



Legal consequences of land rights registration due to inheritance in relation to the deed of division of joint rights

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Abstract

Article 111 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2021 concerning Land Registration which regulates the registration of transfer of rights due to inheritance explains that at the time of registration of the transfer of rights if the heirs agree to grant rights to inherited land to 1 (one) person, it can be proven by a deed of inheritance division in the form of a Notary deed or in the form of a deed under hand. Meanwhile, if at the time of registration of the transfer of rights there has been no division of inheritance so that the inheritance is in joint ownership and then when the right holders agree to divide their rights into the rights of each right holder, the division of inheritance is based on a deed of division of joint rights made by a Land Deed Official (PPAT). At the Surakarta City Land Office in the case of registration of name change due to inheritance where there are heirs more than one person, and the heirs agree to appoint one of the heirs as the right holder who will later be listed in the land certificate, in addition to making a statement of inheritance whose contents explain who the heirs are, then the heirs simply make a statement that the heirs agree to transfer rights to one of their heirs. Then the inheritance certificate and the heir's statement letter are signed by the heirs in the presence of two witnesses and then known by the Lurah and Sub-district Head, the heir's statement letter is a letter stating that the land obtained by someone comes from the inheritance process. Based on the case at hand, the transfer of rights using the heir's statement letter can be registered as the basis for the transfer of land rights to one of the heirs without having to go through a deed made by a Land Deed Official (PPAT), meaning that the transfer of land rights due to inheritance at the Surakarta City Land Office can be done directly to one of the heirs by making a deed under the hand without taking legal action before a PPAT, namely by making a Deed of Division of Joint Rights (APHB). The transfer of land rights must be proven by a deed from a Land Deed Official (PPAT) because it has the status of an authentic deed and binding force as perfect evidence as in Article 1870 of the Civil Code.

Keywords: PPAT, notary, transfer of land rights, inheritance law, deed of division of joint rights

Introduction

Land is one of the most important parts of humans, because every human activity is always related to land, therefore humans are competing to control and own the desired land plot because land has economic value for all aspects of human life. It can be understood that, in fact, the role of land in people's lives is as an inseparable link. This relationship is related because land can be known as the most valuable property rights and humans as individuals will defend their most valuable property rights from threats from other parties who want to own land or even control it without any agreement or agreement between the two parties.

Land registration is a prerequisite in efforts to organize and regulate the formation, control, ownership and use of land including to overcome various land problems. Land registration is intended to provide certainty of rights and legal protection for holders of land rights with proof of land certificates, as an instrument for structuring control and ownership of land and as a controlling instrument in the use and utilization of land. Registration of land rights is a guarantee from the State, and is an important instrument for the protection of landowners.

Registration of transfer of rights due to inheritance is carried out so that the heirs get legal certainty regarding the control of rights even though in fact at the time of death of a person, the property left behind has automatically passed to the heirs, regarding who is entitled to become an heir, a certificate of inheritance is needed. Based on the provisions

of the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 6 of 2021 concerning Land Registration, it is explained that the heirs have an obligation to register the transfer of rights due to inheritance. Registration of transfer of rights due to inheritance is carried out to provide certainty over the right holder, certainty regarding the location and boundaries of the land plot controlled by the right holder.

The transfer of inherited property to the heirs will lead to joint ownership of the property. Joint ownership of an object is a condition of one property right owned by two or more people. This joint ownership consists of free joint ownership (*vrij mede eigendom*) and bound joint ownership (*gebonden mede eigendom*). Free joint ownership is joint ownership where the participants are only bound by the fact that they are joint owners. Joint ownership occurs because of the limited relationship between the right holder and an object. Bound joint ownership is joint ownership in the form of one of the consequences of legal ties that exist between the holders of joint rights. Joint ownership occurs as a result and there is a legal relationship between those who have the joint rights. Which includes joint ownership is bound to all objects included in the partnership between two or more people, such as inheritance that has not been divided.

