



Registration of Land Property Rights for the First Time Based on the Right of Buying and Selling Under the Hands in Merangin District, Jambi Province

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Abstract

As a form of protection and legal certainty from the Government, Government Regulation Number 24 of 1997 Article 37 paragraph (1) states that the transfer of land rights through buying and selling can only be registered if it is proven by a deed made by PPAT but in fact the sale and purchase of land and registration For the first time, land in Merangin Regency, especially in Kungkai Village, is still mostly carried out based on a sheet of underhand buying and selling rights or traditional buying and selling made by the Village Head, not infrequently this causes various legal problems related to the truth of juridical data documents in the form of the basis of land rights as the basis for land registration which must be examined and researched carefully. This study uses empirical juridical research methods, the formulation of the research problem, namely 1) Why do people buy and sell private land under their hands in Merangin Regency and how is the buying and selling process carried out? 2) How was the registration of land rights for the first time carried out on the basis of private rights in Merangin Regency? 3) What are the implications of the land registration for the community's obligations in implementing the first land registration in Merangin Regency? from the results of this study it was found that the sale and purchase of land carried out on cash, real and clear terms according to customary law was legal. Ownership rights to land can be registered based on the sale and purchase rights under the hands but must be accompanied by supporting evidence. Examination of the level of validity of juridical data on the basis of land rights carried out by the adjudication committee is only carried out formally, namely only limited to checking the completeness of juridical data documents while the material truth is the responsibility of the applicant who registers the land, so there is no evidence legitimate. There are still many people in Merangin Regency, especially in Kungkai Village who sell and buy land based on the basis of the sale and purchase rights under the hand, this shows that there is still a lack of awareness or public concern for buying and selling in front of PPAT, this is partly because people think the process is complicated and high cost.

Keywords: *Land Registration; Buying; Selling; Underhand*

Background of Research

With the enactment of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), reforms in the land sector are comprehensive and fundamental. The UUPA contains conceptual

objectives, principles, legal institutions and outlines the main provisions of national agrarian/land law. The elaboration is done by making various implementing regulations, which together with the UUPA are Indonesian Agrarian/National Land Laws. The goal is to realize what is outlined in Article 33 paragraph (3) of the 1945 Constitution (UUD), that the Earth and water contained therein, whose control is assigned to the Republic of Indonesia must be used as much as possible for the prosperity of the people.

The purpose of land registration is to ensure legal certainty of land rights which include:

- a. Legal certainty over the object of the parcel of land, namely the location of the parcel of land, the location of its boundaries and extent (object of the right);
- b. Legal certainty over the subject of his rights, namely who is the owner (subject of his rights) and;
- c. Legal certainty over the types of land rights.

As a manifestation and effort of the Government to provide legal certainty and protection, in principle every transfer must be registered as according to Government Regulation Number 24 of 1997 in paragraph (1) which states that the transfer of rights to land and property rights to apartment units through sale and purchase, exchanges, grants, income in the company and other legal acts of transfer of rights except transfers through auctions can only be registered if it is proven by a deed made by the authorized PPAT according to the provisions of the applicable legislation.

But in fact, according to information from the Kungkai Village Head, Merangin Regency, for the sale and purchase of proprietary land used as agricultural land or residence in general, land that has not been certified is traded by the community with a sale and purchase letter known to the Village Head or by selling buying under the hands according to custom, buying and selling has become a habit to follow customary law methods since ancient times which have been carried out for generations by the community and still persist until now, then the sale and purchase certificate is still used as a requirement for land registration.

In the history of land ownership according to the traditional traditions of the ancestors in Kungkai Village, Merangin Regency, that in the past, buying and selling land was still carried out verbally, not only by paying a certain amount of money, even by exchanging goods, namely land, the community worked the land by slashing and cutting. clearing the forest by shifting called behumo or bepelak, until now it can still be known who the origin of the first owner of the land was and in buying and selling land until now almost all people still make traditional buying and selling letters that are known by the head Village.

The traditional sale and purchase is still maintained in Merangin Regency, especially in Kungkai Village, as a result, many people buy and sell land based on an underhand sale and purchase certificate or sale and purchase that is known to the Village Head, in fact this can cause various legal problems related to the level of truth of the evidence. From juridical data in the form of the basis for land rights because in practice it is often used by the community as a basis or requirement for land registration, of course it must be examined and researched carefully in order to realize legal certainty for the community, this should not last long to avoid land from being destroyed. the possibility of disputes in the community, for that every sale and purchase of land must be made before the PPAT and immediately registered at the Land Office.

