



Legal Consequences for Land Rights Holders Who Do Not Register Their Rights with the National Land Agency Papua Province

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ABSTRACT: This research was conducted on the community in Jayapura City and Regency, Papua Province, most of whom have not registered their rights with the National Land Agency either from the buying and selling process or because of inheritance. The purpose of this study is to determine and analyze the legal consequences for land rights holders who do not register their rights with the National Land Agency. The research method uses normative and empirical law, namely reviewing applicable laws and regulations by observing events that occur directly in the field. The results of this study reveal that the legal consequences for parties who do not register their rights with the National Land Agency are that they automatically cannot carry out legal acts, be it buying and selling, exchanging, granting and mortgage rights at the Bank. In addition, if these rights are not registered, disputes can occur if there are irresponsible parties who claim that the land and buildings are theirs or as heirs to the land. To prove all of this, there must be a deed issued by the National Land Agency (BPN) which is called a certificate. However, if the heirs do not register their rights, they still receive legal protection where the legal status is clear, namely from the heir passing on property to the heir, the object automatically becomes the heir's property.

Keywords: Legal Consequences, Holders, Land Rights, Jayapura City and Regency, Papua Province.

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1. Introduction

In general, people in rural and urban areas, land is considered a basic need where to meet the needs of both housing and food needs, everything related to the land has a very valuable value in the eyes of the community (Nia Kurniati, 2016).

Therefore, the Republic of Indonesia is also a country of law that provides protection and recognition for every citizen including land rights regardless of their status, whether rich or poor, treated equally before the law in accordance with Article 28D of the 1945 Constitution.

Ownership rights are the strongest and most fulfilled rights recognized by the Basic Agrarian Law (UUPA) and are contained in Article 20 of the UUPA (Adrian Sutedi, 2009). If ownership rights are used for personal interests or needs, it is not a problem, but if carrying out a legal act such as buying and selling or inheritance, it must be made before an authorized official (PPAT) so that it is recognized by law and is valid in the eyes of the law.

In order to create a safe and peaceful society and far from land disputes in the future, the government requires everyone to register their rights at the local Land Office, whether because of a sale or purchase, gift, customary gift or inheritance so that they have a clear legal status and at any time they will carry out

legal actions will not be an obstacle due to the lack of administration required by the parties concerned.

Legal certainty of land ownership rights can all be owned by means of land registration either sporadically or at the request of the person concerned or by systematic land registration which is a government program once a year or two to carry out simultaneous and joint registration so that the community has a letter or land deed called a certificate. The government has the intention of this systematic registration to reduce the burden on the community who may not understand the use of certificates or the lack of funds from the person concerned to register their rights at the local Land Office.

In addition to the buying and selling that is generally carried out by the community in Jayapura City or Regency to transfer their rights in full to other people, there is also through inheritance which is usually carried out by people who are still alive or have died, their rights are automatically transferred to the heirs they have left behind but must still be registered at the Land Office which is marked by the provision of a letter of proof of heirs from an authorized official so that their rights can be transferred to the heirs and meet the requirements to carry out legal acts (AP Parlindungan, 1990).

The reality obtained by researchers in the field, especially in the community in Jayapura City and Regency, Papua Province, most people have not registered their rights with the National Land Agency, either from the buying and selling process or because of inheritance where the heir has died and left inheritance to the heirs in the form of land and buildings, but all of that is still in the name of the heir who has died and has not been registered by the heir.

The author also sees the situation and reality that occurs both in the city and Jayapura Regency, Papua Province, often irresponsible individuals or parties look for flaws or shortcomings from the owners of land rights who may not have had their names changed or registered at the local land office, do not have a land deed in the form of a certificate in their name so that there are other parties who deliberately create problems or disputes at the location by claiming that it is theirs even though the letter they have clearly does not exist.

Therefore, researchers are interested in conducting research in Jayapura City and Regency, Papua Province to find out and analyze the legal consequences for land rights holders who do not register their rights with the National Land Agency. In addition, land rights registration is very important for the sake of orderly land law, guaranteeing legal certainty and preventing disputes between parties where there are other irresponsible parties who often claim that the land is theirs and to prove all that there must be evidence of a land deed or certificate issued by the National Land Agency stating who has the right to the land and building. If there is a party who is dissatisfied, they can sue in court and after a court decision it will be clear who has the right to the land and building.

