



Blocking of Certificates of Land Rights in Dispute for the Order of Land Administration at the Land Office of Padang Pariaman District

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Abstract

Land is a gift from God Almighty to humans, human interests in land also increase from the growth of human population, no wonder if the interests of every human being in land can cause a conflict of interest over the use, ownership and control of land, Indonesia itself regulates land provisions through law -Law Number 5 of 1960. The existence of this LoGA is the main provision of the use and regulation of land in Indonesia, in addition to regulating land management an agency known as the National Land Agency is formed, this agency is given the authority to regulate and manage services for the implementation of every land affairs, one of which is for land registration activities. Land registration activities are aimed at providing legal certainty and protection for every holder of land rights with the final result being the issuance of a certificate. However, this publication often creates a problem that results in the interests of other parties in the land being disturbed, resulting in the act of recording blocking of a certificate. This blocking activity is accommodated by the Regulation of the Minister of Agrarian Affairs Number 13 of 2017. The purpose of this study is to determine whether the process of blocking land rights certificates has been able to create an orderly land administration and whether it can provide legal protection to land rights holders. The method of this research is empirical juridical, namely the juridical approach that is meant is that the law is seen as a norm or *das sollen*, because in carrying out discussions on blockers of land rights certificates and efforts to bring order to the Land Administration in dispute at the Land Office of Padang Pariaman Regency. especially in accordance with the provisions of existing laws and regulations. Based on the results of the research found in Kantah Kab.Padang Pariaman, the blocking of the certificate itself was due to a conflict of interest over land, especially on land that was jointly controlled, as well as on land whose inheritance distribution had not been completed. there is no unilateral transfer of rights so that it can protect other rights holders so that legal certainty in agrarian affairs and legal protection can be implemented. However, as for the weaknesses that occur in the services carried out by the official party, where in the electronic implementation through the KKP web the implementation of the service has not been carried out automatically, where if the application for blocking removal is not made, the holder of land rights cannot carry out legal actions or events on their land after blocking period is over.

Keywords: *Blocking; Certificate; Land Rights*

I. Research Background

Land is an important part of human life, at this time its availability is starting to be limited and cannot be renewed causing an imbalance between the community's need for land and the availability of the land itself. This is what causes frictions of interest that can cause problems regarding land. Land as one of the main resources, is a meeting point for the interests of all parties, so that various conflicts of interest can occur, even more so if the legal certainty of ownership has not been determined. The number of cases related to land indicates that land plays a central role in Indonesia's agrarian life and economy.

Undang-Undang Pokok Agraria (UUPA) as the basis for national agrarian law actually exists and creates a new concept for the existence of legal diversity in the agrarian sector in Indonesia, which makes customary law the main source of its development. With the promulgation of the UUPA starting from the date of its stipulation and its enactment, the provisions concerning land in Indonesia are guided by the UUPA in particular.

To follow up the mandate of the UUPA, one of which is in the context of realizing legal certainty for land owners, the government carries out land registration activities as regulated in Article 19 paragraph (1) and paragraph (2) stating that:

- (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 stipulated in a Government Regulation;
- (2) The registration includes: mapping measurement and land bookkeeping; registration of land rights and the transfer of such rights; the granting of letters of proof of rights, which serve as a strong means of proof”.

Thus, in the UUPA it has been determined that land throughout the Unitary State of the Republic of Indonesia must be registered by the right holder in order to obtain legal certainty in the form of a certificate of land rights listed in the UUPA. Regulations regarding land registration, apart from being regulated in the UUPA, are also further regulated by Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter referred to by the author as PP No. 24 of 1997). With the presence of this government regulation, it became the basis for improvements in land registration activities, after the revocation of Government Regulation No. 10 of 1961 which was declared no longer valid. This improvement is intended primarily regarding management, as stated in the General Elucidation that "In order to guarantee legal certainty in the field of land control and ownership, the certainty factor of the location and boundaries of each parcel of land cannot be ignored. From past experience quite a lot of land disputes that arise as a result of the location and boundaries of land parcels are not correct”. Land registration essentially provides certainty of rights to registered rights holders so that they can easily prove themselves as owners of the land. To realize legal certainty in the land sector, there are two things that must be considered, namely the need for a written land law and the implementation of land registration.

