party receiving the transfer of land rights. The other office is the local pragma tax office to take care of the PPh (Income Tax) application, which is charged to the party who transfers the land rights. The stages of land registration for uncertified land that the applicant must pass are as follows



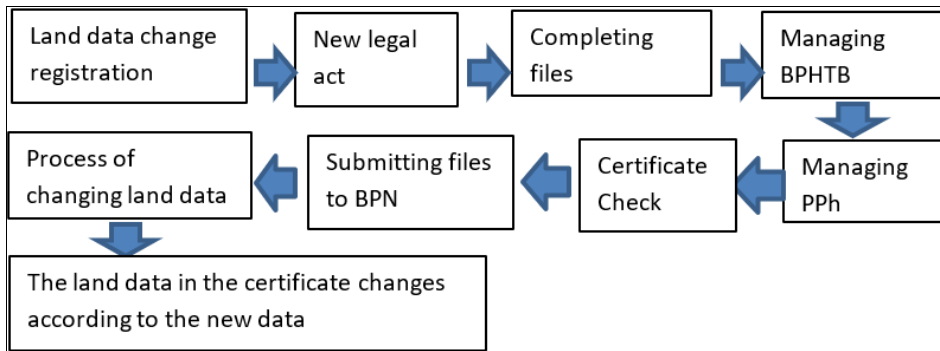
Source: interview with interviewees, 2022

Chart 1: Stages of Land Registration Certificated Applicant version

In chart 1 above, it can be seen that the applicant must go through several stages and the files that the applicant must prepare are of 2 types, namely the file for submitting a measurement (plane map) and the file for submitting a conversion application which will be entered after the map of the plot of land to be registered has been published. The stages in land registration in maintenance differ from registration for the first time. In contrast, land registration is in the context of maintaining the latest land data because there is a change in data caused by legal actions. The changes in data that have occurred have been regulated in PP No. 24 of 1997; article 36 paragraphs (2), wherein the

Right holder is obliged to register changes to his land at the land office. Several legal actions are used as reasons for the change of data on land, namely:

- because of buying and selling, exchanging, grants;
- inheritance, testamentary grants;
- auction, decision, or court decision due to a lawsuit;
- entry into the company, merger, or consolidation of companies or cooperatives;
- Mortgage, Roya, and Cesi are installed; and
- Splitting, separating, and merging the land



Source: interview with interviewees

Chart 2: Stages of Land Registration due to Changes in Applicant's Version of Land Data

In chart 2 above are the stages that will be passed by the applicant when registering his certified land, but there is a change in the data, both physical data and juridical data. The purpose of maintaining this land data is to determine the change in land ownership status by implementing a new legal act, namely the transfer of rights or the assignment of rights.

PPAT is an official authorized to make a legal act deed of transfer of rights and encumbrance of rights, while specifically for the transfer of rights through auction, it is based on a court decision. Based on the authentic deed of transfer of rights made by PPAT and the auction decision issued by the court, the process of changing land rights can be carried out.

2. The Importance of Communities Doing Land Registration

Land registration is a prerequisite to achieving legal certainty and protection of land rights, as pointed out by (Sutedi, 2011) [4], and to fulfill legal certainty, the following requirements are required: Must be met. There are clear and consistent legal regulations. b). Government agencies consistently apply and comply with the rule of law. c). People adapt their actions to the rule of law. d). an independent and impartial judge must resolve legal disputes by applying the rule of law consistently and carefully. e). the court's decision will be implemented under certain conditions.

The government always socializes the importance of land registration. The benefits of land registration are not only intended for the community but also for the government, which include a). Provide information to the government to obtain data, examples of information on taxes on land, and b). Administration of order land (Sibuea, 2011). As for the community, the benefits of land registration are in addition

to obtaining legal certainty over land ownership, and land registration is also an effort to avoid disputes.

Therefore, the government is currently conducting massive and equitable land registration; in addition to the regulations that regulate it must also be supported by the structure that implements the program in the field, in this case, the National Land Agency and also the role of the community themselves who have an awareness of the importance of registering their land. At the land office.

The land registration process at the Land Office already has SOPs and applicable procedures, but not all stages and functions can run smoothly without obstacles; there are several obstacles or obstacles that are often encountered in the field. Based on the results of data collection in the area that the challenges or obstacles faced in the land registration process, both for the first-time land registration or land data maintenance, can be seen from several factors, including:

a. Soil Factor

Land that is registered often does not have boundary markings, so it requires parties who understand the boundaries of the land to be registered. Problems arise when the owner of the land directly adjacent to it is not known, so it will be difficult for the applicant to be able to obtain the signature of the owner of the land bordering the land. Another factor is that the land to be registered is not free land, but forest area land or land intended not to be owned by individuals.

b. Applicant Factor

Factors that affect the occurrence of obstacles in the land registration process can be seen in the applicant's characteristics, including:

- The level of public awareness is still unequal regarding the importance of registering land owned to obtain legal protection.

