

# The Role of the National Land Agency in the Implementation of Land Registration as an Effort to Make Administration Law Rules Land in Semarang City

Kusworini<sup>1</sup>

<sup>1</sup>Faculty of Law, 17 Agustus 1945 Semarang University

**ABSTRACT**--In Law No. 5 of 1960 Concerning Agrarian Principles, several basic provisions have been outlined on how the land should be used, controlled and owned in Indonesia. Besides that, in the possession of land required legal certainty, with the legal certainty, it will further increase the use of the land. With the Basic Agrarian Law, the majority of the people of Indonesia have been answered. This law is a consequence of Article 33 paragraph 3 of the 1945 Constitution, which reads: "The earth and water and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people", as the highest legal order. Based on this background, a problem can be formulated as follows: how are the duties and functions of the National Land Agency in organizing land registration as an effort to realize the orderly law on land administration in the City of Semarang and the obstacles to the National Land Agency in an effort to realize the law order in land administration in Semarang City. Based on the results of research and data analysis, it can be explained that the Duties and Functions of the National Land Agency in the implementation of land registration as an effort to realize the orderly law of land administration in the City of Semarang, among others according to Presidential Decree Number 34 of 2003 concerning the National Land Agency has the authority that is the granting of location permits, Procurement land for development, Settlement of arable land disputes, Settlement of compensation issues and for development, Determination of subjects and objects of land levies as well as maximum and abstante land compensation, Determination and resolution of vacant land issues. Granting permission to open land, land use planning.

**Keywords:** registration, land, orderly law

## I. INTRODUCTION

In Law No. 5 1960 The Law on Agrarian Laws has outlined some basic provisions on how land use and ownership should be used in Indonesia. In addition to the ownership of land required legal certainty with the certainty of the law will further increase the use of the land.

With the passage of the Agrarian Tree Law, it is already being fulfilled what most Indonesians want. This Act is a consequence of Article 33 of paragraph 3 of the Constitution Act 1945, which reads:

"The earth and the water and the natural resources contained in it are in the control of the

nation and are widely used for the prosperity of the people.

In order to realize the purpose of the Agrarian Laws, in Article 19 it is stated that: To ensure the legal certainty of the Government, the registration of land throughout the region of Indonesia in accordance with the provisions of the Government Regulations. So from the sound of the Article it is clear that the security to secure the land under the authority of its legal certainty, the land must be registered.

For this to be needed a Agency that specializes in land/land issues. Later on the Decree of the President of the Republic of Indonesia No. 26 of 1988 was established a National Land Agency, which in Chapter I of Articles 1, 2 and 3 of the President's Decree states that the Land Agency is a non-governmental institution that is directly under the President's responsibility.

Looking at the functions and functions of the National Land Agency, in this era of development the National Land Agency has played a very important role in the successful development of activities as an effort to create a chess field.

## II. LITERATURE REVIEW

### A. Land Registration

Registration is a series of processes that preceded it so that a parcel (especially land) was registered and thus what procedures were to be carried out as well as matters that prevented the registration or restrictions on the officials responsible for land registration.[1]

Thus the actual definition of land registration is as explained in Article 19 paragraph 1 of the Basic Agrarian Law (Law Number 5 of 1960) concerning land registration, which states as follows: "To guarantee legal certainty by the Government is held land registration throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulation".[2]

From the aforementioned article it is clear that the definition of land registration is the government's effort in the matter of land registration to obtain a guarantee of legal certainty regarding:

- (1) Location, boundaries and land area.
- (2) Land status and the people entitled to the land.
- (3) Granting Proof of Ownership in the form of a

certificate.

The registration is held keeping in mind the interests and conditions of the country and the community, socio-economic traffic needs and its possibilities in the field of personnel and equipment. In accordance with its purpose of providing legal certainty, registration is required for the rights holders concerned.

If it is not required, land registration will be held, which obviously will require a lot of manpower, tools and costs. there will be no meaning at all.[3]

According to the provisions of this Law on land registration which includes the registration of land rights, the transfer of land rights and the registration of the abolition of land rights and the imposition of land must be carried out by the Land Registry Office.

Based on the Basic Agrarian Law (Law Number 5 of 1960) as well as the provisions of Government Regulation Number 24 of 1997. this land registration task can be detailed as follows:

- (1) Registration of land rights which includes acts of land mapping, land measurement, bookkeeping of land and providing a land certificate is a proof of ownership which is valid as proof or strong proof, which has permanent legal force.
- (2) Registration of the transfer of land rights, the granting of new rights and the imposition of land rights, bookkeeping on the transfer and assignment provides a certificate of new rights.[4]

In addition to the provisions contained in the Basic Agrarian Law, Government Regulation Number 24 of 1997 Article 55 states that the recording of the abolition of land rights, management rights and ownership rights of flats based on court decisions is made after a Decree regarding the abolition of rights concerned from the Minister or Officer appointed by him.