The land rights that have been registered already have legal certainty with the issuance of land rights certificates, these land certificates can be transferred due to legal actions or transferred due to legal events. However, in the implementation of land registration and the transfer of land rights, there can still be disputes over land rights that occur in the community. Legal actions or the occurrence of legal events are not only concerning the land object, but also concerning the basis of the rights of the land object, namely the certificate.

Land certificates are a product of the implementation of land registration activities. In addition to being regulated in Government Regulation No. 24 of 1997, provisions regarding certificates are also regulated in Article 69 and Article 91 of the Regulation of the Minister of Agrarian Affairs No. 3 of 1997 concerning Provisions for the Implementation of Government Regulation No. 24 of 1997 concerning Land Registration (hereinafter the author will refer to as Minister of Agrarian Affairs No. 3 1997). The existence of a land certificate for the holder of land rights is very important, this is because the certificate is used as evidence and guarantees legal certainty for the holder of the right itself.

PP No. 24 of 1997 adheres to a negative publication system that contains positive elements, this is because this land registration activity produces a certificate of proof of rights in the form of a certificate which acts as a strong evidence. Land registration with a negative system without being accompanied by reinforcing legal instruments still contains weaknesses in fulfilling the objectives of positive-normative law, so that the certainty obtained is still relative. This situation shows that the current land registration system does not provide effective guarantees of legal certainty over land rights. Thus, legal certainty regarding land ownership rights which still raises doubts for certificate holders, requires a deeper empirical study or analysis, especially in relation to social reality and legal awareness of the community. This is because the validity of the certificate is very important, at least because first, the certificate provides legal certainty of land ownership for the person whose name is listed on the certificate as the holder of land rights, so that this issuance can prevent land disputes. The issuance of this certificate gives a feeling of calm and peace because it is protected from arbitrary actions from anyone. Second, with the ownership of a certificate, the land owner can carry out any legal action as long as it does not conflict with the law, public order, and morality.

The certificate of land rights is only a preliminary evidence, has not become final as evidence of land rights, or in other words, that the certificate is one of the strong evidence tools, so that anyone who feels his rights are disturbed by the issuance or Legal actions on land that are carried out by one party can sue for land registration or transfers can apply for blocking of land certificates that are the object of dispute at the Land Office if they have strong evidence on the land. Therefore, the Land Office at the request of the parties may block the certificate of land rights.

From the norm of article 32 paragraph (2) PP No. 24 of 1997 explains that in a negative publication system the State does not guarantee the truth of the data presented. In addition, Indonesia itself does not use a purely negative publication system, this is because the registration of various legal events is a procedure for collecting, processing, presenting physical and juridical data. guarantee legal certainty. However, the weakness in this negative system is that the party whose name is listed as the right holder in the land book and certificate always faces the possibility of lawsuits from other parties who feel they own the land as well. Our land law, which uses the basis of customary law, overcomes the problem of a negative publicity system in land registration and certificate issuance with the *Rechtsverwerking* institution.

In its development, conflicts over land can lead to a lawsuit to the Court, or the submission of an application to block a certificate to the land office. Block registration itself is an administrative action carried out by the Head of the Land Office based on the application submitted. Regarding the previous block registration, it was still scattered in several regulations, not complete, not uniform, and still in a state implied by the existence of norms, so that it has the potential to become an obstacle to achieving orderly land administration. The government seeks to resolve these obstacles through the establishment of special regulations regarding blocking and confiscation, with the issuance of Minister of Agrarian Regulations and Procedures Number 13 of 2017 concerning Procedures for Blocking and Confiscation (hereinafter referred to as Agrarian Minister Regulation No. 13 of 2017).

The presence of the Minister of Agrarian Affairs No. 13 of 2017 aims to guide the Ministry of ATR/BPN, Regional Offices of BPN and Land Offices at the district and city levels in carrying out recording or removing blocks and confiscations or disputes and cases regarding land rights. And this Agrarian Regulation aims to achieve uniformity, standardization and administrative order in the implementation of recording and deletion of block and confiscation records or the existence of disputes and cases regarding land rights.

