



The Role of the Jayapura City Land Office on Issuance Double Certificate (Overlapping)

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Abstract

Having a certificate in order to guarantee legal certainty, but in reality, in Jayapura City there are still disputes between parties when certificates are duplicated either directly or indirectly and can cause losses to the parties concerned. The research method used is normative and empirical, ie. an approach that draws on statutes, literature, written regulations or other secondary legal material and considers their application through field research. The results of this study indicate that the role of the Jayapura City Land Office in issuing land certificates is in land registration which aims to provide strong proof of rights in the form of land title certificates and the factors that cause dual certificates to occur, namely internal and external factors. Internal factors can be caused by the land registration process carried out by the Jayapura City Land Office including psychological, sociological and administrative factors, while external factors are strategic environmental factors which can be in the form of the influence of community legal culture, weak databases and land ownership management systems at the district/village level, pluralism of types and characteristics of land ownership in the community, while other factors are related to customary transfer of land rights.

Keywords: *Role; BPN; Double Certificate (Overlapping)*

Introduction

The meaning of the earth is actually the surface of the earth, which in proper use also includes the lower body of the earth and the upper confined space. Land rights are rights to use certain parts of the earth's surface, which are called land, and the land beneath it and the water and space above it, as long as it is used or not owned.¹

The Unitary State of the Republic of Indonesia based on the 1945 Constitution is a constitutional state that guarantees and protects the rights of citizens, including the rights of citizens to acquire, own and enjoy land rights.² Land registration also has a purpose, one of which is to guarantee legal certainty and legal protection for holders of basic rights. As is known, the issuance of property rights in the form of

¹ Boedi Harsono, *Hukum Agraria Indonesia Sejarah Pembentukan Undang-Undang Pokok agraria, Isi dan Pelaksanaannya*, Djambatan, Jakarta, 2008, hlm 18.

² Kartini Muljadi dan Gunawan Widjaja, *Hukum Harta Kekayaan Hak-Hak Atas Tanah, Kencana*, Jakarta, 2004, hlm 94.

deeds proving land rights, rental rights, waqf land, ownership rights to flats and mortgage rights to be included in the relevant land register based on Article 19 paragraph (2) letter (c) UUPA.

Documents such as legal evidence are issued in such a way that the interests of the right holder are in accordance with the materials and legal information in the survey papers that are included in the land registration. Obtaining a certificate is a legally guaranteed right from land rights holders. Certificates can only be given to people who are registered in the land register as the owner of the right.³

Many terms related to certificates are not found in legal dictionaries. Multiple certificates is a phrase that is interpreted connotatively and is usually defined as an act involving two or three certificates with different names. In practice, property deeds are often duplicated, namely deeds issued by state officials, in this case the BPN, on behalf of two or more owners with different names or identities, but the intended assets are the same. As a result, apart from causing uncertainty about legal ownership, litigation can also occur between rights holders related to the certificates they own.

In other words, a certificate is proof of legal ownership of property and is only given to the right holder or person authorized by him. However, in reality, ownership of land certificates by holders of land rights often creates problems with the certificates they hold, even though land certificates are strong evidence of ownership of land rights. One of the problems that often occurs is multiple certificates, especially in Jayapura City.

Therefore, it is necessary to pay attention to the role of the Jayapura City Land Office as the agency authorized to issue certificates, in cases where there is overlapping land rights certificates which are the only valid proof of ownership. So with that BPN itself has the authority regulated in the Regulation of the Minister of Agrarian Affairs/KBPN Number 3 of 1999 concerning Delegation of Authority to Grant and Cancellation of Decisions on Granting State Land Rights.

Method

The method used is normative and empirical law, normative law is an approach that refers to law, literature, written regulations or other secondary legal materials. While the empirical, namely the identification and conceptualization of law as a social facility that is real and functioning in real life systems in the field.

Result and Discussions

Land registration activities consist of two parts, namely initial land registration and maintenance of land registration data, in which BPN plays an important role in relation to land registration. The first land registration activities by BPN include:

- a. The collection and management of physical data requires activities in the form of measurement and mapping:
 1. Making the Base Map for Registration BPN organizes the installation, measurement, mapping and maintenance of the bases that form the framework for making the Registration Map.
 2. Determination of land boundaries, the land to be mapped is surveyed, after the location has been determined, the owner of the land right puts boundary signs in every corner. If the title is unregistered or registered but there is no measurement certificate or the location image in the measurement certificate does not match the actual location, the jury will determine the limits of the respective owners periodically. Land ownership and must be approved by the

³ Boedi Harsono, *Op.cit.*

- land owner concerned. Pay attention to the limits of the registered package and the measurement certificate or photo of the actual situation. If there is an agreement between the parties between the rights holder and the border party, a formal investigation will be launched.
3. Compartment survey and mapping as well as registration map preparation, plots that have been demarcated are surveyed and mapped on the registration base map. If in an area where property registration is accidentally carried out there is no Basic Registration Card, then another card can be used as long as it fulfills the requirements for making a Registration Card.
 4. Preparation of the land register. Land plots that have been mapped and whose registration numbers are included in the land register are included in the land register.
 5. Compilation of a survey letter, the plots surveyed and mapped on the registration card are used as a survey letter for the registration of their rights.