Guarantee of legal certainty as control or transfer of land rights by a person, obtained from inheritance is the transfer of a land right to another person. Ownership of land rights

obtained from the testator to the heirs. Therefore, the transfer of rights means that the subject of the right, namely the inheritor and the heirs, needs to be registered to obtain a guarantee of legal certainty of ownership of inherited land rights, especially in the transfer of inherited land rights, needs to be regulated in a statutory regulation, especially regulated in the Basic Agrarian Law to provide legal certainty with regard to land rights held by the community. To obtain a guarantee of legal certainty and certainty of land rights, the community needs to register the land in order to obtain a certificate of land rights that functions as a strong means of proof of ownership of land rights.

The transfer of property rights to land is regulated in Article 20 paragraph (2) of Law Number 5 of 1960 concerning Basic Agrarian Principles, namely that property rights can be transferred and transferred to other parties, the meaning of the word "switch" is the transfer of rights due to the death of the right owner. Then the right itself becomes transferred to the heirs, while the meaning of the word "transferred" is that the transfer of property rights to land can occur due to legal acts and legal events. Transfer of ownership rights due to legal acts can occur if the holder of the land title deliberately transfers the rights held to other parties. Meanwhile, the transfer of ownership rights to land due to legal events occurs when the holder of the land ownership right dies, then by itself or without any deliberate legal action from the right holder, the right to transfer to the heirs of the right holder.

In relation to inheritance, it means that inheritance is the transfer of property rights to another party because the owner dies. The transfer of property rights occurs by law, meaning that with the death of the owner, his heirs obtain property rights, the transfer of inheritance rights in the form of land through a certificate of inheritance made by the heirs, known or authorized by the authorized official, then registration is carried out at the local Land Office so that it is recorded in the land book about the new right holder, namely in the name of the heir, this is important to do in order to have legal force. Each group of residents has a different type of Certificate of Inheritance. The Certificate of Inheritance for Indigenous Indonesian Citizens can be obtained at the Kelurahan/Village Head Office and the local District Office, for Indonesian Citizens of Chinese descent in the form of a Certificate of Inheritance made by a Notary, while for Foreign Eastern Indonesian Citizens can be obtained at the Balai Harta Peninggalan.

Article 111 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2021 concerning Land Registration which regulates the registration of transfer of rights due to inheritance explains that at the time of registration of the transfer of rights if the heirs agree to grant rights to inherited land to 1 (one) person, it can be proven by a deed of inheritance division in the form of a Notary deed or in the form of a deed under hand. Meanwhile, if at the time of registration of the transfer of rights there has been no division of inheritance so that the inheritance is in joint ownership and then when the right holders agree to divide their rights into the rights of each right holder, the division of inheritance is based on a deed of division of joint rights made by a Land Deed Official (PPAT).

At the Surakarta City Land Office in the case of registration of name change due to inheritance where there are heirs more than one person, and the heirs agree to appoint one of

the heirs as the right holder who will later be listed in the land certificate, in addition to making a statement of inheritance whose contents explain who the heirs are, then the heirs simply make a statement that the heirs agree to transfer rights to one of their heirs. Then the inheritance certificate and the heir's statement letter are signed by the heirs in the presence of two witnesses and then known by the Lurah and Sub-district Head, the heir's statement letter is a letter stating that the land obtained by someone comes from the inheritance process.

Based on the case at hand, the transfer of rights using the heir's statement letter can be registered as the basis for the transfer of land rights to one of the heirs without having to go through a deed made by a Land Deed Official (PPAT), meaning that the transfer of land rights due to inheritance at the Surakarta City Land Office can be done directly to one of the heirs by making a deed under the hand without taking legal action before a PPAT, namely by making a Deed of Division of Joint Rights (APHB). The transfer of land rights must be proven by a deed from a Land Deed Official (PPAT) because it has the status of an authentic deed and binding force as perfect evidence as in Article 1870 of the Civil Code.