Block registration is carried out on land rights for legal actions or events, or because of land disputes or conflicts. Submission of block registration for legal protection of interests in land that is requested to be blocked at most once on the same land object. Applications for this block registration can be submitted by individuals, (whether private ownership, or joint ownership of land rights), legal entities, and also by law enforcers such as investigators, and or prosecutors in criminal cases, and blocking registration can also be carried out based on the initiative of the the ministry of ATR/BPN itself, regarding the submission of this block registration also has a different mechanism between submissions made by individuals, legal entities, law enforcement and or at the initiative of the ministry of ATR/BPN.

In relation to the application for blocking registration submitted by an individual, it must include a clear reason and be willing to be examined on the application in question. Article 13 of the Agrarian Regulation No. 13 of 2017 stipulates that the period of registration of blocks proposed by individuals or legal entities is valid for 30 (thirty) days, so that this period of 30 days is a form of follow-up of what efforts will be made by the applicant for blocking registration. , whether to resolve disputes that occur independently or will continue the case to the Court.

In various cases, land disputes are often followed by the blocking of certificates by interested parties, either by individuals, legal entities, or the government. The purpose of blocking the land certificate itself is to freeze the status of the land so that it cannot be transferred or transferred until the dispute ends and the control over the land becomes clear about who is the clearer holder of land rights. Blocking is carried out with the consideration that the interests of the person or legal entity entitled to the disputed land get legal protection.

In the context of orderly land administration, recording blocking, confiscation or disputes and cases concerning land rights, it is necessary to carry out land registration data maintenance activities in the form of recording in the land book and measuring documents. Land registration data maintenance activities are carried out if there is a change in the physical data or juridical data of the object of land registration, the party who feels aggrieved is obliged to register the changes that occur to the land office so that the data in the land office is in accordance with the conditions in the field.

From the implementation of this block registration, the most important thing to pay attention to is the existence of the *Rechtsverwerking* institution, related to the land being requested for a block where the existence of land whose possession and certificate issuance has been more than 5 years can also be requested for a block. This is sometimes rarely reviewed by the land office in carrying out block registration. Of course, the presence of this institution adjusts to the land law system in Indonesia which applies a negative publication system that creates legal certainty for holders of land rights in Indonesia is relative.

Padang Pariaman Regency is one of the most extensive regencies in West Sumatra Province, and its territory consists of highlands and lowlands which are still used for economic activities, utilization and ownership of land in this Regency is also one of the most interesting things, due to the position of This district is very strategic and has become one of the development buffer areas in West Sumatra. Conflict over land in Kabupaten Padang Pariaman is also quite high, whether it is conflict between individuals,

people with legal entities or with the local government itself regarding the use and control of land parcels. In the observations that the author has made at the National Land Agency of Padang Pariaman Regency (hereinafter referred to as the Padang Pariaman Regency Land Office), several cases that occurred at the Padang Pariaman Regency Land Office, especially for the case of blocking certificates, were found during 2018-2021 found 27 cases of blocking.

Of the several applications for blocking land rights certificates, whether they are submitted because of an application or a lawsuit caused by various kinds of problems, such as land registration without the knowledge of group members on jointly owned land, unilateral sale and purchase of land on jointly owned land without group approval, due to unfinished inheritance, due to debts or achievements that have not been made in an agreement, or in the form of mortgage rights, so that these parties have submitted to the local BPN and or to the Court to maintain their rights, but from several cases there are , only take the settlement of the dispute on the blocking of the certificate of land rights at the local BPN office, the mechanism of which is of course different from the lawsuit that goes to the court, of course in this case there are two possibilities that occur after blocking the certificate of land rights in dispute.

In this position, legal certainty in land tenure is disrupted due to the freezing of a person's rights to his land, so that in this case the purpose of issuing a certificate as proof of rights has not guaranteed legal certainty for the holder of the right to the land, in addition to the removal of the block that has been issued. should be abolished by law if the block period of 30 (thirty) without being extended through a determination or decision is still recorded so that in practice it is often not in accordance with existing provisions, so that the holder of the blocked land rights cannot take legal action on their land and must apply for block removal to the land office.

Based on this background, the author raised a scientific paper entitled "**Blocking of Land Rights Certificates and Its Effect on Orderly Land Administration Who Has Disputes at the Padang Pariaman Regency Land Office**".

II. Research Methods

The sociological juridical approach method emphasizes research that aims to obtain real legal knowledge by going directly to the object, namely, to find out the occurrence of a dispute that resulted in the blocking of land rights certificates and procedures for resolving the dispute so as to create an orderly land administration at the land office of Padang Pariaman Regency.

