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Mission Problems of Realizing Legal Security on Village-by-Village Land Rights Periodic in Indonesia

Koes Widarbo

Lecturer, Yogyakarta National Land College, Indonesia

Corresponding Author: Koes Widarbo

Abstract

Based on Article 19 Paragraph (1) of Law 5/1960 UUPA, the purpose of land registration is to guarantee legal certainty. Even though Indonesia adheres to a system of registration of rights with a negative publication system with positive elements, rights certificates are strong evidence but can still be canceled based on a court decision with permanent legal force, in this case the state does not guarantee the accuracy of the data^[30]. Meanwhile, a country that guarantees the correctness of data is a positive system. Apart from that, activities to accelerate the quality and quantity of land registration data must be carried out. The first mission, PP 10/1961 era, is Complete Village and

National Agrarian Project (PRONA). The second mission, PP 24/1997 era through PRONA and Systematic Land Registration Adjudication (PTS). The third mission, PP 24/1997 era through Complete Systematic Land Registration (PTSL) based on Per.Men.ATR/KBP 6/2018, is in the form of a Complete Village/Kelurahan Declaration. Each stage of that era also carried out routine (sporadic) service missions. Based on this background, the issue raised is the problem of the mission of realizing legal certainty over village land rights by village or sub-district periodically in Indonesia. The research method uses normative law with a qualitative perspective.

Keywords: Problems, Mission, Realizing, Legal Certainty, Village/Kelurahan

Introduction

Article 33 Paragraph (3) of the 1945 Constitution, the land, water and natural resources contained therein are under the control of the state and used to the greatest extent possible for the prosperity of the people, as the philosophy of Law Number 5 of 1960 (UU 5/1960) concerning Basic Regulations Agrarian; also referred to as the Basic Agrarian Law (UUPA) based on its FIFTH Dictum, which can also be referred to as UUPA 5/1960. Then as a follow-up to Article 2 of UUPA 5/1960 UUPA relating to the field of land registration, especially Paragraph (2) point (b), and (c) followed up with Article 19 UU 5/1960 UUPA:

“(1) To ensure legal certainty by the Government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions stipulated by Government Regulations.

(2) The registration referred to in paragraph (1) of this article includes:

- a. land mapping and bookkeeping measurements;
- b. registration of land rights and the transfer of said rights;
- c. Provision of letters of evidence of rights, which are valid as a strong means of proof.

(3) Land registration is carried out taking into account the condition of the State and society, the need for socio-economic traffic and the possibility of implementing it, according to the considerations of the Minister of Agrarian Affairs.

(4) In a government regulation, the fees related to the registration referred to in paragraph (1) above are regulated, provided that people who cannot afford to pay are exempted from paying these fees.

Article 19 paragraph 2 letter b of Law 5/1960 UUPA stipulates that the land registration system adopted is a system of registration of rights with a negative publication system with positive elements, as in Article 19 paragraph 2 letter c, namely issuance of letters of evidence as a strong means of proof (not absolute). According to Koes Widarbo,¹As a follow-up, the promulgation of Government Regulation Number 10 of 1961 concerning Land Registration, hereinafter referred to as PP

¹Koes Widarbo, *Manfaat Pendaftaran Tanah Sistematis Lengkap Dalam Rangka Mewujudkan Pendaftaran Tanah Sistematis Publikasi Positif Di Indonesia, Proposal Penelitian Disertasi*, Universitas Jember, Fakultas Hukum, 2022, h.160.

10/1961. The first mission, land registration activities are carried out village/kelurahan by village/kelurahan throughout Indonesia, in an approach that tends to be epistemological consisting of two models, namely:

1. Complete Village.
2. Incomplete Village.

The Complete Village Project Mission is the implementation of the activities of measuring, mapping and bookkeeping of the land from Article 19 Paragraph (2) letter (a) with the final product being a land registration map containing each area that is cadastral mapped with physical data and juridical data. The Village Project is complete PP 10/1961, funds are sourced from the State Budget (APBN). According to this article, it does not even extend to the registration of rights and the issuance of certificates of land rights, but from an internal perspective, it is a land administration mission in the form of a land registration map. The strength of this product is that it provides information that every plot of land in a village/kelurahan area is mapped, so that its mission from the external side is to support opportunities as a preventive effort to avoid overlapping land parcels as long as the land parcel object submitted for the registration and issuance process of the certificate uses and includes the land parcel. In the PP 10/1961 era, a mission to determine rights and land registration was carried out for the first time through the National Agrarian Project (PRONA), the source of funds from the APBN. Objects are designated by several villages/kelurahans in one designated district/city.

Then PP 10/1961 was revoked, no longer valid and replaced with PP 24/1997 concerning Land Registration, partly because PP 10/1961 was no longer able to support land registration in the era of the scope of acceleration of land registration activities, legal certainty and technological advances, especially entering electronic era into the land registration system. The era of PP 24/1997 in its epistemologically inclined approach was PRONA and sporadic land registration, missions were also carried out through two models of land registration:

1. Sporadic.
2. Systematic.

In connection with the mission of realizing the acceleration of legal certainty over land rights, village/kelurahan by village/kelurahan is the Systematic Land Registration (PTS) model through adjudication. Adjudication was formed by teams from villages/kelurahans appointed by the State Minister for Agrarian Affairs/Head of the National Land Agency (BPN), the source of funds was from the World Bank with accompanying funds from the State Revenue and Expenditure Budget (APBN), the mission was held from 1998 to 2006; while the final product target is bookkeeping and certification of land rights, so that it has internal land administration strength, so that the external aspect is the opportunity to realize the mission of legal certainty.² However, the weakness in land administration (particularly land registration) for areas that have not been certified has not been mapped out in the PP 24/1997 PTS registration map. Likewise, land parcels that had previously

been sporadically certified in the PP 10/1961 era could not be comprehensively remapped in the PP 24/1997 PTS registration map. So that the administrative weakness aspect of the land registration map is that the single mission of the land registration map has not been realized.