2. In terms of costs, the applicant must prepare to complete the registration file for his land. The expenses that must be designed are land registration fees at BPN, charges for making a deed of transfer of rights or encumbrance of rights in PPAT, tax costs for recipients and grantors of land rights, not to mention if the management is handed over to other parties, the applicant must also bear the costs of the management services. Land registration. The large number of fees that the applicant must prepare is one factor in the frequent occurrence of obstacles in the field, so land registration is only carried out by people who can meet all these costs.

c. Rights Transfer

Tax Factor There is still no certainty for applicants to be able to calculate their BPHTB. This is because the BPHTB, as regulated in Law Number 28 of 2009 concerning Regional Taxes and Levies, whose calculations are based on the value of land and buildings in the Land and Building Taxes Payable Tax Return (SPPT PBB), relies on the inspection of the Revenue Service. In regions, especially for the transfer of buying and selling rights, the ceiling value in the SPPT PBB cannot be used as a benchmark because the benchmark is based on field verification results and reasonable prices for land and buildings in the local area.

d. Other factors

Another factor that affects the occurrence of obstacles in the field is a dispute over the land to be registered. In the land registration process, one of the forms that must be signed is a statement that there is no dispute over the land. This means that if there is still a dispute with another party related to ownership, the dispute must be resolved first to find out who is entitled to the land so that only follow-up can be done for the registration process for land at the land office.

Based on the factors mentioned above, it is known that basically, many things affect the interest of the community to register their land; obstacles not only arise from internal applicants related to the readiness of files and also costs, but also arise from the condition of the land itself, or because of other things. Relating to whether or not land can be registered

12 people still do not consider it important to do land registration, so they do not do it land registration.

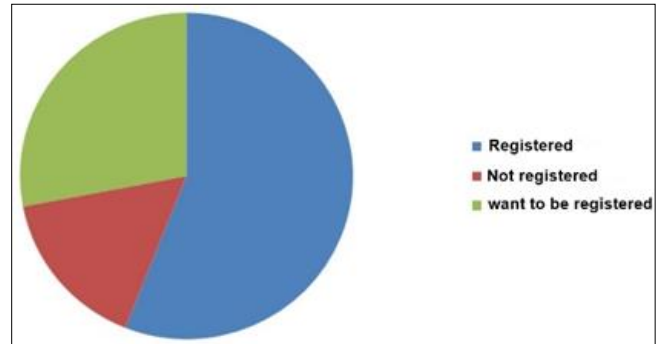


Diagram 2: Desire to Register Land

Based on diagram 2 above, it can be seen that the community's interest in carrying out land registration is also very high, in the sense that most people have understood the importance of land registration, as shown in the diagram below. The data collection results in the field were about 55 respondents answered that they had registered their land, and 28 respondents will be registered. However, it cannot be denied that some people still have not registered; namely, 16 respondents have not registered their land. There are several reasons why people have not registered yet: a). lack of understanding of the need for land registration; b). do not have the cost for the management; c) incomplete files so that land registration cannot be carried out; d) there are still land ownership disputes to minimize the occurrence of land conflicts, the role and coordination of the village in making a statement of physical land tenure is evidence that the land is already owned and controlled by the applicant (Mujiburohman, 2018) ^[6].

Therefore, to increase public understanding of the importance of land registration, continuous socialization is needed from the land office in collaboration with community leaders so that people understand more and register their land.

Conclusion

Based on the results of the research and discussion above, the authors make the following conclusions:

1. Land Registration and Process in the Field is that land registration is divided into 2, namely land registration for the first time and data maintenance. For land registration for the first time, the applicant must go through several stages; namely, there are 2 (two) stages of submitting the file to the land office where file 1 is for the process of measuring field maps, and file 2 is for the conversion process. Meanwhile, the applicant only submits the file once to the land office for land registration related to data maintenance, provided that all files are complete.
2. The importance of the community in conducting land registration is proven to be very important, this is because many benefits can be obtained from the land registration function for related parties, namely for land owners, including avoiding disputes, legal certainty between the owner and his relationship with the land, and also for the government, namely in terms of the orderly administration of registered land, and easy access to information on registered land. While the

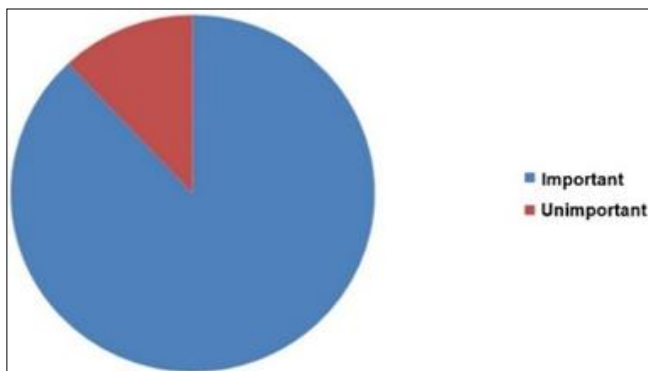


Diagram 1: People who attach importance to Land Registration

In diagram 1, can see that most of the people have considered the importance of land registration; as in the diagram above, there are about 88 respondents who stated that land registration is important to do, and the remaining

factors that influence the community in carrying out land registration are related to the status of the land itself, then the readiness of the community in terms of costs and completeness of the files, as well as other factors, namely whether or not there is a dispute over the land.

References

1. Dalimunthe C. Pelaksanaan landreform di indonesia dan permasalahannya. Medan: FH USU Press, 2000.
2. Santoso U. Pendaftaran dan peralihan hak atas tanah. Jakarta: Kencana, 2010.
3. Sutedi A. Sertifikat Hak Atas Tanah. Cetakan Kedua. Jakarta: Sinar Grafika, 2012.
4. Sutedi A. Sertifikat Hak Atas Tanah. Jakarta: Sinar Grafika. hlm 27, 2011.
5. Sibuea HYP. Arti Penting Pendaftaran Tanah Untuk Pertama Kali. Jurnal Negara Hukum,2011:2(2):299.
6. Mujiburohman DA. Potensi Permasalahan Pendaftaran Tanah Sistematis Lengkap. Jurnal Bhumi,2018:4(1):99.
7. Republic of Indonesia Government Regulation Number 24 of 1997 concerning Land Registration.