III. Research Result

Application for block registration of certificates at the District Office. Padang Pariaman itself is carried out based on the provisions of the Minister of Agrarian Regulation No. 13 of 2017 concerning Procedures for Confiscation and Blocking. The implementation of block registration refers to Article 3 of the Regulation of the Minister of Agrarian Affairs No. 13 of 2017 which states that block registration is carried out on land rights for legal actions or events, or because of land disputes or conflicts. However, based on the information that the author obtained from Aulia Zikrullah S.H as Head of the Land Dispute Handling Subsection of Kantah, Padang Pariaman Regency, he stated that the block category itself is not included in the dispute category, but is a rebuttal. Land disputes often occur in the land registration

process before the issuance of a certificate of title, while rebuttals occur after the issuance of a certificate. However, in practice the block itself arises due to a conflict of interest or also known as a dispute.

Based on the information that the author obtained from Mr. Deri as the Head of the Subsection of the Determination of Rights at Kantah Kab. Padang Pariaman, Blocking of certificates submitted to Kantah Kab. Padang Pariaman often occurs on customary land in this case in the form of communal land belonging to the people. This is due to the fact that the name of the other holder is not included in the certificate, the unilateral transfer of land rights, the distribution of inheritance that has not been settled within the family, and due to the existence of receivables from the sale and purchase of land that have not been repaid so that it is requested to be blocked by a third party with an interest in the land.

According to information from Mr. Deri Artoni S.A.P as Head of subsection for Determination of Rights at the District Land Office Padang Pariaman, for the blocking case that occurs only applies to land whose certificates have been issued, for the process of issuing land certificates in general follow the existing formal provisions and specifically for the category of joint land belonging to people or tribes, For in West Sumatra, especially Padang Pariaman Regency, land leveling Common property requires several formal requirements, one of which is a statement of the lineage of inheritance which is signed by members of all the tribes concerned and known by the mamak of the head of the inheritance and the local customary apparatus. Even though the formal requirements for land registration are met, there are still some cases where the holders of land rights, especially for the issuance of land certificates belonging to the clans, are found, this is because there is no unanimous agreement from all members of the clan to register their land, or one of the members of the clan. these people have other interests in this jointly owned land, one of which is to be transferred or encumbered with mortgage rights. Apart from that, it was also found that one of the causes of the blocking that occurred was due to an interest in protecting parties who have an interest in buying and selling land or other agreements, where one of the parties requests a block due to circumstances because they are still in debt and have not completed other obligations, and inheritance cases whose distribution has not been completed.

Based on the information that the author obtained from Mr. Deri Artoni S. A, P. as the head of the subsection of Rights at the District Land Office Padang Pariaman, for blocking that is applied by individuals directly to the Kantah Kab. Padang Pariaman is carried out in accordance with the provisions of Permen ATR/BPN No. 13 of 2017, while the stages carried out include the following:

1. Acceptance of Application and Examination (Article 8)

The application for registration of blocking shall be submitted through the local Land Office counter, accompanied by documents for the completeness of the requirements. The submission of this blocking application can be made by individuals, legal entities, or law enforcement, where the applicant includes clear reasons and is willing to be examined, for individual applicants, they must have a clear relationship with the land being applied for this block. The legal relationship on this land can be in the form of individual land owners or joint ownership for ulayat land in the form of tribal or tribal land for the West Sumatra region, heirs or joint property ownership, parties bound in the agreement either through a notarial deed or an underhand agreement, or bank in the case of land being used as collateral. For the requirements submitted by individual applications, the required conditions are as stated in article 6 of the ATR/BPN Ministerial Regulation No. 13 of 17.

2. Assessment Stage (Article 9)

After registration, the application is continued with the review and recording process. The process is carried out within a maximum period of 3 (three) working days from the receipt of a complete application. In Article 10 it is explained that the assessment process is carried out by officials

who have duties in the field of disputes, conflicts and cases. The assessment is carried out by taking into account the following:

- a. The subject or party applying for the block registration;
- b. The terms and reasons for the block registration can be carried out;
- c. Block period; and
- d. Fees in accordance with the provisions of laws and regulations

The review and review of the assigned staff will explain the legal basis for land, analysis and consideration of whether or not the blocking application is acceptable. The results of the staff review are submitted to the Head of the Office. There are several reasons why the block registration application will be rejected, namely:

- a. There is no legal relationship between the subject and the object of the application so that the application will be rejected and no further process will be carried out.
- b. The requirements for the block registration application are incomplete or the requirements given in the implementation of the application registration are obtained in bad faith.