However, bearing in mind that the progress of certifying land rights is considered relatively slow, as it turns out, in 2017, only 30% of land plots were certified, out of a total of 126 million plots of land outside forest areas.³ The Government of the Republic of Indonesia through the Ministry of Agrarian Spatial Planning/National Land Agency followed up on the success of the accelerated land registration program through PTS Adjudication. based on PP No. 24 Th. 1997 jo. PMNA/KBPN No.3 Th.1997. The Adjudication PTS was refined to become a Complete Systematic Land Registration (PTSL) based on the Ministerial Regulation. ATR/ Ka. BPN No. 6 Th. 2018. Equipped with PTSL Technical Guidelines (Juknis) every year it is refined according to the situation and conditions of its development needs. The number of land parcels up to 2022 is as follows: 98.9 million registered land parcels, while 82.4 million land parcels with certificates. So that there are a number of land parcels that have not been registered ± 27.1 million land parcels and 43.6 million land parcels which have not been certified, so that the land parcels which have not been registered are ± 27.1 million plots of land and 43.6 million plots of land that have not been certified.⁴ However, considering that PTSL pursues the realization of the quantity of products, the quality of the products is also required to guarantee legal certainty over their land rights. So that the mission of realizing legal certainty of the right to property is carried out optimally.

Previous Research

As for previous research that can still be related to this theme, including the following:

1. Titled: "Research Efforts in the K4 Land Cluster Fields in the Context of Accelerating the Realization of a Complete Village/Kelurahan in the Bogor City Land Office", by Muhammad Aidi Marsya. The research concept emphasizes the strategy used as a solution to overcome the obstacles faced, aiming that the K4 Cluster can be upgraded to become a K1 or K2 Cluster.⁵
2. Titled: "Implementation of Yard Service Rights in the Implementation of Complete Systematic Land

³ Kementrian ATR/BPN, *Sosialisai Peluncuran Program Pendaftaran Tanah Sistematis (PTSL) Tahun 2017*, (Jakarta: Sekretariat Jendral, 2017).

⁴ Koes Widarbo, *Manfaat Pendaftaran Tanah Sistematis Lengkap Dalam Rangka Mewujudkan Pendaftaran Tanah Sistematis Publikasi Positif Di Indonesia, Proposal Penelitian Disertasi*, (Universitas Jember, Fakultas Hukum, 2022), h.176.

⁵ Muhammad Aidi, *Upaya Penelitian Bidang-Bidang Tanah Kluster K4 Dalam Rangka Mempercepat Perwujudan Desa/Kelurahan Lengkap di Kantor Pertanahan Kota Bogor*, Skripsi, (Yogyakarta: Sekolah Tinggi Pertanian, 2022).

Realization of a Complete Village/Kelurahan at the Bogor City Land Office, Thesis, (Yogyakarta: College of Land Affairs, 2022).

² Koes Widarbo, *Manfaat Pendaftaran Tanah Sistematis Lengkap Dalam Rangka Mewujudkan Pendaftaran Tanah Sistematis Publikasi Positif Di Indonesia, Proposal Penelitian Disertasi*, Universitas Jember, Fakultas Hukum, 2022, h.169 dan 171.

Registration (PTSL)" (Study at the Bekasi District Land Office), by Nugraha Salman Ishaya. The research concept focuses on how to study the implementation of PTSL in overcoming the registration of land service rights.⁶

3. Entitled: Juridical Problems in Complete Systematic Land Registration (PTSL) of Gogol Rotating Land in Sidoharjo Regency, by Koes Widarbo. The concept focuses on the problem of Gogol Rotating Land on PTSL which is in arrears to be certified (Cluster K1).⁷

Research Methods

The method was originally obtained from the Greek word, namely *methodos* and in Latin from the word *methodus*, which is a procedure in order to achieve goals.⁸ Legal research is a sequence of scientific activities, referring to methods, based on a certain system and thought, aiming to examine one or several permanent phenomena of certain laws by means of conducting studies. Then another main chapter becomes an afterthought, namely the act of in-depth investigation of the legal facts, then determines an analysis of the main problems or issues that occur in connected phenomena. This research uses a normative juridical research method with a problem approach that can be related to:⁹

1. Statute approach (legislation approach);
2. Historical approach (historical approach);
3. Conceptual approach (conceptual approach);
4. Comparative approach (comparative approach).

Research generally consists of two groups of data, namely:¹⁰

1. Primary data, data obtained directly from the community.
2. Secondary data, data obtained from library materials; normative juridical research conducted by researching library materials or secondary data.

While the juridical material analysis method is carried out with its scope consisting of juridical concepts, technical juridical norms, juridical figures, and juridical sources.¹¹ then this juridical analysis can also be perfected with a tendency approach to legal philosophy.

