



Effectiveness of Mass Land Certification Through the PTSL Program in Giving Legal Certainty [Study in Grobogan District]

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Abstract. Indonesia in Article 28 H paragraph (4) of the 1945 Constitution of the Republic of Indonesia states that every citizen has the right to have private property rights and such property rights may not be taken over arbitrarily by anyone, including to control/have land rights. As an effort to improve services in the land sector, the government has made a land certification policy through mass certification activities regulated in 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 2018 concerning Complete Systematic Land Registration (PTSL). This study aims to: 1). Describe the effectiveness of mass land certification through the Complete Systematic Land Registration (PTSL) program in Grobogan Regency; 2). Describe the factors that affect the effectiveness of mass land certification through the Complete Systematic Land Registration (PTSL) program in Grobogan Regency in providing legal certainty. This research is an empirical legal research using primary data and secondary data as the main data source. This research is descriptive by providing an explanation related to the object under study, namely the implementation of the Complete Systematic Land Certification Program (PTSL) in Grobogan Regency. The results of the study were analyzed using the theory of legal effectiveness, the theory of the legal system and the theory of legal certainty. The implementation of land certification through the Complete Systematic Land Registration (PTSL) program in Grobogan Regency in providing legal certainty which is analyzed with legal theories is running effectively. The factors that influence it include: 1). Complete regulations in terms of land registration encourage the Grobogan Regency Land Office to complete the target of legalizing assets as much as possible in a short time; 2). The Land Office provides PTSL implementing elements so that they contribute in completing the achievement of land certification targets; 3). The Regional Government supports the implementation of the Complete Systematic Land Registration (PTSL) program by facilitating coordination between the Land Office, Regional Government, District and Village Governments; 4). The community supports the Complete Systematic Land Registration (PTSL) program as an effort to obtain legal certainty over land ownership rights.

Keywords: Effectiveness · Land Certification · Legal Certainty

1 Introduction

Land plays an important role in human life, including in this case the life of the Indonesian people because human life cannot be separated from land where the existence of land is not only a means of residence but also a source of livelihood.¹ This is evident where from the historical perspective of the founding of the Indonesian nation, the founding fathers of the nation since the struggle for independence named the place where this nation lived and defended its life as “homeland”, not “the fatherland” like the British nation and not “das Vaterland” like the Germans which means “father’s land” or the Russians and Indians who use the term “motherland”. This shows that in the view of the Indonesian people, land and water are two important resources in their lives that cannot be separated.²

Seeing the importance of the existence of land in human life is what then becomes the main factor in the emergence of the desire to own or control the land so that this often results in the emergence of land problems, one of which is land ownership disputes. These problems then gave rise to encouragement from the state to make arrangements in the land sector as a consequence of Indonesia’s existence as a legal state as stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (1945 Constitution of the Republic of Indonesia) which as a rule of law, then everything should be done based on the law which makes the law must also be able to meet human needs, one of which is regulation in the land sector.³

The manifestation of state intervention in the field of natural resources and land is then regulated in Article 33 paragraph (3) of the 1945 Constitution that “Earth, water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people.”⁴ Indonesia in its land law system rests on Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) which become laws and regulations concerning land. In terms of land ownership, the BAL places more emphasis on the individual land ownership aspect. This is important to make clear the status of land tenure when there is a transfer of land rights.⁵ The mandate stated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia contains the basis and at the same time directives for the political development of land law and other natural resources, including in the BAL.⁶

¹ G. Kartasaputra, 1991, *Hukum Tanah Jaminan Bagi Keberhasilan Pendayagunaan Tanah*, PT Raja Grafindo Persada, Jakarta, page. 1.

² Lihat Putusan Mahkamah Konstitusi Nomor 83/PUU-XI/2013.

³ Hilaire. Nigel D. White. McCoubrey, 1999, *Textbook and Jurisprudence*, Blackstone Press Limited, London, page. 88.

⁴ Lihat Putusan Mahkamah Konstitusi Nomor 85/PUU-XI/2013 yang menyatakan bahwa Pasal 33 UUD NRI 1945 merupakan bentuk konstitusionalitas dari dianutnya demokrasi ekonomi yang berarti dasar penyelenggaraan dari pengelolaan sumber daya alam di Indonesia didasarkan pada sila keempat dan sila kelima Pancasila.

⁵ Haris, A. (2005). *Pengaruh Penatagunaan Tanah terhadap Keberhasilan Pembangunan Infrastruktur dan Ekonomi*, Perencanaan Pembangunan.