In carrying out its duties, the National Land Agency carries out functions:

- (1) Formulate policies and plan, control and use rights.
- (2) Formulate policies and plans, land ownership arrangements with the principles that land has a social function as regulated in the Basic Agrarian Law.
- (3) Carry out the management of land rights in order to maintain orderly administration in the field of land.
- (4) Carry out measurements and mapping as well as land registration and efforts to provide legal certainty in the field of land.
- (5) Carry out research and development in the field of land as well as education and training of personnel needed in the field of land administration and others determined by the President.

Besides that, the National Land Agency also has an important role in the effort to succeed development as a national goal and is required to carry out activities in an effort to realize the Chess of Order in the land sector.

### *B. Legal Basis For Land Registration*

General provisions that underlie the implementation of land rights registration are statutory regulations relating to land registration. The laws and regulations are:

- (1) Basic Agrarian Law (Law Number 5 of 1960)
  - a. Article 19
    - 1) To guarantee legal certainty by the Government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulation.
    - 2) The registration referred to in paragraph (1) of this Article includes:
      - a) Measurement, mapping and accounting of land.
      - b) Registration of land rights and the transfer of these rights.
      - c) Granting rights documents, which act as a powerful bookkeeping tool.
    - 3) Land registration is carried out keeping in mind the state and community conditions, economic traffic requirements and the possibility of implementation, according to the Minister of Agrarian's consideration.
    - 4) In the Government Regulation, the costs related to the registration referred to in paragraph (1) above, provided that the people who are unable to be freed from payment of these costs.
  - b. Article 23
    - 1) Ownership rights, such that every transfer, abolition as well as the imposition of other rights must be registered according to the provisions referred to in Article 19.
    - 2) The registration referred to in paragraph (1) is a strong proof of the abolition of ownership and legal rights. the transfer and eradication of these rights.
  - c. Article 32
    - 1) The right to operate including the conditions for granting it, as well as every transfer and abolition of that right, must be registered according to the provisions referred to in article 19.
    - 2) The registration referred to in paragraph (1) is a strong means of proof of the transition and the abolition of business rights, except for those rights which are deleted because the time period expires.
  - d. Article 38
    - 1) The Right to Build, including the terms of the award, as well as every transfer and abolition of said right, are registered according to the provisions stipulated in Article 19,
    - 2) The registration referred to in paragraph (1) is a strong means of proving the abolition of the Right Use buildings that are strong regarding the abolition of building rights and the validity of the transfer of rights except in the case that the rights are deleted because the

time period expires.

- (2) Implementation Regulations
  - a. Government Regulation Number 24 of 1997 concerning Land Registration.
  - b. Republic of Indonesia's Presidential Decree Number 34 of 2003 concerning the National Land Agency (BPN).
  - c. Regulation of the Minister of Home Affairs Number 14 of 1975 concerning Registration of Land Ownership Rights and Ownership of the Buildings Above and Issuance of the Certificate.
  - d. Minister of Agrarian Regulation No. 1 of 1966 concerning Registration of Use Rights and Management Rights.
  - e. Minister of Home Affairs Regulation No. 10 of 1978 concerning the Implementation of Photogrammetric Measurement and Mapping of Land Registration.
  - f. Regulation of the Minister of Home Affairs Number 16 of 1975 concerning Activation of Land Registration and Granting of a Certificate in the Framework of Village-by-Village Measurement towards a Complete Village.
  - g. Regulation of the Minister of Home Affairs Number 1 of 1977 concerning Procedures for Application and Settlement of Granting of Right to Parts of the Land for Management Rights and Registration.
  - h. Regulation of the Minister of Home Affairs Number 3 of 1977 concerning Procedures for Requests and Settlement of Extensions of Payment Periods of Imported Money to the State in the context of granting land rights and registration of their rights.

In accordance with its purpose of providing legal certainty as well as certainty of land rights, the registration is required for the holders of the rights concerned. By holding a land registration, the parties concerned can easily find out the status or legal position of a particular land that it faces to the location, area and boundaries, where with the existence of legal certainty can find out who owns the land and the burdens what's on it.

Due to the influence of technological advances and the world economy nowadays development is very rapid so more and more people 's land is involved in economic activities, the number of processes of buying and selling, leasing, extending credit and even the emergence of a legal relationship with foreign persons or legal entities.

Due to the situation, there is a growing need for a guarantee of legal certainty and certainty of rights in the agrarian sector. To fulfill this provision, the Basic Agrarian Law in Article 19 stipulates that the Government shall hold a land registration throughout the territory of the Republic of Indonesia.