⁶ Nugraha Salman Ishaya, *Implementasi Hak Pengabdian Pekarangan pada Pelaksanaan Pendaftaran Tanah Sistematis Lengkap*, Skripsi, (Yogyakarta: Sekolah Tinggi Pertanian, 2021).

⁷ Koes Widarbo, *Problematika Yuridis Dalam Pendaftaran Tanah Sistematis Lengkap (PTSL) Tanah Gogol Gilir di Kabupaten Sidoharjo*, (Yogyakarta: Jurnal Tunas Agraria, stpn.ac.id, 2021).

⁸ A'an Efendi, Dyah Ochtorina Susanti, Rahmadi Indra Tektona, *Penelitian Hukum Doktrinal*, (Yogyakarta, LaksBang Justitia, Nov.2019, h.20., diakses dari www.merriam-webster.com, diakses 15-11-2018).

⁹ Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revisi, (Jakarta: Prenadamedia Group, Cetakan ke-12, April 2016), h. 133.

¹⁰ Soerjono Soekanto, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, (Depok, PT Radja Grafindo Persada, Divisi Buku Perguruan Tinggi, Cetakan ke-21, Februari 2022), h. 12.

¹¹ Philipus M. Hardjon, *Pengkajian Ilmu Hukum Dogmatik (Normatif)*, Makalah, (Surabaya: Fakultas Hukum Unair, 1994), h. 3-4.

Philosophy or philosophy according to the Big Indonesian Dictionary (KBBI) namely knowledge and investigative activities based on reason regarding the area of the nature of all that exists, its causes, origins and laws. Domikus Rato explained,¹² legal philosophy consists of two words, namely philosophy and law; the word philosophy comes from the Greek: *Philosophia*; while the word *philo* (*philein*) means love and *Sophia* means wisdom, so the word *philosophia* means love of wisdom (love of wisdom). If someone loves wisdom, it means that all his thoughts, words and actions will always be wisdom-oriented, that is, based on wisdom to come to truth and justice. Remember, law is not a goal but only an instrument or tool to get justice, the purpose of law is made to create justice which in the end is to create prosperity. The tendentious approach to legal philosophy completes two parts:

1. classification of ontological, epistemological and axiological stages;
2. The three characteristics of philosophical thinkers are fundamental, comprehensive and speculative.

Results and Analysis

Departing from the problem and analysis approach mentioned above, complemented by an approach with legal philosophy tendencies, activities are carried out at the results and analysis stages.

Land Registration System and Publication After Law 5/1960 UUPA Came into Force

According to Koes Widarbo,¹³ Law 5/1960 UUPA is a milestone in the direction of establishing agrarian and land policies, one of which is a milestone in the start of the implementation of land registration in Indonesia based on National Law products regulated in Article 19 UU 5/1960 UUPA. Land registration will be carried out in a simple, easy and understandable manner and will be carried out together with the people whose village/kelurahan is the object of land registration.

In General Explanation IV: The basis for implementing legal certainty, among other things, it was decided: Efforts that lead to certainty of land rights were obtained from the provisions of articles on land registration. Articles 23, 32 and 38 are directed at the holders of their rights in order to obtain certainty about these rights. As for Article 19, it is directed at the Government as an instruction so that in all regions of Indonesia, land registration is carried out in a cadastral rights nature, aiming to guarantee legal certainty. Land rights and collateral rights, the implementation of which must be recorded in the register of land books. So that it is confirmed, we use the land book system or "grond boek stesel", the registration of titles is carried out. Overschrijvings Ordonantie 1834 uses a system that what is registered is a legal action that is carried out (handover

¹² Dominikus Rato, *Filsafat Hukum, Suatu Pengantar Mencari, Menemukan dan Memahami Hukum, Cetakan IV*, (Surabaya: LaksBang Justitia, 2014).

¹³ Koes Widarbo, *Manfaat Pendaftaran Tanah Sistematis Lengkap Dalam Rangka Mewujudkan Pendaftaran Tanah Sistematis Publikasi Positif Di Indonesia, Proposal Penelitian Disertasi*, Universitas Jember, Fakultas Hukum, 2022, h.156.

juridis que or juridische levering): giving birth to new land rights, giving mortgages to creditors, transferring land rights to other parties. These legal acts are notarized by overschrijvings ambtenaar ("registration of deeds").

While the direction of the national policy for the implementation of land registration is regulated based on Article 19 UUPA 5/1960 UUPA Paragraphs (3) and (4) based on the provisions of Article 11 paragraph (2) UUPA 5/1960 UUPA, inequality in social life conditions and the need for law between groups the people if necessary and does not conflict with national interests that need to consider guarantees of legal protection for the interests of economically weak groups. Likewise, the General Explanation of Law 5/1960 UUPA number IV: Registration will be carried out taking into account the interests and circumstances of the State and its people, the needs of socio-economic traffic and the possibilities in the field of human resources and tools.