⁶ Ismail, N. (2012). *Arah Politik hukum pertanian dan perlindungan kepemilikan tanah masyarakat*, Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional, 1(1).

In an effort to improve services in the land sector, the government has made a policy of accelerating land certification through the mass certification activity “National Agrarian Operations Project”.⁷ so as to facilitate the land registration program. The government has made a policy of accelerating land certification through mass certificate activities by PRONA (National Agrarian Operations Project). This is one form of the agrarian reform agenda which aims to strengthen the rights of the people through the ease of obtaining certificates for the people through the PRONA/mass certification program. The election of Jokowi as President of the Republic of Indonesia provides hope for the problems of agrarian development and also the problem of inequality of land ownership in Indonesia. One of the nawacita programs issued by Jokowi - Jk during the campaign was the distribution of land to the people, the campaign program was then translated into a government program called agrarian reform which was born from the translation of nine development priorities by Jokowi - Jk where agrarian reform became one of the priorities in that development.⁸

Indonesia, with a vast area of 850 million hectares, consists of 191 million hectares of land and 649 million hectares of sea. Of this land area, around 124.19 million hectares (64.93%) are still in the form of forests such as dense forests, similar forests and scrub forests. The remaining 67.08 million hectares (35.07%) have been cultivated with various activities. The Ministry of Agrarian and Spatial Planning (ATR)/National Land Agency (BPN) in the 2015-2019 Strategic Plan of the Ministry of Agrarian and Spatial Planning/National Defense Agency shows that 5,006,897 land parcels have been legalized in 2010-2014.⁹ Based on data from the 2015 land data and information center, it shows that land registration in Indonesia has reached \pm 54 (fifty four) million plots out of \pm 85 (eighty five) million plots of land, because since 1981 the first mass land registration was carried out in issuance of certificates of land rights as proof of title which is a strong means of proof, through strategic programs such as Prona.¹⁰ Central Java as one of the largest provinces in Indonesia through the Ministry of Agrarian Affairs and Spatial Planning (ATR)/National Land Agency (BPN) until 2017 explained that of the 21.5 million plots of land in Central Java, currently only 9,850,000 have been certified, or 46 percent. While the remaining 11,720,000 fields have not been certified (54 percent).¹¹

This research was conducted in Grobogan Regency to find out how effective the existence of the PTSL program was as a manifestation of the land certification policy in the era of President Joko Widodo’s administration in accommodating the needs of the community to facilitate the process of obtaining land title certificates. Bearing in

⁷ Arifin, F. S. (2008). *Pembaruan Agraria Nasional (PAN) dengan Program Sertifikasi Tanah Melalui Prona Guna Menyukkseskan Tertib Administrasi Pertanahan di Kabupaten Pemalang* (Doctoral dissertation, Program Pasca Sarjana Universitas Diponegoro).

⁸ Sianturi R. E. Y, *Opage.Cit.*, page. 6.

⁹ Lihat Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Tahun 2015 – 2019.

¹⁰ Ruslan, R., & Djauhari, D. 2017, *Implementation of Acceleration Systematic Land Registration Full In Humbang Hasundutan District*, The 2nd Proceeding “Indonesia Clean of Corruption in 2020”, page. 659.

¹¹ Portal Berita Pemerintah Provinsi Jawa Tengah. 2021. *Prona Bukan Bagi – Bagi Sertifikat*. (online), (<https://jatengprov.go.id/publik/prona-bukan-bagi-bagi-sertifikat/>), diakses pada tanggal 05 April 2021).

mind, the government must guarantee that the regulation of control and ownership or use based on justice can really answer the agrarian crisis that occurs in the field as the aim of agrarian reform.¹² Besides being an important part of the government's strategy aimed at reducing poverty and oriented towards civil society.¹³

Based on this phenomenon, the researchers then tried to raise in this research to be able to answer how effective the existence of the PTSL program was as a form of land titling policy in the era of President Joko Widodo's administration in accommodating the needs of the community to facilitate the process of obtaining land title certificates. This study seeks to examine the government's efforts through the Grobogan Regency Regional Government, the National Land Agency/Land Office, District, Village Administration and PTSL recipient communities in achieving the target of accelerating land certification and its implications for legal certainty.

