

PELAKSANAAN PENDAFTARAN HAK ATAS TANAH SECARA SISTEMATIK MELALUI PROYEK AJUDIKASI

(Studi Kasus Di Kantor BPN Kota Tebing Tinggi)

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ABSTRACT

SYSTEMATIC IMPLEMENTATION OF LAND RIGHTS REGISTRATION THROUGH AJUDICATION PROJECT (Case Study at the Tebing Tinggi City BPN Office)

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Land is the most important factor in determining the production of each phase of civilization so that Article 33 paragraph (3) of the 1945 Constitution stipulates "Earth and water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". As a realization of Article 33 paragraph (3) of the 1945 Constitution, Law Number 5 of 1960 concerning Basic Agrarian Regulations or better known as the Basic Agrarian Law was issued. One of the objectives of the promulgation of the Basic Agrarian Law is to lay the foundations to guarantee legal certainty to all rights holders of a land parcel, apartment unit and other registered rights so that they can easily prove themselves as holders of the rights concerned. Therefore, Article 19 paragraph (1) of the Basic Agrarian Law (UUPA) stipulates that in order to guarantee legal certainty by the Government, land registration is held throughout the territory of the Republic of Indonesia according to the provisions stipulated in a Government Regulation.

Based on these provisions, the Land Registration Activity for the first time is an activity carried out by the government so that people who have not registered their land rights object immediately register their property in order to obtain legal certainty and protection through systematic Land Registration and Sporadic Land Registration.

This research uses the type of empirical research, which is carried out on the realities of society with the aim and aim of finding facts that lead to identification and ultimately towards solving a problem. The results show that the implementation of land registration by the adjudication committee is based on Government Regulation Number 24 of 1997, the obstacles are obstacles from the community and technical obstacles from the Land Office adjudication committee, the efforts of the Land Office namely by improving land services, counseling and implementing land programs.

Implementation of land registration by the Medan City Land Office adjudication committee is in accordance with Government Regulation Number 24 of 1997 which will have a positive impact on the community in terms of managing land ownership rights.

Keywords : Registration of Land Rights, Systematic, Adjudication Project

CHAPTER I

INTRODUCTION

A. Background of Study

Land is an essential factor in ascertaining the production of the respective phase of civilization, therefore Article 33 paragraph (3) of the 1945 Constitution states " The land, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people.

Based on these provisions, the government in its policy related to land is obliged to provide prosperity to the community. As a realization of Article 33 paragraph (3) of the 1945 Constitution, Law Number 5 of 1960 on Basic Agrarian Principles or better known as the Basic Agrarian Act (Undang-Undang Pokok Agraria/BAL) was issued. One of the objectives of the promulgation of the BAL is to lay the foundations in order to ensure legal certainty to all holders of rights to land parcels, apartment units, and other registered rights, thus they can easily prove themselves as holders of the rights in question. Therefore, Article 19 paragraph (1) of the BAL stipulates that: *in order to guarantee legal security the Government shall conduct land registration throughout the territory of the Republic of Indonesia according to provisions sown by Government Regulation.*

Based on the Regulation of the Indonesian Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 1 of 2017 on Implementation of the Complete Systematic Land Registration Acceleration, which regulates the implementation of complete systematic land registration for

all Land Registration objects across the Republic of Indonesia and governs the acceleration of systematic registration.

Based on the aforementioned provisions, there is a need for government to act and public awareness in land data collection in order to realize administrative order and law order and meet the demands of the Indonesian people. The implementation of land registration will produce a final product in form of a certificate as proof of ownership of property rights. However, in its practice, obstacles are inevitable, both coming from the administration and the community. Many people do not understand the importance of land data collection¹. The holder of the right or land has the right to obtain authentic evidence with legal force on his land ownership from the authorized institution, in this case, the National Land Agency.

Complete Systematic Land Registration as formulated in Article 1 Number (2) Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 1 of 2017 is the first land registration activity carried out simultaneously for any land registration object throughout the territory of the Republic of Indonesia; in one village or subdistrict or other names at the same level, which includes the collection and determination of the accuracy of physical data and juridical data of one or several objects of land registration for the purpose of registration.

In Article 19 paragraph (2) of the BAL in conjunction with Article 1 number 1 of Government Regulation Number 24 of 1997 on Land Registration,

¹ Irawan Soerodo, 2002, *Kepastian Hukum Pendaftaran Hak Atas Tanah di Indonesia*, Arloka, Surabaya, p. 40

the definition of Land Registration is determined, namely: "*Land registration is a series of activities conducted by the Government on an ongoing basis and in an orderly manner which comprise the collection, processing, recording, presentation, and maintenance of physical and juridical data in the form of maps and registers concerning land parcels and apartments, including the issuance of right-evidencing documents for land parcels on which rights have been established and for apartment ownership rights as well as for the encumbrances thereon.*"

The definition of Land Registration in Government Regulation Number 24 of 1997 is the amendment of Article 19 paragraph (2) of Government Regulation Number 10 of 1961 which stipulates that Land Registration activities include measuring, mapping, and recording of land, the registration of the rights on land transfer of these rights, the issue of certificates of rights on land, which will be valid as strong evidence.

From the definition of Land Registration based on Article 1 point 1 of Government Regulation Number 24 of 1997 on Land Registration mentioned, it can be concluded that the elements of Land Registration are:

1. A series of activities
2. Conducted by the Government
3. Ongoing basis, continuously
4. In an orderly manner
5. Land parcels and apartment units

6. Including the issuance of right-evidencing documents
7. Encumbrances thereon²

The purpose of Land Registration is determined in Article 19 paragraph (1) of the BAL in conjunction with Article 3 of Government Regulation Number 24 of 1997 on Land Registration. In Article 19 paragraph (1) of the BAL, it stipulates that the purpose of Land Registration is further elaborated in Article 3 of Government Regulation Number 24 of 1997 which stipulates that:

1. The holders of rights on land parcels and apartments and for the holders of other registered rights so as to enable them to prove easily that they are the true holders of the rights in question
2. To provide information to interested parties, including the Government, so as to enable them to obtain easily the necessary data which they require to be able to take legal acts on registered land parcels and apartments
3. To keep operations orderly land administrative procedures

The purpose of Article 3 of Government Regulation Number 24 of 1997 is that Land Registration aims to provide legal certainty and legal protection to the parties.