According to Koes Widarbo,¹⁴ ontologically the legal philosophy of land registration is a system of recording or recording both origin air and derivative relating to physical data (cadaster) and juridical data (land registration). The term scope of the two in Indonesia is used as one term, namely Land Registration as outlined under Article 19 Paragraph (1) of Law 5/1960 UUPA

Mission Era of Government Regulation Number. 10 of 1961 (PP 10/1961)

According to Koes Widarbo,¹⁵ PP 10/1961 as an act of Article 19 paragraph (2) letter © UU 5/1960 UUPA adheres to a system of registration of rights with a negative publication system. As for obtaining the ontologically inclined approach in land registration mentioned above, the epistemologically inclined approach is from PP 10/1961, namely by dividing the land registration acquisition system into two groups, namely:

1. Complete Village;
2. Incomplete Village;

the main problem with the mission of land registration in realizing legal certainty of rights over village after village or sub-district after sub-district is the establishment of a complete village/kelurahan order taking into account the resources that were not ready in the 1960s era, whether management, people, expertise, tools, budget and technology, then the substance of the negative publication system containing positive elements is stated in Article 19 Paragraph (2) letter (c), Article 23 Paragraph (2), Article 32 Paragraph (2) and Article 38 Paragraph (2) Law 5/1960 UUPA, with the indicators of providing documents proof of rights to function as a strong means of proof. In the sense that it is not an absolute means of proof, that the certificates cannot be canceled as is generally the case in the positive publication system. This implies,

Elucidation 1 General PP 10/1961 describes an epistemologically inclined approach to land registration activities consisting of:

1. Measurement and land mapping and administration of its business.
2. Registration of rights and their transfer.
3. Provision of letters of evidence of rights that function as strong evidence.

The implementation of land registration is made the task of the Bureau of Land Registration (Article 2). The task of land registration now concerns all land within the territory of the Republic of Indonesia, whereas previously it mainly concerned only lands with so-called "western rights". In carrying out land registration, careful attention must be paid to:

1. Its initial basis ("opzet"); and
 2. Maintenance ("bijhouding").
- A. Measuring and mapping of lands and administering their business administration. With regard to the strength of the evidence of the registration maps since PP 10/1961 as a revision of the previous era; according to Hermanses,¹⁶ based on Article 19 paragraph 2 letter © UU 5/1960 in conjunction with Articles 3, 5, 11 and 13 PP 10/1961 it can be concluded that registration maps (cadastral maps) are valid as evidence.
- B. Registration of rights and their transfer and encumbrance Based on the General Explanation of Point C, among other things, it is emphasized that the Land Registration is a Rights Registration System with a Negative Publication System with a Positive Tendency. In PP No.10 of 1961 Land Registration consists of 2 (two) types:
- a. In villages where land registration has been completed in full.
 - b. In villages where land registration has not been carried out regularly complete.

Land registration is carried out village by village or areas at the same level (hereinafter referred to in this Government Regulation: village). The Minister of Agrarian Affairs determines when a complete land registration will be held in an area. (Article 2 PP 10/1961).

According to Koes Widarbo,¹⁷ mission to support the acceleration of Land Registration activities, based on Minister of Home Affairs Regulation (Per.Mendagri) No. 14 Years 1975 Concerning the Activation of Land Registration and Granting of Certificates in the Context of Measuring Village by Village Towards Complete Villages In accordance with PP No.10 of 1961, PP 10 Projects are sourced from the State Revenue Expenditure Budget (APBN) based on proposals from the Provincial Directorate of Agrarian Affairs that have met the requirements to The Directorate General of Agrarian Affairs, then examines which ones are important and urgent according to internal strength factors and external opportunity factors. However, considering that human resources, funds and technology are limited, it has not resulted in significant acceleration. Researchers also carried out PP 10/1961 Project activities in

¹⁴Koes Widarbo, <https://youtu.be/uUnXXxp9YAc>, *Belajar Bersama Pendaftaran Tanah Pertama Kali Part I*, 2022.

¹⁵Koes Widarbo, *Manfaat Pendaftaran Tanah Sistematis Lengkap Dalam Rangka Mewujudkan Pendaftaran Tanah Sistematis Publikasi Positif Di Indonesia, Proposal Penelitian Disertasi*, Universitas Jember, Fakultas Hukum, 2022, h.156.

¹⁶Hermanses, *Pendaftaran Tanah di Indonesia*, Buku Perkuliahan di Akademi Pertanahan Nasional 1986-1989, (Yogyakarta: STPN, perpustakaan, 1986), h.65.

¹⁷Koes Widarbo: *Pelaksanaan Tugas Kegiatan PP 10/1961 di Kec. Prembun, Kab. Kebumen 1985 dan Kec.Taman, Kab.Pemalang, 1986*, Direktorat Agraria provinsi Jawa Tengah (Semarang: Bidang Pengukuran dan Pendaftaran Tanah, 1985-1986).

the 1985 era in 2 (two) villages in Prembun District, Kebumen Regency and in 1986 in 1 (one) village in Pemalang Regency as measuring officers for the Land Measurement and Registration Office of the Directorate of Agrarian Office of Central Java Province. The product is a registration map complete with a land bookkeeping (dassollen), and in practice, physical and juridical data collection (dassaint). Meanwhile, the process of assigning rights and issuing certificates will be carried out through routine (sporadic) services at the local land office. According to Hermanses, the registration map product is also strong evidence as referred to in Article 19 Paragraph (2) letter c.¹⁸

The PP 10/1961 Registration Map functions for the stage of measurement facilities and registration of sporadic land parcel object certificates in the complete village, but unfortunately in that era the map did not function properly with collective certification activities because there was still a lack of internal strength in the public relations function and external opportunity strength through coordination in harmony to help villagers who own plots of land with the village and local government for funding.¹⁹ However, the problem within the scope of the axiologically inclined approach is the occurrence of *das saint* on the Complete Village Map PP 10/1961, namely that there were also land office officials who neglected not to use it as a basis for measurement in land registration for the first time, but mapped it partially sporadically, so that this could result in overlapping. overlap if the certification is submitted again in part or even in whole at a later date.²⁰

This complete village is the forerunner from the Complete Systematic Land Registration (PTSL), but here there has been an innovation in the existence of clusters of land registration activities.