2 Research Methods

The approach method used in this research is the juridical empirical approach, which is research that examines or traces people's attitudes and attitudes towards the applicable law.¹⁴ Sources of data used are primary and secondary data. Primary data refers to data or facts and legal cases obtained directly through research in the field, including information from respondents related to the object of research and practices that can be seen and related to the object of research.¹⁵

3 Results and Discussion

The current land policy rolled out by the government departs from dissatisfaction with land registration that has been registered in Indonesia. This is as stated in PP No. 10 of 1961 concerning land registration for the first time and which has been valid for more than 35 years, shows data that approximately 16.3 million parcels have been registered out of approximately 55 million parcels of private land. Likewise with the enactment of PP No. 24 of 1997 refinement of PP no. 10 of 1961, it has not been maximized in the implementation of land registration of 126 million land parcels in Indonesia, only 46 million have been registered, this means that there are 80 million land parcels which

¹² Purwanto, Heri. (2013). Local to global: How Serikat Petani Indonesia has accelerated the movement for agrarian reform. *La Via Campesina's Open Book: Celebrating 20 Years of Struggle and Hope*.

¹³ Rosset, Peter. (2006). Moving forward: agrarian reform as part of food sovereignty. *Promised Land: Competing visions of agrarian reform*.

¹⁴ Nur Indah Setyoningrum and Anis Mashdurohatun, Restorative Justice in Children's Criminal Jurisdiction System through Diversion, *Law Development Journal*, Volume 2 Issue 4, December 2020, Page 573–581

¹⁵ Agus Irawan Yustisianto, Sri Endah Wahyuningsih, Anis Mashdurohatun, Reconstruction of Legal Protection Regulations against Victims of Crime of Household Violence Based on Justice Value, *Scholars International Journal of Law, Crime and Justice*, Vol 5 No. 12, Page 513-519

have not been registered. Meanwhile, according to Van Der Eng in Wahyuni explained that the growth of land parcels is more than 1 million parcels per year.¹⁶

The current land registration policy refers to Ministerial Regulation Number 6 of 2018 concerning Complete Systematic Land Registration in which the ATR/BPN ministry targets 126 million plots of certified land throughout Indonesia by 2025.¹⁷ Land registration through the agrarian reform agenda in the era of President Jokowi provides easy access for farmers/poor people to be involved in land market schemes.¹⁸ Based on this, agrarian policy is very important because economically, land is very different from other factors of production, such as fertilizer, labor, seeds, etc., which can be reproduced. Land, on the other hand, is a fixed factor of production. It also represents capital in the form of assets or investments, which are indicators of well-being.¹⁹ The stability and continuity of President Jokowi's administration needs to continue to be optimally managed and sufficiently prepared to better implement Nawacita II for post 2019-2024 so that it can support the interests of the people to achieve the ideals of the Indonesian Revolution for Independence.²⁰

Following up on the Nawacita, the government then issued the Complete Systematic Land Registration (PTSL) program, the Ministry of ATR/BPN is targeting 126 million plots of certified land throughout Indonesia by 2025 which is spelled out in the targets of 5 (five) million land plots by 2017, 7 (seven) million parcels of land in 2018, 9 (nine) million parcels of land in 2019 and 10 (ten) million parcels of land each year until 2025. The million-million target is carried out to shorten the time from which normally only being able to certify 500 (five hundred) thousand plots of land per year which takes 160 years for land to be registered throughout Indonesia.²¹

The duties and functions of the land office in Grobogan Regency are not enough without the support of the performance of the apparatus, if the performance of the apparatus is good it will have an impact on the performance of the land organization which is good as well, and vice versa. Human resources and facilities are a necessity in supporting land certificates, especially for the management of land physical and juridical data whose fulfillment is the key to carrying out land tasks. As we know that performance is the achievement of one's activities/results either individually or communally which has an influence on the achievement of organizational or agency goals.²²

¹⁶ Mujiburohman, D.A., (2018). *Potensi Permasalahan Pendaftaran Tanah Sistematis Lengkap (PTSL)*, BHUMI: Jurnal Agraria dan Pertanahan, 4 (1), page. 88.

¹⁷ Mujiburohman, D.A., (2018), *Potensi Permasalahan Pendaftaran Tanah Sistematis Lengkap (PTSL)*, BHUMI: Jurnal Agraria dan Pertanahan, 4(1), page. 89.

¹⁸ Prasetyo, F. (2019). *The struggle for land rights: Indonesian (Urban) Agrarian Reform and (Against) the Global Land Forum in Bandung*. <https://platypus1917.org/2019/07/02/the-struggle-for-land-rights/>, page. 3.

¹⁹ Widodo, S. (2017). *A Critical Review of Indonesia's Agrarian Reform Policy*. Journal of Regional and City Planning, 28 (3), page. 205.