Moreover, currently in any area the price of land and buildings is certainly getting higher in value, as well as in Jayapura City and Regency, Papua Province, land has a price that is increasingly soaring compared to previous years, therefore the National Land Agency always recommends that land and buildings must be registered in order to obtain a letter or land certificate which is proof of legal ownership to avoid disputes in the future.

2. Theoretical Overview of the Main Concepts

Government Regulation Number 24 of 1997 stipulates the principles of land registration based on the following principles:

- a. Simple principles, so that it is easy for interested parties to understand when registering their rights;
- b. The principle of security, which is intended to indicate that land registration must be carried out carefully and precisely so that the results can be well received;
- c. The principle of affordability where the implementation of land registration must allow all parties in need to obtain the necessary services;
- d. Up-to-date basis, meaning adequate completeness in the implementation and maintenance of ongoing

data. To achieve this, the obligation to record and register changes that occur in the future must be fulfilled. That is the responsibility of the Land Office;

- e. Open principle, where people can get actual information at any time Data on objects or subjects of land rights are arranged in such a way that they can be accessed in the future by anyone who wants to know, whether they are prospective buyers, land rights owners, or the government itself in order to facilitate the transfer of land rights or the implementation of development.

Basically, the term "certificate" comes from the word "certificate" in English, which means a certificate or diploma made and issued by an authorized official. This certificate shows that the official concerned has provided information about a person's condition. The meaning of "Land Certificate" in Indonesian is also intended as a certificate indicating the holder of land rights. It serves as a powerful tool to prove that someone owns a piece of land (Elli Wuria Dewi, 2014).

Transfer of land rights is the transfer or shift of control over land from the original owner to the new owner through a certain legal act or lawsuit, either individually or together. This transition can occur through the exchange/transfer of land. The purpose of recording the transfer of land ownership is to meet the community's need for legal certainty regarding the land they own, so that legal efforts can be carried out easily, quickly, cost-effectively and safely. Ensuring legal certainty in the land sector through the transfer of rights requires a complete and clear written legal instrument and is implemented consistently in accordance with the spirit and existing provisions.

Land certificates, according to Urip Santoso (Wantjik Saleh, 1982), function as absolute proof of land rights if they meet four requirements:

- a) The certificate is issued legally;
- b) The measurement letter and land book are put into one book and covered (with a green outer cover and using quarto-sized paper);
- c) The land is worked legally in good faith;
- d) No one has filed a written objection to the certificate holder and the Head of the local Regency/City Land Office within five years of the certificate being issued. In addition, no one has filed a lawsuit with the Court regarding the control or issuance of the certificate.

Transfer of land rights means the transfer or assignment of land rights that were originally owned by one group of people to another group (Poerwadarminta, 2010). According to Irene Eka Sihombing, the transfer of land rights also means the transfer of ownership rights to a plot of land or more to a new owner. All actions taken by a legal subject that give rise to legal consequences are considered legal acts (Irene Eka Sihombing, 2005).

3. Methodology

The research used is normative and empirical juridical. Normative juridical refers to laws, literature, written regulations, or other secondary legal sources, while empirical juridical identifies and conceptualizes law as a real social institution that functions in a real life system (Ronny Hanitijo Soemitro, 1994). The use of secondary data as a channel for data completeness is the focus of this research. In this research, the basic materials for writing consist of:

- a. Primary legal materials, namely a number of facts or statements that are directly obtained from research, either through observation or interviews with the subjects studied, which are related to the problems that have been determined by the author above.
- b. Secondary legal materials, namely legal materials consisting of legal rules contained in statutory regulations or various legal instruments.

4. Discussion

According to Article 20(2) UUPA, land ownership rights can be transferred or given to another party. Two types of transfer of land rights or ownership rights are as follows (Urip Santoso, 2010):

- a. Transfer occurs when land rights or ownership rights are transferred from the rights holder due to death or through inheritance. This type of transfer occurs by law, meaning that after the rights holder (subject) dies, his heirs obtain the rights to the land or ownership rights. Where the subject dies, his heirs obtain the rights to the land or ownership rights.
- b. Transfer or assignment of rights is when the right to land or property is transferred from the owner or subject to another party with the aim of granting rights to the other party. The party transferring or assigning the rights must have the right and authority to assign the rights, and the party acquiring the rights must meet the requirements as a rights holder.