Meanwhile, the serious problems of the Incomplete Village mission certainly have internal weaknesses of the land office, namely the unavailability of a complete village land registration map. (current era). So that certification has not been mapped properly (partially), including fields that are not correctly mapped according to the field, partially or completely overlapping.

National Agrarian Project (PRONA)

Considering that state funding is limited, the work on land registration funded by the state is also carried out through incomplete/sporadic village land registration, carried out en masse based on Minister of Home Affairs Decree No. 189 of 1981 concerning the National Agrarian Operations Project (PRONA) whose budget is from the State Budget. (STATE BUDGET). This is done in almost every district and city with a village/kelurahan proposal mechanism from the Regency/City Agrarian Office to the Provincial Agrarian

Directorate for selection and the results are submitted to the Directorate General of Agrarian Affairs, then the selected districts/cities are determined by being limited to the target areas for certification. However, the level of acceleration of the quantity of certification through Project PP 10/1961 and PRONA is not significant,²¹

Era PP 24/1997 Land Registration

PP 24/1997 revokes and replaces PP 10/1961 so that it is no longer valid. This is explained in the General Explanation as follows:

The results of land registration in the PP 10/1961 era for more than 35 years were not optimal because a total of 55 million land parcels with former rights: Indonesian rights and Western rights fulfilled the registration requirements, certificates were only completed in 16.3 million land parcels. Then obtained an increase in the number of fields, both the process of inheritance and various kinds of legal actions, it is estimated that fulfilling the registration requirements in the Second Long-Term Development era will be 75 million fields.

The implementation constraints are:

1. limited funding, manpower and tools;
2. plots of land are very numerous and spread over a large area of Indonesia;
3. evidence of land ownership or control is incomplete and non-existent.
4. The field of juridical regulation as baseits implementation has not been optimal yet resulting in effective and efficient land registration activities, guaranteeing legal certainty in the land sector for national development; many regulatory improvements are needed in the field of land registration which are scattered in various laws and regulations.

As for the ontologically inclined approach, PP 24/1997 still manages the systems and objectives in PP 10/1961 as a follow-up to Article 19 UU 5/1960 UUPA. The aim is to guarantee legal certainty in the land sector and is complemented by the objectives of Land Registration in PP 24/1997, namely that in addition to guaranteeing legal certainty, it also provides legal protection for holders of land rights. While the publication system remains as PP 10/1961, adopting a negative publication system which contains positive elements, the product is in the form of letters of proof of rights as a strong means of proof, as stipulated in Article 19 paragraph 2 letter c, Article 23 paragraph 2, Article 32 paragraph 2 and Article 38 paragraph 2 of Law 5/1960 UUPA.

Meanwhile, the epistemologically inclined approach to the implementation of first-time land registration (*originair*) consists of two types:

1. Systematic Land Registration Mission:
is the activity of land registration for the first time (certification) carried out with the collective collective model simultaneously, covering all land registration objects that have not been certified in the location of an area or only

¹⁸Hermanses, *Pendaftaran Tanah di Indonesia*, Buku Perkuliahan di Akademi Pertanahan Nasional 1986-1989, (Yogyakarta: STPN, perpustakaan, 1986), h. 65.

¹⁹Koes Widarbo, *Pelaksanaan Tugas Kegiatan Pensertifikatan Ajudikasi Th.1998* (Kota Semarang: Kecamatan Mijen, 1998)

²⁰Koes Widarbo, *Wawancara Kepala Bidang Penanganan Masalah dan Pengendalian Pertanahan Propinsi Jawa Timur*, Kantor Wilayah Badan Pertanahan Nasional Propinsi Jawa Timur 2018-2019.

²¹Koes Widarbo, *Manfaat Pendaftaran Tanah Sistematis Lengkap Dalam Rangka Mewujudkan Pendaftaran Tanah Sistematis Publikasi Positif Di Indonesia*, Proposal Penelitian Disertasi, Universitas Jember, Fakultas Hukum, 2022, h.161-162.

part of the village or sub-district area; product certificate only.

2. Sporadic Land Registration:

is the activity of land registration for the first time (certification) in the form of services for one or several objects in the field of land registration in a regional location or part of the territory of a village or sub-district, either individually or in groups (mass).

The mission is to realize legal certainty as a revision, replacing and perfecting PP 10/1961 in the Elucidation of PP 24/1997, as follows:

1. a. improvement as an affirmation of several things in the old regulation, among others in particular the definition of land registration, principles, aims and objectives of its implementation, besides of course providing legal certainty and protection for holders of rights over their land;

b. collecting and preparing information on all physical data and juridical data on land parcels effectively and efficiently);

c. collection of land tenure data and presentation of information on land tenure and ownership data as well as maintenance of its storage. The function of guaranteeing legal certainty in the field of land tenure and ownership is the element of certainty repositioning the location and boundaries of each plot of land.

d. No The precise location of the fields and their boundaries has led to many cases of land disputes from past experiences, and the result has not been resolved to date. The solution is to control measurement and mapping activities and to provide large-scale maps for the purposes of land registration.