²⁰ Razuni, G., & Pramanti, A. (2020). *No Agrarian Reform: Revolutive Without Revolution?*. Jurnal Partisipatoris, 2 (1), page. 16.

²¹ Mujiburohman, D.A., 2018. *Opag. Cit*, page. 89.

²² Handoko dalam Press, A. U. B. (2017). *Prosiding Seminar Nasional dan Call For Paper 2017*. In Prosiding Seminar Nasional dan Call For Paper, page. 92.

The Land Policy used by the Grobogan District Land Office currently refers to Ministerial Regulation Number 6 of 2018 concerning Complete Systematic Land Registration. The existence of the PTSL program implemented by the Grobogan District Land Office is an advantage for the Grobogan community who have never registered their land as owners/rights holders because the program does not charge the community the slightest fee for issuing certificates except for administrative costs which are still borne by the applicant. In order to avoid cases of illegal levies (Pungli) the Government of Indonesia issued a joint decision by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, the Minister of Home Affairs, as well as the Minister of Villages, Development of Disadvantaged Regions and Transmigration Number 34 of 2017 concerning Uniform Financing for Preparation of Systematic Land Registration.

The existence of the Complete Systematic Land Registration (PTSL) program by the Grobogan District Land Office will be a means of realizing a picture of one village with a complete village information system and as a basis for processing administration of the completeness of the actual and reliable land database. Until now, the Grobogan District Land Office continues to strive for measurability of all land parcels in several predetermined locations and maintains physical land data. This is done in order to achieve the main target of land registration through PTSL, the amount of which is realized according to the amount of the budget available from the current year's APBN.

In research at the Grobogan District Land Office, in 2018–2020 PTSL has completed the target of 139,026 land parcels for which Land Title Certificates (SHAT) have been issued. The implementation of the PTSL is carried out by paying attention to each of its stages as contained in Ministerial Regulation Number 6 of 2018 concerning Complete Systematic Land Registration. The existence of the PTSL program implemented by the Grobogan District Land Office is an advantage for people who have never registered their land as owners/holders of rights because the program does not charge the community the slightest fee for issuing certificates except for administrative costs which are still borne by the applicant such as providing land certificates (for those who do not have), making and installing boundary signs, Land and Building Rights Acquisition Fees (BPHTB) and others (stamps, photocopies of letters, witnesses, etc.).

With regard to legal certainty, according to the author, it was studied with the theory of legal certainty by Sudikno Mertokusumo that legal certainty requires efforts to regulate law in legislation made by authorized and authoritative parties so that these rules have a juridical aspect that can guarantee certainty.²³ This applies with the ongoing PTSL program in which the registration of land parcels is carried out to obtain legal certainty over the land rights of landowners and other parties with an interest in the land. By registering and obtaining a certificate, land rights holders have strong evidence on land.²⁴

The policy of land certificate through PTSL rolled out by the government has a direct impact on accelerating asset legalization. With regard to certificates that already have strong legal certainty, it turns out that they have implications for the use of these certificates by the public, this is because certificates of land rights function as a strong

²³ <http://repository.uma.ac.id/uraian-teori-teori-kepastian-hukum>.

²⁴ Sulistiyah, S., & Ma'ruf, U. (2019). Government Policy to Accelerating Legal Certainty of Land Through Complete Systematic Land Registration (PTSL)(Studies in Kendal District Land Office). *Jurnal Daulat Hukum*, 2 (1), page. 31.

means of proof. This is the most important function as referred to in Article 19 paragraph (2) letter c of the UUPA so that it is not wrong if the land title certificate gives confidence to the bank/creditor to lend money to the owner as there has been a trend of increasing public desire to apply for loans to banks. Which is accompanied by the installation of mortgage rights on land objects as collateral objects.

4 Conclusion

The implementation of Land Certification through the Complete Systematic Land Registration Program in Grobogan Regency has been effective as evidenced by the conformity between the target and the realization of PTSL for 154,632 land parcels in the period 2018–2020 and has implications for providing legal certainty regarding the status of land ownership and control for the community, this is evidenced by the increase in the rate of applicants for registration of mortgage rights at the Grobogan District Land Office in 2018 by 7,199 applicants to 20,556 applicants in 2020. The implications of land certification for communities in Grobogan Regency are quite precise when viewed in terms of the goals and objectives of guaranteeing legal certainty of land rights land (certificate), giving confidence to the bank/creditor and planning development activities by the government.

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