

The Nature of Complete Systematic Land Registration (PTSL) in Realizing Legal Certainty, Justice and Study Benefits at the South Sulawesi Land Office

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ABSTRACT

Research objectives the nature of Complete Systematic Land Registration (PTSL) according to the Indonesian legal system, knowing, analyzing the Complete Systematic Land Registration system in realizing legal certainty, justice and benefit, knowing, analyzing. This research method uses an empirical approach that is qualitative and descriptive by describing problems related to Complete Systematic Land Registration (PTSL). The results show that the nature of Complete Systematic Land Registration (PTSL) according to the Indonesian legal system is the realization of legal certainty, justice and benefit. The certificate of land rights issued is only valid as strong evidence. In principle, PTSL does not fully provide legal certainty, if it provides a sense of justice for the community and provides benefits from PTSL for the community, namely being a means of community economic productivity including encouraging financial inclusion, and as a living asset (bankable), so that access to capital is easier. The benefits of PTSL for Local Governments are to encourage an increase in state revenues, both BPHTB and PBB Taxes. Provide certainty for the determination of PBB and BPHTB payments.

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I. Introduction

The PTSL program has been one of the government's priority programs since 2017 and the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/NBPB) has been given a clear target for conducting land certificates throughout Indonesia. The government's target in 2017 is 5 million plots with the realization of 5.2 million land parcels.⁵ For 2018, the government is targeting 7 million land parcels and as of October 2018, there are 6,192,875 certified land parcels.⁶ Then in 2019, the government set a target of 9 million land parcels for which certificates would be issued.^[1]

Through this PTSL program, the Ministry of ATR/BPN is expected to be able to realize the main target of the president, namely by 2025 all land parcels in Indonesia have been registered. The number of plots of land that will be targeted until 2025 is 126 million parcels and is expected to be completed in 2023.^[2]

In the thirteenth Dictum of the Presidential Instruction, To the Regional Heads, namely the Governor and Regent/Mayor, the President instructed to support the acceleration of land registration Complete Systematic by regulating, stipulating, and/or budgeting the number of costs required in the preparation document for the implementation of Complete Systematic Land Registration in the Village/Kelurahan based on the regional financial capacity by the provisions of the legislation.

Furthermore, the PTSL object as referred to in Article 4 paragraph (2) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (Permen ATR/Head of BPN) Number 6 of 2018 concerning Acceleration of Complete Systematic Land Registration, namely, covering all parcels of land without exception, both parcels of land for which there are no rights to land and parcels of land with rights that have rights in the context of improving the quality of land registration data; parcels of land that already have demarcation marks or whose boundaries will be set in the implementation of PTSL activities.^[3]

Various conflicts of interest indicate the uncertainty of the relationship of control between humans and land, while that certainty is fundamental to developing their lives and livelihoods, therefore, one of the essential certainties is the legal certainty of land ownership.^[4]

The legal certainty will be fulfilled if there are no more doubts and worries regarding the ownership of the land, whether it is a belief from himself or the recognition of other parties. Justice in the land sector through agrarian reform. He said that inequality in land tenure did exist. Therefore, based on the direction of the president, the ministry of ATR/BPN continues to accelerate the progress of agrarian reform in terms of asset

legalization and land redistribution. In terms of asset legalization, the ministry of ATR/BPN has a land registration program called Complete Systematic Land Registration or better known as PTSL.^[5]

There are three benefits of PTSL for the community, including legal certainty and protection by providing a sense of security and guaranteeing legal certainty regarding subjects, objects and land rights. Then, minimize or resolve conflict disputes and land cases, namely by breaking up and overcoming any problems related to land such as illegal land residents, boundary marking disputes and so on. This happens because of the uncertainty of land rights law, hopefully, with this program, the community can feel the benefits.^[6]

The benefits of PTSL for the community are as a means of community economic productivity, including encouraging financial inclusion, and as a living asset (bankable) so that access to capital is easier.