The research method

The research used in this study is to use the empirical juridical approach method. The juridical approach is a method used in a study that uses principles and laws and regulations to review, see and analyze problems, while the empirical approach method is a framework for proof or testing to ensure a truth. *Yuridis Empiris* is a method in which this research combines a normative legal element which is also supported by additional data or also called empirical elements which are a legal behavior. This approach uses empirical juridical methods with a qualitative approach. Qualitative approach is a research method that produces descriptive data, namely information provided by informants by oral or written means, and real behavior. The qualitative approach is to collect data not only based on its quality, but also intends to dig deeper to understand something behind the phenomenon obtained. This is because qualitative research has a close relationship with human behavior and social reality. This approach aims to explore or build propositions or explain the intent behind reality. The sampling technique used in this research is purposive sampling which can be interpreted that the withdrawal of a sample is not done arbitrarily but rather looks at the position and role of the population and the knowledge of the researcher in order to achieve a certain goal. In this study, the sample is the Land Deed Official (PPAT) who has been in contact with the Surakarta City Land Office in relation to land registration. Data analysis is carried out by means of qualitative analysis, namely by describing the results of research in detail in the form of sentences so as to obtain a clear overview of the answers to the problems to be discussed and a conclusion can be found. Qualitative data analysis is a research method that produces descriptive data analysis, namely what is stated by respondents in writing or verbally and also their real behavior, studied and studied as a whole. Meanwhile, in drawing conclusions from the analysis using deductive thinking, namely the way of thinking in drawing conclusions on general factors, then drawing conclusions that are specific which are answers to problems based on the research results.

Results and Discussion

The registration of transfer of land ownership rights due to inheritance must be carried out by the party who obtained the land ownership right as an inheritance is regulated in Article 42 of Government Regulation No. 24 of 1997 which reads as follows: (a) for the registration of transfer of rights due to inheritance regarding land parcels that have been registered and ownership rights over apartment units as required under the provisions referred to in Article 36, must be submitted by the person receiving the land rights or ownership rights over apartment units concerned, the death certificate of the person whose name is recorded as the holder of the right and proof letter as the heir; (b) if the land parcel that is an inheritance has not been registered, must also be submitted documents as referred to in Article 39 paragraph (1) letter b; (c) if the beneficiary of the inheritance consists of one person, the registration of the transfer of rights shall be made to that person on the basis of the proof letter as heir as referred to in paragraph (1); (d) If the recipient of the inheritance is more than one person and at the time the transfer of rights is registered, it shall be accompanied by a deed of division of inheritance containing a statement that the land rights or ownership rights over a flat unit are transferred to the relevant recipient of the inheritance based on the evidence letter as heir and the deed of division of inheritance; (e) Inheritance in the form of land rights or ownership rights over a flat unit which, according to the deed of division of inheritance, must be divided jointly among several recipients of the inheritance or when the deed of division of inheritance is registered there is no deed of division of inheritance, the transfer of rights shall be registered to the entitled recipients of the inheritance as their joint rights based on the evidence as heirs and/or the deed of division of inheritance.

Transfer of rights due to inheritance occurs by law at the time the holder of the right concerned dies, then since then the heirs become the new right holder.

Conclusion

The implementation of the registration of the transfer of ownership rights to land due to inheritance can be done by making a certificate of inheritance which explains who the heirs are. then making a statement letter of the heirs must be known by the Neighborhood Association (RT), Community Association (RW), Village Head and Sub-district Head. then the registration of the transfer of rights must be made a deed called the Deed of Division of Joint Rights by the Land Deed Official as one of the requirements for the process of transferring rights by making a deed of division of joint rights. meaning that the deed under the hand can be used as the basis for the transfer of rights in the case of transfer of rights due to inheritance.

Recommendations

It is hoped that the recipient of land rights originating from inheritance will immediately register the transfer of rights at the land office by making an authentic deed, namely the Joint Right Sharing Deed (APHB) in front of a Land Deed Official (PPAT), so that all forms of changes in physical data and juridical data on the object of land registration can be carried out in accordance with applicable laws and regulations so as to provide strong legal protection for right holders.

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