b. Pembuktian hak dan pembukuannya

- 1) Evidence of New Rights There are several types of new rights that can be proven, including:
 - a) New land rights, evidenced by the granting of rights by officials authorized to grant rights, provided that these rights originate from state land or state administrative law. The new land rights can also be proven by the original PPAT deed, which includes the transfer of rights from the owner of the rights to the recipient of the rights, these rights are property rights such as building ownership rights and land ownership rights.
 - b) Administrative rights are proven by granting administrative rights to authorized representatives.
 - c) Waqf land is proven by a waqf mortgage deed.
 - d) Ownership of residence is proven by deed of separation.
 - e) The granting of a lien is proof of the granting of a lien.
- 2) Proof of old rights, in the case of registered rights of interest, ownership rights for changes in ownership or transfer of old rights can be proven by proving the existence of said rights as written evidence, with witnesses who are considered legal or valid. It is enough to establish the rights, the rights of the rights holders and other persons who blame them, register the arbitration committee in the case of systematic land registration or the head of the land registry in the case of random land registration. A certificate of prior title can also be given on the basis that the informant has physically controlled and used the object in question for at least 20 (twenty) years without stopping. Provided that it is confirmed by a statement from a trusted person and supervision is not opposed by the customary law community concerned or any other party. Proving ancient rights in this way is a method without exhaustive means of proof.
- 3) The bookkeeping of rights, land rights, property rights, waqf land and property rights at the place of residence is included in the land register, which consists of legal and factual information on the property concerned, provided that it is a survey document. Property accounting is proof of respective title holders and rights as well as land, made in accordance with national regulations by legally registered survey letter. Entitlements are billed based on evidence and verification protocols.

- c. Issuance of certificates, certificates are valid certificates that are used as strong evidence of physical and legal information as long as it is in accordance with the information contained in the survey and deed of land ownership. If there are records in the land registry of unresolved objections, disputed rights and incomplete factual and legal information, the issuance of the documents will be suspended until the entries in the confirmation protocol are deleted. If a deed for an item has

been validly issued in the name of an individual or legal entity that acquires and releases an item, then the party who considers himself entitled to the item cannot sue unless he submits a written objection to the owner of the item. certificate and registration of the land concerned to the management within 5 (five) years from the issuance of the certificate or not filing a lawsuit against the court for the issuance of the certificate.

- d. Submission of factual and legal information, when submitting factual and legal information, the land registry office keeps records in the land registration consisting of cadastral plans, land registers, survey documents, land registers and name lists. Everyone has the right to information in the form of factual and legal information in cadastral plans, lists of names, size sheets and land registers, where the data listed in the list of names contains information about individuals or legal entities, the area of land they own, and the list of names can only be known by the agency.
- e. The general registers and documents which form the basis of the application, documents in the form of land registration plans, lists of assets, survey papers, land registers, name files as evidence must be marked and kept by the registration office. responsible land. Copies or recordings of said letters can be given to other agencies that need them to fulfill their duties, with the written approval of the officials appointed by them. By order of the court hearing the case, the head of the competent national agency or an official appointed by him must bring the original documents to the court session concerned to be submitted to the court and interested parties. Land registration information is recorded with the help of electronic devices and microfilm and presented in stages.

While the factors that cause the occurrence of double certificates (Overlapping), namely:

1. The internal factors of the community, consisting of land officials and land candidates, are related to the land registration system from the start. Psychological aspects of ability, intelligence and vision can be identified from behavior conditions or mastery of laws and regulations. stability of work when performing hardware tasks of legal-technical and administrative processes, demonstrating the ability to adequately perform their duties. Both of these sociological aspects can be influenced by the degree of sociological relationship between land officials and plaintiffs.
2. Strategic environmental external factors and customary rights transfer. According to common law, buying and selling land is an act of transferring land rights that are clear and financial. This means that the transfer of rights must be carried out in the presence of an ordinary administrator who is responsible for the order and validity of the transfer of rights, so that the action is known to the public. Cash means the transfer of rights and payment of land prices is made in cash.

Conclusion

The role of the Jayapura City Land Office in issuing land certificates is to complete land records in accordance with applicable laws and regulations to prove that the applicant has rights over the land. Although the factors causing the existence of multiple certificates (overlapping) are internal and external. Internal factors can be caused by the land registration process carried out by the Jayapura City Land Office including psychological, sociological and administrative factors, while external factors are strategic environmental factors which can be in the form of community legal influence and culture, weak databases and land tenure management systems at the regional level /village, other factors related to the customary transfer of land rights.

References

Boedi Harsono, *Hukum Agraria Indonesia Sejarah Pembentukan Undang-Undang Pokok agraria, Isi dan Pelaksanaannya*, Djambatan, Jakarta, 2008.

Kartini Muljadi dan Gunawan Widjaja, *Hukum Harta Kekayaan Hak-Hak Atas Tanah*, Kencana, Jakarta, 2004.

Susila, *Kejahatan Sertifikat Tanah Ganda*, Universitas Brawijaya Press, Malang, 2014.

Republik Indonesia, Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria.

Republik Indonesia, Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah.

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