The benefits and advantages of Complete Systematic Land Registration are 2, namely:

1. Land rights holders or waqf landholders: The procedure is cheap, the cost is cheap, the time is fast, provides legal certainty, provides a sense of security, land prices become more expensive, land rights

that have been registered (certified), facilitate the implementation of the transfer of rights, and the determination of land and building tax (PBB) is not easily mistaken.

2. for the Government: realizing orderly land administration, can reduce disputes in the land sector, can facilitate government activities related to land for development.

The benefits of PTSL for local governments include encouraging an increase in state revenues, both taxes, BPHTB and PBB. Especially at the time of the transfer of land rights that have been certified. And Land consideration in the process of assessment, evaluation and tax assessment.^[7]

Then, provide certainty of payment of Land and Building Tax (PBB) and Land and Building Rights Acquisition Fee (BPHTB), both object and subject certainty that is integrated with the Population Identification Number (NIK). Then, making it easier to update land values through the Land Value Zone Map (ZNT) activity to support the Renewal of Tax Object Sales Value (NJOP), Land and Building Tax (PBB) and Complete Systematic Land Registration (PTSL) will complete land parcels that have not been completed. included in the Settlement and Payment List (DHKP).

Advantages of Complete Systematic Land Registration, namely:

1. Land rights holders do not need to come to the local Regency/City Land Office to register (certify) their land, but it is the Adjudication committee that comes to the complete systematic registration location to carry out land registration.

2. The land parcels registered in the systematic land registration are complete in large numbers because they are carried out en masse (in the number of hundreds to thousands of land parcels).

3. The fees charged to the holder of land rights in a complete systematic land registration are not expensive and are not affected by the location and area of the land.

4. The time for the announcement of physical data and juridical data in a complete systematic land registration is only 30 days.

In addition to encouraging an increase in state revenues, it also improves the economy of the community and the region. Thus, it can be used as a reference for local governments in making economic policies, especially about land use and use policies by registered land ownership data. Furthermore, it provides investment certainty for the regional investment climate and a relatively higher land value than uncertified land.

Another benefit for the government is that it facilitates the integration of land data, where the resulting land data is more complete and of high quality so that it can be used as a data source for policymakers, including for local governments.¹⁴

The more advanced the people's economy and the national economy, the method will be, legal certainty in the land sector, the land is getting longer, and more and more economic suspects, buying and selling land as collateral for credit at the Bank. In life, land often becomes a dispute and even goes to court. This arises because land has an essential function in people's lives, making people try to acquire land in various ways, even by taking other people's land.

The land dispute itself started because there were differences in interests or differences in perceptions regarding the status of land between one person and another, including legal entities. Land disputes can be found in the City and Regency Land Offices throughout Indonesia, these land disputes continue to grow along with the increasing human need for land. In general, the current disputes are caused, among others, by:

1. Legislation in the land sector has not been implemented consistently.

2. There is an overlap that regulates land affairs with regulations related to the interests of other institutions.

3. Inadequate juridical and physical land data.

4. The rise of property developers who compete with each other for land/development sites.

5. The number of wrong transactions made by stakeholders/government under the hands

6. The existence of bad faith from the application and its power.

7. The occurrence of overlapping authorities in handling government agency problems.

Land disputes that occur in the land sector can lead to prolonged conflicts between community members residing in the disputed City and Regency areas, even their heirs, which can cause many victims. It all started with questions about who was more entitled to the land, so the parties were competing to prove it.^[8]

In connection with the above, it is increasingly felt that there is a need for legal certainty and certainty of ownership of land rights. To obtain guarantees of legal certainty and certainty of land rights. So the community needs to register their land to obtain a certificate of land rights which serves as strong proof of ownership of land rights.

Land disputes arise, mainly due to the limited need for land and it is impossible to produce like other needs. The phenomenon of the scarcity of availability triggers the emergence of disputes in the control and ownership of the land concerned. On the other hand, the legal politics of the government to protect the rights of the poor, including indigenous peoples to land is still inadequate.