### III. RESEARCH METHOD

In compiling this scientific work data that can be accounted for its correctness are used, how to obtain data that is used through certain research in order to achieve the expected goals in order to meet both quality and quantity requirements.[5]

This type of research used in this study is normative juridical, which is a way to approach the problem that will be examined by using secondary data as the main material to be investigated.

The research specification used in this study is descriptive, that is, research that describes a situation or object to address the problem under study. In particular the efforts of the National Land Agency in carrying out land registration as an effort to realize an orderly administrative law in the land sector in the City of Semarang.

### IV. FINDINGS AND DISCUSSION

#### *A. Duties and Functions of the National Land Agency in Organizing Land Registration as an Effort to Realize the Legal Administration of Land Administration in the City of Semarang.*

As the duties and functions of the National Land Agency according to Presidential Decree Number 34 of 2003 concerning the National Land Agency, namely:

- (1) For granting location permits.
- (2) Land acquisition for development.
- (3) Settlement of arable land disputes.
- (4) Settlement of compensation issues as well as for development.
- (5) Determination of subject and object of land levies as well as maximum land compensation and abstante.
- (6) Determination and resolution of the problem of empty land.
- (7) Granting permission to open land.
- (8) Land use planning.

National Land Agency is a non-departmental Government institution which is domiciled and has direct responsibility to the President. The National Land Agency is tasked with assisting the President in managing and developing land administration, both based on the Basic Agrarian Law and other laws and regulations which cover the use of land tenure and ownership arrangements.[6]

Land rights measurement and land registration and others related to land issues based on policies determined by the President. In carrying out the duties and functions of the National Land Agency:

- (1) Formulate policies and plan, control and use of land.
- (2) Formulate policies and planning, land ownership arrangements with the principles that land has a social function as regulated in the Basic Agrarian Law.
- (3) Carry out the management of land rights in order to maintain orderly administration in the field of land.

- (4) Carry out measurements and mapping as well as land registration and efforts to provide certainty of rights in the land sector.
- (5) Carry out research and development in the field of land as well as education and training of personnel needed in the field of land administration and others determined by the president.

The National Land Agency has an important role in the effort to succeed development as a national goal to carry out activities in an effort to realize the Chess in the field of land regulations.

*B. Obstacles to the National Land Agency in Efforts to Realize the Legal Administration of Land Administration in the City of Semarang.*

Factors that hinder the implementation of land registration are:

- (1) Because the community is less aware of the importance of land and the function of land certificates.
- (2) That the community still considers that it is sufficient with Girik, Pethok or Letter C / D as proof of land ownership with the evidence possessed has legal force, which is permanent even though it is considered wrong.
- (3) Sometimes people are reluctant to take care of themselves to register the land they own, instead they consider the fees charged and those charged for making certificates too expensive and take so long and there are also many who do not want to take care of themselves better left to the service bureau because most people do not know about the land registration process, some people will not take care of it themselves.

#### V. CONCLUSION

- (1) The National Land Agency needs to conduct an integrated and continuous outreach on land law so that citizens really know and understand the rules relating to land law, so that citizens are expected to be aware of the awareness to carry out matters relating to land matters in accordance with applicable regulations.
- (2) It is expected that the community will raise awareness to Implement the laws and regulations relating to land in accordance with the provisions of the prevailing laws and regulations as well as BPN conduct intensive collaboration with related parties, especially in this case the community members who carry out land registration.
- (3) BPN as well as the community members are fully aware of the importance of certificates as well as being a valid proof, they will also provide guarantees of certainty of registered lands, therefore BPN and its officials need to conduct socialization related to the importance of certificates of land rights.

#### REFERENCES

- [1] W. J. S Poerwadarminta, *Kamus Umum Bahasa Indonesia*, (Jakarta: Balai Pustaka, 2010), p. 220.
- [2] A. P Perlindungan, *Pendaftaran Tanah di Indonesia*, (Bandung: Mandar Maju, 2010), p. 4.
- [3] Boedi H., *Hukum Agraria Indonesia Himpunan Peraturan-Peraturan Hukum Tanah*, (Jakarta: Jambatan, 2010), p. 15.
- [4] Effendi P., *Hukum Agraria Indonesia Suatu telaah dari Sudut Pandang Praktisi Hukum*, (Jakarta: PT Raja Grafindo Persada, 2008), p. 97.
- [5] Koentjoro N., *Metode Penelitian Masyarakat* (Jakarta : Gramedia, 2008), p.16.
- [6] Supriadi, *Hukum Agraria cetakan ke-2*, (Jakarta : Sinar Grafika, 2008), p. 152-153.