2. Developments in information technology and measurement and mapping must support the implementation of land registration, such as the method of determining coordinates in the field using the Global Positioning System (GPS) and Computerized Land Activities (KKP), consisting of processing and storing data which needs to be stipulated by ministerial regulations.

3. Renewal of the affirmation guarantees legal certainty and legal protection, namely PP 24/1997 regulates certificates as a strong means of proof by Law 5/1960 UUPA.

4. A certificate is a strong proof tool in fulfilling the principle of legal certainty. First, as long as it is proven otherwise, it must be accepted as valid data, both in daily legal practice and as an object of dispute in court. As long as the validity of the related data is not the same as the measurement letter and the land book as state documents at the land office, it is regulated in Article 32 paragraph 1 PP 24/1997. Second, the time limit in Article 32 paragraph 2 PP 24/1997, that if (5) it is five years after the certificate is issued, then other parties cannot sue or sue for land parcels that have been certified on behalf of the holder of land rights which they acquired in good faith, this existence shows the practicality of positive elements in the scope of legal benefits, even though the publication system is negative.

5. Provisions of Article 32 paragraph 2 PP 24/1997 is a legal policy in that it does not reduce the principle of providing equal protection, both to the owner of the actual land and controlled and functioned as it should, as well as to parties who obtain and control it in good faith and confirmed by registration of the land concerned as the right holder in the certificate.

6. PP 24/1997 bridges cases of implementing land registration according to the second Pancasila precept,

namely prioritizing non-litigation solutions through deliberations between the parties concerned before carrying out litigation solutions.

7. PPAT deed arrangements are one of the main sources in addition to the deeds of other officials within the scope of the land registration data maintenance sub-section; in addition to setting the PPAT's obligations on the deed he made.

Based on the above background, PP 24/1997 was stipulated and promulgated on July 8, 1997, but came into effect on October 8, 1997. It has a mission as a juridical and technical operational basis for the implementation of effective and efficient land registration.

The analysis related to Article 32 Paragraph (2) PP 24/1997 mentioned above, in a tendent approach:

1. Ontologically, exceeding the scope of the legal force of a certificate as a strong means of evidence based on Article 19 Paragraph (2) letter © as a higher law and regulation, so that it tends to violate the principle of *lex superior derogate legi inferiori*.

2. Epistemology, binding force must be regulated in the form of a law, so that it is not binding on the judiciary According to Boedi Harsono²², National Land Law which is based on Customary Law does not recognize the institution of expiration (lapse of time) to obtain land rights. In connection with this, Western law recognizes the existence of an *acquisitieve verjaring* institution (Article 1964 in conjunction with 1963 of the Indonesian Civil Code). Whereas Customary Law actually uses an expiration institution (*rechtsverwerking*), it actually means the opposite of *acquisitieve verjaring*, namely "a period of time has occurred resulting in the loss of people who have rights to the land they originally owned".

Systematic Land Registration Mission (PTS)

Land registration missions through the Adjudication Systematic Land Registration Program (PTS), as well as *sprodik* (routine services) are regulated based on PMNA/KBPN 3/1997 concerning Implementation Regulations PP 24/1997 which in certain matters have been regulated in the division of systematic and sporadic land registration. As for the acceleration of the certificate of land rights (land registration for the first time) both through PRONA sourced from the State Revenue and Expenditure Budget (APBN), supporting routine service activities, also in particular the implementation of Systematic Land Registration Adjudication with assistance from the World Bank (World Bank) and companions from the Budget State Revenue (APBN), the name of the activity: Land Management and Policy Development (LMPDP) which began implementation in 1998 to 2004, then in 2006-2010.

According to Koes Widarbo,²³ the mission of Systematic Land Registration (PTS) through Adjudication is an innovation to accelerate land registration with the final

²²Boedi Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*, (Jakarta: Djambatan, Edisi 2008), h. 325.

²³Koes Widarbo, *Manfaat Pendaftaran Tanah Sistematis Lengkap Dalam Rangka Mewujudkan Pendaftaran Tanah Sistematis Publikasi Positif Di Indonesia, Proposal Penelitian Disertasi*, Universitas Jember, Fakultas Hukum, 2022, h.169.

product being a certificate of land rights, including the following:

1. Sources of funding from World Bank assistance with APBN counterpart funds; henceforth it can be sourced from the central/regional government or non-governmental organizations based on the Minister's permit.
2. Its management is formed by management consisting of a managerial team, both at the Central BPN level, Regional Offices and Land Offices.
3. PTS location determination is proposed by the Regional Office to the Head of BPN to be determined with the following requirements: the unit location object is all or part of the village/kelurahan area, the number of plots of land that have certificates is around 30% of the total land plots, the location of the strategic development area is chosen high urban development, selected locations of productive agricultural areas and available points of the national technical framework;
4. Implemented by the Adjudication Committee and Task Force (Satgas). The task force for collecting juridical data (puldadis) and the measurement and Existence the Adjudication Committee as an indicator of participatory management by including village officials as part of the members. According to the author, as Head of the Adjudication Team in East Ungaran District, Semarang Regency for the 2005 and 2006 Fiscal Years (TA), dassaint in the field to make it more effective formed small village teams per hamlet area or the equivalent by involving the RT Head, RW Head and youth organization in the village.¹ For the efficiency and effectiveness of PTS implementation, the Adjudication Team worked at base camps in the villages with designated locations determined by the State Minister for Agrarian Affairs/Head of BPN.
5. The certification of the Systematic Land Registration Program (Adjudication) began with a trial implementation in Depok, West Java in 1997. Then after the issuance of PMNA/KBPN 3/1997 in October 1997. Then in 1998 the implementation of the Systematic Land Registration Program (Adjudication) was carried out in several provinces until with 2006 simultaneously and nationally in several provinces. The target product certificate for one Adjudication Committee is 5,000 certificates of land rights and the number depends on the submission of the location determination proposal from the provincial BPN Regional Office to the Minister mapping task force and the administrative task force;

According to Koes Widarbo,²⁴ the mission of PTS Program Certification (Adjudication) began with trials in Depok, West Java in 1997. Then after PMNA/KBPN 3/1997 was published in October 1997 PTS Programs (Adjudication) were held in several provinces from 1998 to 2006 simultaneously and nationally in several provinces. The target product certificate for one Adjudication Committee is 5,000 certificates of land rights and the number depends on the submission of the location determination proposal from the provincial BPN Regional Office to the Minister. The existence of the Adjudication Committee as an indicator of

participatory management by including village officials as part of the members. According to the author, as Head of the Adjudication Team in East Ungaran District, Semarang Regency for the 2005 and 2006 Fiscal Years (FY), For the efficiency and effectiveness of PTS implementation, the Adjudication Team worked at base camps in the villages with designated locations determined by the State Minister for Agrarian Affairs/Head of BPN.²⁵

Complete Systematic Land Registration (PTSL) Mission

However, bearing in mind that the progress of certifying land rights is still slow, as has been stated in advance, whether the certification is through routine/sporadic service activities, whether individual, mass, or project certification for Government Regulation No. According to the Ministry of ATR/BPN,²⁶ The results turned out in 2017 only 30% of the total plots in Indonesia with a total of 126 million plots of land outside forest areas are certified. Against the background of the above and the results of an evaluation of the strengths, opportunities and weaknesses, threats approach. The Government of the Republic of Indonesia through the Ministry of Agrarian Spatial Planning/National Land Agency followed up on the success of the accelerated land registration program through PTS Adjudication. based on PP No. 24 Th. 1997 jo. PMNA/KBPN No.3 Th.1997. The Adjudication PTS was refined to become a Complete Systematic Land Registration (PTSL) based on the Regulation of the Minister of Agrarian Spatial Planning/Head of the National Land Agency Number 35 of 2016 (Permen. ATR/Ka.BPN No.35 Th. 2016), enhanced by Permen. ATR/Ka.BPN No.12 Th.2017. Then replaced with Candies. ATR/ Ka. BPN No. 6 Th. 2018.

The problems in general are the implementation of main tasks and functions (tupoksi) in community service activities by the Government, especially in the Ministry of Education. ATR/BPN. One of them is limited Human Resources (HR), especially the State Civil Apparatus (ASN) measurement officers who require certain technical expertise as a task force to collect physical data (puldaskik). As a solution, the procurement of non-ASN measuring officers is recruited from third parties, namely based on Permen ATR/Ka.BPN No. 33 Th.2016 perfected with Candy. ATR/ Ka. BPN No. 11 Th.2017. Meanwhile, what is no less important is the need for human resources in the field of administration, especially the juridical collection task force (puldadis), according to administration officers in the field/village.

PTSL mission activities are carried out by dividing 4 (four) clusters as currently regulated in the 2018 PTSL Technical Guidelines for the Ministry of ATR/BPN, consisting of 4 (four) clusters:

1. Cluster 1, namely land parcels whose physical data and juridical data meet the requirements for the issuance of land rights certificates.
2. Cluster 2, namely land parcels whose physical data and juridical data meet the requirements for the issuance of certificates of land rights but there are cases in court and/or disputes.

²⁵Ibid.

²⁶Kementrian ATR/BPN, *Sosialisai Peluncuran Program Pendaftaran Tanah Sistematis (PTSL) Tahun 2017*, (Jakarta: Sekretariat Jendral,2017).

²⁴Koes Widarbo, *Pelaksanaan Kegiatan Ajudikasi Pensertifikatan Tanah di Kabupaten Semarang*, (Kabupaten Semarang: Ungaran Timur, TA.2005-2006)

3. Cluster 3, namely land parcels whose physical data and juridical data cannot be recorded and certificates of Land Rights issued because the subject and/or object of the rights have not met certain requirements stipulated in this Ministerial Regulation; And
4. Cluster 4, namely land parcels whose object and subject have been registered and have been certified with Land Rights, both those that have not been mapped and those that have been mapped but not in accordance with field conditions or changes in physical data, must be mapped into a Complete Systematic Land Registration Map.