The guarantee of legal certainty of land rights is needed to obtain justice in land tenure between various elements. The arrangement of land rights in addition to trying to create legal certainty of land rights also seeks to create justice for holders of land rights.

Furthermore, in the context of legal certainty of land ownership rights. Its current development shows that land certificates that meet normative legal rules which are land registration products do not guarantee legal certainty and justice from the perspective of legal sociology. This situation is the starting point for the problems raised in this study.

II. Research Methods

This type of research is explanatory and explains the workings of the law used with the law that should be or explains the suitability of theory (*das sollen*) with legal reality (*das sein*). The problem approach used is the sociology of law approach, namely the approach to law as a norm or rule that focuses on the rule of law. The legal structure and the influence of the community's legal culture. public awareness as well as facilities and infrastructure to guarantee certainty and justice for land rights certificate holders.

Research locations are Makassar City and Jeneponto Regency and Takalar Regency and Bantaeng Regency as research locations with the following considerations; Whereas Makassar City and Jeneponto Regency, Takalar Regency, Bantaeng Regency are Cities and Regencies in South Sulawesi Province. Whereas Makassar City and Jeneponto Regency and Takalar Regency and Bantaeng Regency, which are cities and regencies in South Sulawesi Province have also issued land rights certificates which are very much needed by land-owning communities, and in line with the increasing demand for land, land title certificates as proof of rights can prevent the possibility of land conflicts.

III. Discussion

The Nature of Complete Systematic Land Registration in Realizing Legal Certainty and Justice and Benefit

The nature of land registration is intended to guarantee legal certainty of ownership of citizens of the Republic of Indonesia over their land. Guaranteeing legal certainty of land rights is one of the goals in land development as stated in the Medium Term Development Plan (RPJM) in the 2015-2019 land sector. The acceleration of land registration is the answer to the demands of the presence of the state in providing certainty of land rights.^[9]

The essence of legal certainty lies in the strength of the certificate of ownership of land rights as evidence of ownership, including in court. However, legal certainty with a negative system is essentially a relative legal certainty, in the sense that legal certainty is guaranteed by legislation as long as it is not proven otherwise. This means that the law guarantees legal certainty for land certificates that have been issued by the government, as long as no party can prove otherwise.

The Government of the Republic of Indonesia has launched a Complete Systematic Land Registration program which is intended to accelerate the acceleration of land registration which is estimated at approximately 500,000 certificates per year, while the growth of land parcels is more than 1 million parcels per year (Van der Eng, 2016).

This acceleration is needed not only intended to map land parcels throughout Indonesia but is also expected to be able to minimize disputes over land registration targets, which are to complete land registration of approximately 60 million parcels and must be completed by 2025.

One of the things that are often a concern in terms of accelerating land registration is the problem of quality, both physical and juridical quality. In this case the quality of PTSL subjects and objects. Inaccuracy in identifying subjects, objects, and the legal relationship between subjects and objects of PTSL will result in not achieving legal certainty itself which is the main goal of land registration. Finding the subject of land rights is done by analyzing the history of the land. In the PTSL technical guidelines on collecting land data as a starting

material for conducting a soil history analysis, it is carried out by involving the village. However, for areas that still have very strong local wisdom, this cannot be done.

The Ministry of ATR/BPN is committed to realizing land for justice for the living space for the people, which is the implementation of the Nawacita or Nine Priority Agendas for the President and Vice President of the Republic of Indonesia for the 2014–2019 period. To realize this, the Ministry of ATR/BPN has set three priority programs, namely improving the quality of spatial planning, improving the quality of services, and improving the handling of land disputes. In Indonesia, we can see this in the current work program of the Ministry of ATR/BPN, namely the Complete Systematic Land Registration Program (hereinafter referred to as PTSL). PTSL is a work program of the Ministry of ATR/BPN in accelerating land registration in Indonesia.