However, considering the purpose of land rights registration in Government Regulation Number 10 of 1961 and Number 24 of 1997, there will be security regarding the status of land rights of Indonesian citizens and certainty regarding the subjects, objects, and rights attached to them, including the transfer of land rights. However, the Land Office must be more active in socializing land registration activities, especially regarding the procedures, costs, and importance of land registration for rights holders. More importantly, the Land Office must consistently update land data to avoid overlapping in registration or granting of rights that can cause legal problems, such as disputes or problems caused by duplicate or fake certificates.

In addition, in connection with the provision of legal certainty regarding land rights, both regarding the subject and the object, the government requires an announcement regarding land rights, which includes:

- a) Announcement regarding the subject who is the rights holder known as the principle of publicity with the intention that the wider community can find out about the subject and object of a plot of land. The implementation of this principle of publicity is by conducting land registration.
- b) Determination of the location, boundaries, and area of land plots owned by a person for a land right, known as the principle of specialization and its implementation is by conducting a Cadastre.

Thus, a person who wants to buy a land right does not need to conduct their own investigation, because information regarding the subject and object of a plot of land can be easily obtained from the government agency tasked with organizing Land Registration.

The object of land registration when associated with the land registration system uses the land registration system, not the deed registration, because the land registration system is marked/proven by the existence of a Land Book document as a document containing legal data and physical data that are collected and presented and the issuance of a certificate as a certificate of proof of the registered right, while deed registration, what is registered is not the right, but rather the deed that is registered, namely documents that prove the creation of the relevant right and the subsequent carrying out of legal acts regarding the right.

So if seen from the purpose of land registration either through Government Regulation Number 10 of 1961 or Number 24 of 1997, then the status of land ownership rights for Indonesian citizens will be guaranteed and certainty will be created regarding the subject, object and rights attached to it including in this case the transfer of land rights. It's just that the Land Office must be more active in socializing land registration activities regarding the procedures, procedures and costs as well as the importance of this land registration for rights holders and more importantly the Land Office must always update land data so that there is no overlapping in the granting of rights or registration of rights which can cause legal problems, namely disputes/cases caused by the existence of duplicate certificates or fake certificates. The Land Office must always update its data, especially land books as a data bank.

On December 5, 2023, the researcher conducted an interview with Mrs. Viviani, the staff and

administration at the Jayapura City Land Office counter, Papua Province. She said that there are still many people in Jayapura City who are constrained in registering their rights, whether by buying and selling, grants, gifts according to custom and inheritance, where incomplete administration does not meet the requirements for registration, some have land measurement letters that do not match the existing location map, the certificates submitted are still in the old name and it is not known where the person lives, there is information from heirs who are not signed so that it slows down the land registration process, In addition, there are still many who do not register their rights from various factors, some have a weak economy by not being able to pay for administration and there are also those who deliberately do not register their rights because they feel that it is their property that has been left to them by the heir so it does not need to be registered.

In addition, the researcher also conducted an interview on December 7, 2023 at the Notary/PPAT office with Mr. Michael Loi, he said that until now the community in Jayapura City is not aware that they have to register their rights at the local land office through a Notary/PPAT, sometimes making transactions only underhand without going through a PPAT and the deed of sale and purchase is not made before the PPAT. In fact, by registering their rights, land rights holders will be protected and receive legal certainty and can carry out legal acts such as buying and selling, grants, inheritance or with mortgage rights at the Bank. An example of a case given by Mr. Notary/PPAT Michael Loi said that there were once parties who wanted to carry out a sale and purchase transaction underhand, the agreement was made by both parties and was only read and witnessed by witnesses, not made with a notary deed so that it did not have legal force and was not registered with the local land office and this can cause problems in the future, disputes or demands from other parties who say the land is theirs.

He also said that especially for the people in Jayapura City or Regency, Papua Province who have not registered the transfer of their rights, they need to participate in a lot of socialization which is usually held by the government in order to maintain orderly land law so that they really know the benefits of registering these rights in order to achieve legal certainty and avoid disputes in the future.