This cluster was updated with the 2021 PTSL Technical Guidelines so that there were improvements in Cluster 3 to become Clusters: 3.1, 3.2, 3.3 and 3.4 and in the 2023 PTSL Technical Guidelines Cluster 4 to become Clusters 4 and 4.2 So that from a management point of view, the mission of implementing PTSL is a refinement of the PTS Adjudication mission, namely the main thing is the merger of the PTS Program and PP 10/1961 Project. All plots of land in one village/kelurahan or with another equivalent name are listed/mapped with the product, in addition to the certificate of land rights (K.1.) as well as products K.2., K.3. and K.4. The progress of PTSL within 3 years (2017-2019) is as follows:

- FY 2017 with a target of 5,000,000 fields; The realization is a map of 4,906,525 land parcels; certificates (K1) totaling 4,056,207 fields, K2 totaling 444 fields, K3 totaling 535,085 fields and totaling 477,777 fields;
- TA. 2018 with a target of 7 million fields; The realization is Map of Land plots totaling 8,406,293; certificates (K1) totaling 5,502,816 fields, K2 totaling 2,232 fields, K3 totaling 2,180,628 fields totaling 1,170,472 fields;
- TA. 2019 with a target of 9 million; Temporary realization as of October 1 2019, namely Map of Land plots totaling 7,612,759 fields, certificates (K1) totaling 4,126,105 fields, K2 totaling 255 fields, K3 since 2019 consisting of: K3(1) namely 542,065 fields, K3(2) namely a total of 39,643 fields, K3(3) namely a number of 1,810,440 fields; K4 with 914,615 fields; and up to the realization of PTSL in 2019 as many as 62.4 million plots of land had their certificates issued; figure of 49.58% of the 126 million plots of land in Indonesia, a very significant increase of 19.58% in just 3 (three years) when compared to the progress before the implementation of PTSL until December 31 Th.2016 (56 years) only reached yield 30%.
- Considering that since 2019 there has been a Covid 19 pandemic, this has resulted in decreased realization, as well as the 2020 period.

PTSL's next plan is as follows:

1. FY 2020 with a Target of 10 million;
2. FY 2021 and so on every year the target is to increase by 2 million fields;
3. FY 2024 targets all land parcels in Indonesia to be registered (K1, K2, K3 and K4); And
4. Determination of Positive Publication System Registration Targets.²⁷

The mission of PTSL in the framework of Positive Publication System Land Registration is as follows:

Accelerate Land Registration as mandated by Article 19 Paragraph (1) of the UUPA throughout the territory of the Republic of Indonesia, by improving and increasing the land registration data base to become accurate, valid, link-up land information, integrated with the data and repositioning the location of the land parcels on the registration map with the roomy and up to date. As regulated in Permen ATR/BPN No. 6 of 2018, the roadmap for the Directorate General of Infrastructure at the January 2020 Ministry of Agrarian and National Land Agency Work Meeting in Jakarta, PTSL Technical Guidelines Th. 2020, Complete City/Regency Land Registration Technical Instructions 2019 and Circular of the Secretary General. Th. 2020 Page: PTSL Output Reporting.

PTSL's mission, whose essence is the purpose of Land Registration, is to provide legal certainty and legal protection of community land rights based on the principles of simple, fast, smooth, safe, fair, equitable and open and accountable, so as to increase the welfare and prosperity of society and the country's economy, as well as reduce and preventing disputes and conflicts over land registration as stated in Article 3 PP.24 of 1997. Completing the Rights Registration System which has been used since PP 10/1961 with the vision of changing the Negative Publication System with positive elements that has been adhered to, into a Positive Publication System; preparing the Land Bill (RUU), referring to the Torrens System with 3 (three) principles: mirror, curtain and insurance. Evidence in registration in the form of a land book is absolute evidence as the basis for issuing a certificate of land rights. The number of land parcels up to 2022 is as follows: 98.9 million registered land parcels, while 82.4 million land parcels with certificates.²⁸ So that from an estimated 126 million land parcels throughout Indonesia outside forestry land and forest areas, there are 27.1 million land parcels that have not been registered in 4 PTSL clusters and 43.6 million land parcels which have not been certified (K1).

Conclusion

1. In an ontologically inclined approach, the mission is to realize village-by-village legal certainty or sub-districts periodically run according to the era, namely PP 10/1961 through the Village Project Complete PP 10/1961 and PP 24/1997 through PTS and PTSL, as an act of Article 19 of Law 5/1960 BAL.
2. So that strong evidence products are of higher quality, both land registration maps, registration of rights and issuance of certificates, then the mission of land registration should be held in advance activities of measurement, mapping and bookkeeping of land as referred to in Article 19 Paragraph (2) letter (a) UUPA 5/1960 as implemented Project Complete Village PP 10/1961, only then was the determination of rights and registration of rights and issuance of the certificate as referred to in Article 19 Paragraph (2) letters (b) and (c) of Law 5/1960 UUPA.
3. PTSL is a mission to realize village-by-village or sub-district legal certainty periodical is a merger and refinement of the Complete Village PP10/1961 and PTS

²⁷Kemen.ATR/BPN, *Pendaftaran Tanah Sistematis Lengkap*, Set.Jen, Pusdatin, Jakarta, 2019

²⁸Kementrian ATR/BPN, *Capaian Bidang Tanah Terdaftar Nasional Tahun 2022*, (Jakarta: 2023).

PP 24/1997 through its Complete Village mission as a data base validation quality control land registration that is truly validated, integrated and positioned with certainty of location parcels of land accurately and precisely in Land Computerized Activities (KKP).

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