3. Recording (Article 11)

The procedure for recording the block is regulated and explained in Article 11 which states that in the event that the results of the assessment receive a registration application, the Head of the Land Office or the appointed official shall carry out the registration of the block. If in the event that the results of the assessment reject the application for registration, the Head of the Land Office shall notify in writing by means of an official letter to the block applicant and/or the parties concerned along with the reasons for his refusal, the reasons for the refusal are obtained from the results of the assessment and checking carried out by the assigned land office officer. to get off the field. Block registration can be done manually or electronically, manual checks are carried out at the local land office and electronically carried out with applications that are already connected to the computerized system of the Land Office. Block registration is carried out by the Head of the Land Office or the appointed official in the relevant Land Book and Measurement Letter.

Block registration shall at least contain information regarding the time (hours, minutes and seconds) and date of recording, the subject submitting the application, and the reason for the application. The writing of block registration is recorded in the following sections, namely:

- a. Land book, in the column for the registration of the transfer of rights, encumbrances and other records;
- b. Letter of measurement, on the sheet of measurement letter that is still available. In the event that there is no empty space on the measuring letter to record the block, the blocking will be recorded on separate paper and attached to the measurement letter.

Block registration is legalized by being signed by the official who recorded it and affixed with the stamp of the local Land Office. After the registration of the block is legalized as referred to above, the Head of the Land Office or an official who has duties in the field of agrarian legal relations shall notify in writing through an official letter to the applicant for the block and or the parties concerned appropriately.

When viewed from the theory of actual legal certainty in national agrarian law, the State as in this case represents its authority to the Land Office has accommodated the presence of various kinds of regulatory norms such as providing land rights registration services for the benefit of each right holder as well as providing and facilitating all forms of legal certainty. provision of services in the land sector, transfer of rights, or handling of disputes against holders of land rights, and each holder of land rights is also given authority over each of his rights to be utilized and registered in accordance with the provisions

of laws and regulations in order to achieve a goal and legal certainty. The purpose of legal certainty in this agrarian law is to provide a sense of security for every right holder of his control over the land he owns and also as a form of legal protection for every legal subject so that the legal object under his control is not controlled arbitrarily by a person or party. any other matters and give the authority and responsibility to the Land Agency to carry out services for the implementation of every affairs of the holder of land rights on the land under his control.

When viewed from the implementation of the blocking that occurred at the land office of the Padang Pariaman Regency, in the practice that occurred from 2018 to mid-2022 today, the blocking that occurs is generally aimed at protecting the interests of rights holders, especially in the context of jointly owned land which is still dominant in the district of Padang Pariaman, from the total blocking submitted through a direct application to the land office of the district. There have been 38 applications in Padang Pariaman, and based on the information of Mr. Deri as the Head of Subsidy for Determination of Kantah Kantah Kab. More than half of Padang Pariaman's are applications submitted by rights holders related to protecting their jointly owned land rights within the clan in order to avoid the unilateral transfer of rights from one member of the clan who is also the holder of joint rights to a plot of land, so that other rights holders are requested to the status of land rights is frozen to avoid disputes within the people concerned until the problem is resolved. The rest of the cases that occur protect the interests of the beneficiaries of inheritance rights that have not been completed for the distribution of their inheritance, as well as regarding the blocking carried out in the form of confiscation of debt guarantees.

As a state of law. The form of legal protection provided by the State is to guarantee certainty and protection for every citizen. Reflecting on the theory of legal protection according to Philipus M. Hadjon, one of which is related to preventive legal protection, the State has accommodated legal protection for every right holder by establishing rules that aim to protect every right and interest of every citizen regarding ownership of land rights. it can be seen where one of them is the State as the authority that guarantees independence and protects every citizen forming rules for implementing confiscation and blocking which previously had no special rules and were still scattered in several other regulations so that there was no form of uniformity of rules, apart from that the legal protection itself is also form of legal certainty guaranteed by the State for every holder of land rights.

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