The concept of the PTSL program has been implemented since 2016, we can see with the issuance of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/BPN (hereinafter referred to as Permen ATR/BPN) Number 28 2016 concerning the Acceleration of the National Agrarian Program (hereinafter referred to as Prona) which was later changed to Permen ATR/BPN Number 35 of 2016 concerning Acceleration of Complete Systematic Land Registration, but in the course of this rule in 2017, it was replaced with Permen ATR/BPN Number 1 of 2017 which was later revised to become ATR/BPN Ministerial Regulation Number 6 of 2018 concerning Complete Systematic Land Registration.

Permen ATR/BPN Number 6 of 2018 Article 1 number 2 explains: "Complete Systematic Land Registration (hereinafter referred to as PTSL) is a land registration activity for the first time that is carried out simultaneously for all land registration objects throughout the territory of the Republic of Indonesia in one village area. /kelurahan or other names at the same level, which includes the collection and determination of the correctness of physical data and juridical data regarding one or several objects of land registration for registration".

Permen ATR/BPN Number 6 of 2018 Article 33 point 3: "If the PTSL participant is not or has not been able to pay the BPHTB, the person concerned must make a statement of the outstanding BPHTB" and Article 34: "If there is no budget for activities and/or expenses which must be paid by the land owner of PTSL participants, which includes the cost of procurement and installation of boundary markers, stamp duty, file photocopying fees, additional announcement fees, and village/kelurahan office administrative costs, the said financing can be budgeted through Village Regulations or Regents/Mayor Regulations concerned".

The essence of Complete Systematic Land Registration in realizing benefits is that the community has legal proof of land ownership. Avoid land conflicts/disputes. And create community assets that can be used as bank guarantees for business capital. With the receipt of this certificate, the person concerned has been declared legal to own the land. The ownership of land certificates is expected to guarantee the legal certainty of community land assets and have an impact on improving community welfare.

The PTSL program is explained as a national program initiated by President Joko Widodo and implemented by the National Land Agency (BPN) and is a breakthrough made by the government for certificate management so that the process is fast.

B. Evaluation of the Implementation of Complete Systematic Land Registration and the Concept of Evaluation of Land Registration The

definition of "Evaluation" in the Big Indonesian Dictionary is to assess or provide an assessment, so what is meant by evaluation of the implementation of a complete systematic registration is an attempt to photograph how the implementation of PTSL in the field, is it by the PTSL concept itself or there are deviations from the procedures regulated in PTSL. Understanding the PTSL concept must begin with understanding the concept of land registration and various types of land registration.

According to Zevenbergen (2002:26), there is a lack of clarity in terms of land registration which can be referred to as a worldwide standard. Land registrations are interpreted differently in each country, built according to needs and developed according to their respective histories. (Registration comes from the word cadastre (Dutch cadastral) a technical term for a record, indicating the area, value and ownership of a plot of land. Furthermore, registration also comes from the Latin capitastum which means a register or capita or unit made for Roman land tax (capotatio terrens), while according to Rawton Simpson (1976) that land registration is a formidable effort in state administration, so it can also be said that land registration is part of the government mechanism. The implementation of land registration activities according to Rawton Simpson is an obligation that must be implemented by the state.

Law Number 5 of 1960 concerning Agrarian Principles or what is known as the LoGA provides directions on what is meant by land registration in Indonesia. The definition of land registration in Article 19 paragraph (2) of the LoGA is (a) Measurement, land mapping and bookkeeping (b) Registration of rights to land and the transfer of such rights (c) Provision of certificates of proof of rights, which serve as strong evidence. Article 19 paragraph (2) implies that in land registration activities there are 3 activities, namely land

bookkeeping, bookkeeping of rights for lands whose rights can be issued or whose rights can be recognized, and providing strong evidence for lands whose rights have been identified. his rights.

Land registration according to Government Regulation number 24 of 1997 concerning Land Registration is a series of activities carried out by the Government continuously, continuously and regularly, including collection, processing, bookkeeping and presentation and maintenance of physical data and juridical data in the form of maps and lists, regarding parcels of land and apartment units, including the issuance of certificates of proof of title for land parcels that already have rights and ownership rights to flat units and certain rights that encumber them. The purpose of implementing Land Registration is to provide legal certainty and protection. Law.