Agrarian law that applies is customary law as contained in Article 5 of the Basic Agrarian Law Number 5 of 1960 which reads:

Agrarian law that applies to earth, water and space is customary law as long as it does not conflict with national and state interests based on national unity with Indonesian socialism and

with the regulations contained in this law and with other laws and regulations, everything with due regard to elements that rely on religious law.

According to Maria S.W. Sumardjono, the concept of the National Land Law is based on Customary Law. The requirements for the validity of the sale and purchase of land according to customary law are the fulfillment of three elements, namely cash, real, and clear. which can be explained as follows:

- a. What is meant by "Cash" is that the transfer of rights by the seller is carried out concurrently with the payment by the buyer and immediately the rights have been transferred, the price paid does not have to be paid off, the difference in price is considered as a debt of the buyer to the seller which is included in the scope of payables and receivables.
- b. The nature of "rill" means that the spoken will must be followed by concrete actions, for example by having received money by the seller and making an agreement before the village head.
- c. The legal act of buying and selling land is "clear" if it is carried out before the Village Head, to ensure that the act does not violate the applicable legal provisions.

The sale and purchase of ownership rights to land under customary law or private ownership is carried out by first both parties agreeing to make a sale and purchase and come before the Village Head along with several witnesses, then make a deed under the hand as a proof of ownership. proof of the transfer of sale and purchase of land rights, which is signed by the parties and the Village Head, along with that a receipt is made as proof of payment of a sum of money, but when viewed from the form and content of the deed under the hand is irregular, including not given a number and not archived so that it is vulnerable to legal problems in the event of loss or damage to the sale and purchase deed under the hand.

Based on the UUPA, the issuance of Government Regulation Number 24 of 1997 concerning Land Registration is a regulation that functions as well as regulates the provisions for the transfer of land rights, at least it is hoped that it can provide legal certainty to positive law and customary law, although in the provisions according to positive law and customary law. It is permissible to buy and sell property rights on land based on underhand rights or in its registration which can also be proven based on underhand buying and selling rights, but still has legal loopholes for people who are more inclined to buy and sell under the hands and serve as the basis for land registration for the first time, so that it is necessary to study scientifically whether its application is in accordance with the applicable positive law, as well as customary law norms which are the principles of the National Land Law.

Based on the description of the background of the problem as mentioned above, the author conducted a research in the form of a paper with the title: "**REGISTRATION OF LAND PROPRIETARY RIGHTS FOR THE FIRST TIME BASED ON THE PRINCIPLE OF BUYING BUYING RIGHTS UNDER HANDS IN MERANGIN REGENCY, JAMBI PROVINCE**"

Research Methods

Research Method is a scientific activity related to analysis and construction which is carried out methodologically, systematically and consistently. Methodological means in accordance with a certain method or method, systematic is based on a system, while consistent means the absence of contradictory matters within a certain framework.

The problem approach to be used in this research is an empirical juridical-empirical sociological approach or an empirical sociological approach to law as law in action, described as an empirical social phenomenon. Thus, law is not only given meaning as an interweaving of values, official decisions,

interwoven rules and norms, written positive law, but can also be given meaning as a teaching system about reality, regular and steady behavior, or law in the sense of an officer.

With an empirical sociological law approach, researchers will examine, discuss or examine Registration Of Land Property Rights For The First Time Based On The Right Of Buying And Selling Under The Hands In Merangin District, Jambi Province, researchers will directly observe the situation in the field by survey.

This research is analytical description, namely research that describes and explains a situation obtained through research in the field and then analyzed more deeply using relevant theories, in this case related to the registration of mortgage rights electronically.

Research Result

The implementation of land registration either systematically or sporadically is regulated in PP. 24 of 1997 and its technical instructions are regulated in the Regulation of the State Minister of Agrarian Affairs/Head of BPN No. 3 of 1997 is further regulated in the Regulation of the Minister of ATR / Head of BPN No. 6 of 2018 concerning complete systematic land registration, abbreviated as PTSL, is a land registration activity for the first time that is carried out en masse or simultaneously throughout Indonesia in one village/kelurahan area in the context of accelerating the provision of legal certainty and legal protection with a simple and fast process.