On January 23, 2024, the researcher conducted an interview with Mr. Agus Bano as a measurement and mapping staff at the Jayapura Regency Land Office regarding the legal consequences for land rights holders who do not register their rights with the National Land Agency. He said that if a transaction occurs by the parties for the sale and purchase of land, it must go through the Land Deed Making Officer (PPAT) and must be immediately registered at the local Land Office in order to obtain legal force and guarantee legal certainty. Likewise, through inheritance where the heir dies and leaves assets in the form of land and buildings, the heirs must immediately register the transfer of their rights. The legal consequences for parties who do not register their rights with the National Land Agency are that they will automatically not be able to carry out legal acts, whether buying and selling, exchanging, granting and mortgage rights at the Bank. In addition, if the rights are not registered, a dispute may occur at some point if there are irresponsible parties who claim that the land and buildings are theirs or as heirs of the land. To prove all of this, there must be a deed issued by the National Land Agency (BPN) which is called a certificate.

According to the author's analysis in the registration of property rights, especially inheritance where the heir leaves assets in the form of land and buildings to the heirs, it is mandatory to register at the local land office within six months for the transfer of rights. However, if the heir does not register his rights, he still gets legal protection where the legal status is clear from the heir leaving assets to the heirs, then the object automatically becomes the property of the heirs. However, the problem is if the land and buildings are to be sold by the heirs while the heir has died, then the legal act cannot be carried out if it has not met the existing requirements.

An example of a case taken by the author in the field by conducting a direct interview on January 24, 2024 with Notary/PPAT Luis Roring Ponto in Jayapura Regency, He said that there was a case where a mother and three children were left by the Heir, where the Father had died and left the Mother and three children as heirs, where one day the Mother wanted to sell the land and building but the certificate name was still

owned by the deceased Father, then automatically she could not carry out the legal act if she did not attach proof of the death certificate of the deceased Father and a statement from all heirs of the Mother and her three children must sign a stamped letter made by an authorized official in this case the PPAT accompanied by witnesses, where the letter or deed stating that it gives power to one of the heirs to carry out the sale and purchase or change the name of the certificate to become his own will be submitted to the National Land Agency to approve it and carry out the change of name of the certificate

In addition, the author also found that there were people in Jayapura Regency who did not register their inherited land. After their parents passed away, the heirs did not immediately register the transfer of land rights within 6 (six) months after their parents passed away, even the land was left for years still in the name of the deceased person to several generations of successors. In fact, registration of the transfer of land rights due to inheritance is very important. This is because the land that has been registered will receive a Land Ownership Certificate called a certificate. This certificate is a certificate of proof of land rights that has permanent legal force and certainty. The land certificate that is given will provide an important meaning and role for the rights holder concerned which functions as evidence of land, especially if there is a dispute over the land.

5. Conclusions

Based on the background of the problem and the discussion that the author studied, it can be concluded that the legal consequences for land rights holders who do not register their rights with the National Land Agency are that they automatically cannot carry out legal acts such as buying and selling, exchanging, granting and mortgage rights at the Bank. In addition, if the rights are not registered, disputes can occur in the future if there are irresponsible parties who claim that the land and buildings are theirs or as heirs to the land. To prove all of this, there must be a deed issued by the National Land Agency (BPN) which is called a certificate. However, if the heirs do not register their rights, they will still receive legal protection where the legal status is clear from the heirs bequeathing property to the heirs, then automatically the object becomes the property of the heirs. Legal certainty of land ownership rights can be obtained by registering land either sporadically or at the request of the person concerned or by registering land systematically which is a government program once or twice a year to carry out registration simultaneously and together so that the community has a letter or land deed called a certificate. The government's intention with this systematic registration is to reduce the burden on the community who may not understand the use of certificates or have minimal funds to register their rights at the local Land Office.

The author's suggestion for the Jayapura City or Regency Government of Papua Province is that in the future the BPN must conduct more frequent socialization about the transfer of land rights due to buying and selling or inheritance to the community so that the community can know the procedure. Meanwhile, for the community who want to register the transfer of land rights, they must have good intentions, be honest and must also complete the files requested by the local Land Office for the smooth administration of the transfer of land rights.

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