One of the objectives of land registration is to provide legal certainty of land rights owned. Legal certainty of land rights can be obtained by land rights holders by registering land. The goal of legal certainty on land rights is to provide legal protection to holders of land rights (who owns it, whether or not there is a burden on it) and certainty about the object, namely its location, boundaries and extent and the presence or absence of buildings and plants on it. (Effendy, 1993; 5).

The series of land registration activities consist of: (1) Collection and processing of physical data; (2) Proof of Rights and Bookkeeping; (3) issuance of certificates; (4) presentation of physical data and juridical data; (5) storage of general registers and documents for the first land registration and (1) registration of changes and assignment of rights; and (2) registration of changes to other land registration data.

One of the efforts to realize the presence of the State in the land sector by providing legal certainty of Land Rights as evidence of ownership rights as mandated in Article 19 of Law Number 5 of 1960 concerning Basic Regulations of Agrarian Principles, the government is obliged to carry out land registration in all areas. the territory of the Republic of Indonesia.

The registered land data, which is less than 50% of the estimated number of land parcels throughout Indonesia, encourages the Government to make breakthrough efforts to accelerate land registration to pursue the percentage of registered land. One of the ways taken by the Ministry of Agrarian and Spatial Planning is through the Acceleration Program for Complete Systematic Land Registration regulated by Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 35 of 2016 in conjunction with Regulation of the Minister of Agrarian and Spatial Planning/Head of BPN Number 1 of 2017 concerning the Acceleration of the Implementation of Complete Systematic Land Registration.

According to the Regulation of the Minister of ATR/BPN No. 35 of 2016 jo. Ministerial Regulation of ATR/BPN No. 1 of 2017, Complete Systematic Land Registration is a land registration activity for the first time that is carried out simultaneously for all land registration objects throughout the territory of the Republic of Indonesia in one village/kelurahan area or another name equivalent to that, which includes collecting and determining the correctness of data. physical and juridical data regarding one or several objects of land registration for its registration.

An interesting difference from the PTSL concept compared to the previous systematic land registration concept is that there is an awareness that based on the juridical aspect, not all parcels of land can be issued at a time. To fulfil the aspect of completeness of the land register, the Technical Instructions for Collecting Juridical Data for PTSL Number 01/JUKNIS-400/XII/2016, classifies juridical data on land parcels into 4 clusters, namely: (1) Cluster 1, namely juridical data on land parcels, land, meets the requirements for processing until the issuance of certificates of land rights. (2) Cluster 2 (two), namely land parcels whose juridical data meet the requirements for certificate issuance but there is a case in the Court as referred to in Article 13 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 35 of 2016. (3) Cluster 3 (three) namely land parcels whose juridical data cannot be recorded and certificates issued because the Subject is a Foreign Citizen, Private Legal Entity, the subject is unknown, the subject is not willing to participate in complete systematic land registration and the Object is P3MB land, Prk 5, House Category III, Object of Nationalization, Communal Land, Absentee Land, Object of customary land, documents proving ownership are incomplete, participants are not willing to make a statement of physical control of the land parcel. For land that cannot be recorded and certified, it is recorded in the list (4) Cluster 4 for juridical data, the subject is complete because it is certified, and the object meets the requirements but does not meet the expected spatial data quality.

IV. Conclusion

Complete Systematic Land Registration is a method of mass land registration carried out by the government through the land agency, namely the Ministry of Agrarian Affairs and Spatial Planning/BPN. The main objectives of PTSL are: (1) Accelerating the implementation of the issuance of land certificates as a whole to ensure legal certainty of land rights, (2) Ordering land administration throughout Indonesia, (3) Minimizing potential land problems, be it disputes, conflicts or cases. , (4) Facilitate land access services to the community, (5) Inventory the use, utilization, ownership and control of land with an accountable, fast and targeted system.

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