As the stages of land activities systematically regulated in Article 46 to Article 72 of PerKBPN No. 3 of 1997, PTSL activities as regulated in Article 3 paragraph 4 of PerKBPN No. 6 of 2018 in principle includes:

1. Planning
2. PTSL location determination
3. PTSL location and target determination
4. Preparation for smooth PTSL preparation
5. Establishment of the PTSL Adjudication Committee and Task Force.
6. Composition of the PTSL Adjudication Committee
7. Duties of the Adjudication Committee
8. Counseling

In the process of applying for land registration, the community as the applicant is first required to fill out a registration form to find out the juridical evidence in the form of the basis for the ownership of the land or other data related to the ownership of the land to be registered. The Land Office, Merangin Regency, Jambi Province has provided a form or blank whose sample form and contents have been determined by the Land Office in order to make it easier for the community to register land, to obtain the application form, the community can obtain it from the village head office for systematic land registration. and the community can obtain it at the local Land Office if the registration is carried out sporadically, for a smooth process it is hoped that the community will consult the land registration committee.

The requirements for registering land for the first time are systematically complete by filling out 1 copy of the form file or blank consisting of:

1. A letter of application for land registration addressed to the Head of the Land Office may be submitted by the applicant himself or his proxies.
2. Photocopy of ID card

3. Photocopy of Family Card
4. Proof of ownership/support for land rights can be in the form of a deed of sale/purchase/underhand which is known by the Village Head, corroborated by 2 witnesses.
5. Statement of physical possession of sporadic land parcels (known and signed by the Village Head/applicant).
6. BPHTB regional tax deposit (if taxable).
7. Inventory and participant identification forms for complete systematic land registration/PTSL (to be filled in by the juridical task force subject identity, object identification) signed by the Land Office apparatus and PTSL applicants/participants.
8. Minutes of research on juridical data are to be filled out by the juridical task force, data concerning the ownership and control of land rights are signed by the juridical task force and the applicant/participant (to be filled in by the juridical task force)
9. Conclusion of the adjudication committee for systematic land registration complete / PTSL, Merangin District Land Office (to be filled in by the juridical task force), conclusions on the data above include juridical and physical evidence that has been provided by the applicant signed by the chairman of the adjudication committee, deputy head of the field physically, the deputy head of the juridical field, and 3 members of the adjudication committee including the Village Head.
10. The decision of the adjudication committee for systematic land registration, if valid, will be stated in the official report.

In this study, it was found that especially the people in Kungkai Village, Merangin Regency in general, carried out land registration only based on customary rights under the hands of the village head known to the village head, of which there were 2 land registrations based on underhand selling rights or customary trading known to the head of the village. The sale and purchase of land is carried out before the enactment of PP No. 24 of 1997 as according to the explanation of Article 24 which states that based on written evidence in the form of a deed of transfer of rights made under the hand which is affixed with a testimony by the Customary Head/Village Head/Kelurahan called proof of old rights, then there is 1 case of land registration based on the basis of sale and purchase rights under the hands, the sale and purchase of land carried out by the community after the enactment of PP No. 24 of 1997 as referred to in Article 23 which is called proof of new rights.

The stages of implementing a complete systematic land registration (PTSL) for further adjudication committee of the Merangin Regency land office will follow up by processing the files submitted by the Participants/Applicants based on PP No. 24 of 1997 concerning land registration is technically regulated in PerKBPN No. 3 of 1997, furthermore, PTSL activities are technically and specifically regulated in PerKBPN No. 6 of 2018 this is done because every policy in the process or stages must not shift from the rule of law in making policies or considerations, everything is regulated by applicable regulations, namely implementation instructions and technical instructions. Among others, in outline carried out by the adjudication committee include:

- a. Physical Data Collection;
- b. Juridical Data Research for Proof of Rights;
- c. Announcement of Disclaimer;
- d. Confirmation of Conversion, Recognition of Rights and Granting of Rights;
- e. Bookkeeping and Certificate Issuance.

As in this study discusses the systematic land registration carried out by the community, Merangin Regency in Kungkai Village based on the basis of the sale and purchase rights under the hands or traditional buying and selling known to the Village Head, the sale and purchase of land was carried out in 1996, according to Article 24 PP No. 24 of 1997 concerning land registration states that for the purpose of registering old rights, it is evidenced by means of evidence regarding the existence of such rights in the

form of written evidence of witness statements and or statements in question, which are confirmed by the adjudication committee in systematic land registration or by The Head of the Land Office in sporadic land registration is considered sufficient to register rights.

In determining land rights, what must be considered by the adjudication committee is the history of ownership, i.e. if complete written evidence of the transfer rights from after the first customary slashing and slashing of forest can be proven successively to the last owner, it can be processed with confirmation of conversion if the evidence is cut off so that only the basis for the sale and purchase of the land of the last owner can be proven, then the process of determining the rights is carried out by granting new rights due to incomplete proof of the transition in an orderly or successive manner, then the community is considered to have mastered the state land.

If later the adjudication committee examines the basis for land rights owned by the applicant/community, it turns out that there is formal evidence that land has been owned by someone continuously since the first time traditionally by means of slashing and slashing forests, until now, then if it is registered, the determination can be made. through confirmation of conversion, but if the land has been transferred to another person either by buying and selling, grants, inheritance, at this time, because the land transfer has occurred, the determination of the rights cannot be through conversion but through the granting of new rights, because the person has relinquished their rights by themselves have lost their customary rights.

In connection with that, after being investigated, it was found a legal basis that is in line with the statement above, namely in the explanation of PP No. 24 of 1997 concerning land registration in Article 24 paragraph 1, proof of ownership basically consists of proof of ownership in the name of the right holder at the time the UUPA comes into force and if the right is then transferred, the evidence of transfer of rights is successively to the hands of the right holder at the time of bookkeeping. so that it can be explained that the proof of ownership of the right holder and if it has been transferred, the transfer is orderly and can be traced back to the hands of the right holder at the time of bookkeeping.

In practice, in general, all lands that are traditionally owned by the community in Merangin Regency, especially agricultural land, the determination of their rights is not carried out by conversion but is carried out by granting new rights because the proof of their rights has been cut off (the rights bases are not complete/orderly from the first owner until the end of the year). the last owner) and has changed either through buying and selling, grants between parents and their children or family, as well as due to inheritance, in general the transition is done by the community, it can be said that the transition is still relatively new, at this time almost no sales buy land documents are found, such as eigendom, and traditional Dutch land seals.

When examined above, it has the potential to violate the rights of indigenous peoples in obtaining land rights as if the community is simply considered to control state land, it is not appropriate to do this because in this study it was found that the land that had been or had not been registered was land. obtained from the ancestors from generation to generation by means of slashing and slashing forests, even since the village civilization began to form, the community has carried out activities, especially agriculture and building settlements, if the transfer of rights or registration can be proven by a letter of sale and purchase known to the Village Head and other supporting information such as traditional elders / village, then to prove the history of ownership of land rights in the determination of rights can be done in the same way.

The land rights are registered by recording them in the land book containing juridical data and physical data on the land parcels of the applicant and participant in the land registration, which have been legalized by the adjudication committee, bookkeeping and publishing are carried out as according to the

cluster above. after the issuance of the certificate, the certificate can then be handed over to the holder, in practice the certificate is submitted to the adjudication committee that has been appointed in the village, with the approval of the village head or directly concerned.

Conclusion

The illegal sale of land carried out by the people of the Merangin district, especially the village, is legal according to positive law and the law based on the UUPA and PP no. 24 of 1997 which is based on customary law, namely buying and selling land is legal if it is carried out with conditions that meet cash, real and clear conditions, but buying and selling carried out by the people of the Merangin district, especially in Kungkai Village, is prone to legal problems because the basis for the sale and purchase rights of the land is not archived. or registered by the village head so that if there is damage or loss of the right to the land, it has the potential to cause disputes between various interested parties.

The receipt by the Land Office of evidence in the form of a sale and purchase right as the basis for land registration has implications that affect the mindset of the community to register their right to own land based solely on the basis of the sale and purchase rights below because it can be accepted as a requirement for registering property rights. on land, so that people do not think about registering their land with a PPAT deed or an authentic deed because the community feels that what they have done is correct and does not conflict with applicable regulations and chooses rules that are easier to implement, so that the function or role of PPAT will be sidelined as a result of receiving it. underhand rights as the basis for land registration, this can make the community more motivated to want to buy and sell land in front of the village head, because in practice the private deed has the same position, that is, it can be used as the basis for land registration.

In the implementation of land registration based on underhand rights in Merangin Regency, especially in Kungkai Village, it has implications for the emergence of public concern for registering land rights they have because it is cheap to spend on public and easy or uncomplicated administration so that it can be determined when the certificate is issued. in contrast to land registration which is carried out sporadically, the community does not care and is not enthusiastic about registering their land rights.

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