In Article 3 of Government Regulation Number 24 of 1997 on Land Registration, it is determined that the implementation of the Orderly Land Administration is one of the Government's programs in the land sector known as the *Catur Tertib Pertanahan* (Four Principles of Orderly Land Administration). The proper implementation of Land Registration is the basis and embodiment of

²Boedi Harsono, 2003, *Hukum Agraria Indonesia Sejarah Pembentukan Undang-undang Pokok Agraria, Isi, dan Pelaksanaannya*, Djembatan, Jakarta, p. 73

Orderly Land Administration. To accomplish the Orderly Land Administration, every land parcel and apartment unit including the transfer, encumbrance, and annulment of land rights and ownership rights to apartment units must be registered.

Land Registration Activities in Article 19 paragraph (2) of the BAL are further explained in Government Regulation Number 24 of 1997 on Land Registration which is covered in Article 1 number 9 on Land Registration Activities for the first time and Article 1 number 12 Maintenance of Land Registration Data Activities, including:

1. First-time Land Registration (*Opzet* or Initial Registration).

First-time Land Registration is Land Registration activities conducted on land-registration objects which have not been registered under Government Regulation Number 24 of 1997. First-time Land Registration is carried out through Systematic Land Registration and Sporadic Land Registration.

2. Maintenance of Land Registration data maintenance (*Bijhouding* or Maintenance)

The maintenance of land registration data is the activity of land registration which aims at adjusting the physical data and juridical data contained in cadastral maps, land registers, name registers, survey documents, land books, and certificates to changes which take place subsequently.

Maintenance of Land Registration data is carried out if there is a change in the physical data or juridical data of the registered Land Registration object.³

Based on these provisions, Land Registration Activities for the first time are activities carried out by the government so that people who have not registered their land objects can immediately register their property rights in order to obtain legal certainty and protection through systematic land registration and sporadic land registration. Meanwhile, maintenance land registration data activities is a Land Registration Activity to adjust physical data and juridical data regarding land parcels that occur due to changes subsequently as the transfer, encumbrance, and annulment of land rights. PRONA (Agrarian National Operational Project) is one of the government policies in the land sector aiming at providing certainty to both objects and subjects on land in order to achieve rights certainty. PRONA was formed based on the Decree of the Minister of Home Affairs Number 189 of 1981 on the Agrarian National Operational Project. In the preamble, it is stated that in the implementation of the Four Principles of Orderly Land Administration, the government carries out mass land certificates to provide legal certainty for the control and ownership of land as a right-evidencing document. In addition, it is also intended to resolve strategic land disputes which aim to create peace for landowners from third-party demands.⁴The objectives of PRONA are to:

1. Provide stimulation to the community, especially holders of rights of the land, to be ready to make certificates for their land
2. Foster public legal awareness in the land sector

³ A. P. Parlindungan. 2009, *Pendaftaran Tanah Di Indonesia*, Mandar Maju, Bandung. p.79

⁴ Samun Ismaya, 2013, *Hukum Administrasi Pertanahan*, Graha Ilmu, Yogyakarta, p. 129

3. Assist the government in creating a safe and peaceful atmosphere for the community
4. Foster community participation, especially landowners in creating political stability and economic development
5. Provide legal certainty to holders of rights of land
6. Familiarize the community holding rights of land to have authentic evidence for their property

PRONA also helps to achieve Orderly Land Administration as it functions to accelerate the implementation of Land Registration. PRONA activities listed in the first dictum in the Decree of the Minister of Home Affairs Number 189 of 1981 on the Agrarian National Operational Project are as follows:

1. Process land certificates en masse as a manifestation of the orderly land administration program in the land sector in which the implementation is carried out in an integrated manner and is aimed at all levels of society, especially for the financially disadvantaged group

2. Completely resolve strategic land disputes

Article 23 of the BAL stipulates that:

1. The right of ownership and likewise each transfer, annulment and encumbrance with other right shall be registered in accordance with the stipulations as mentioned in Article 19
2. The registration meant in paragraph (1) constitutes as strong evidence with regard to the annulment of the right of ownership and the legal validity of transfer and the encumbrance of the said right.

Based on these provisions, every transfer, annulment, and encumbrance of Property Rights must be registered according to the provisions stipulated in a Government Regulation. The registration is strong evidence regarding the annulment of Property Rights, the validity of the transfer, and the encumbrance of the said rights.

The implementation of Land Registration is also intended to create an information center regarding land parcels so that concerned parties including the Government can easily obtain the data needed to conduct legal actions regarding registered land parcels and apartment units. The proper implementation of land registration is the basis and embodiment of orderly land administration.⁵

From the brief description above, the author is interested in examining the research with the title "Systematic Implementation of Land Ownership Registration Through Adjudication Project."

B. Problem Identification

The legal basis for the said land registration consists of several government regulations, including:

1. Law Number 20 of 2000 on Land Registration
2. Instruction of the Minister of State Agrarian Affairs/Head of the National Land Agency Number 20IV-2000 of 2000 on the operational guidelines of the PRONA
3. Government Regulation Number 16 of 2004 on Land Management (State Gazette of 2004 Number 45, Supplement to State Gazette of the Republic of Indonesia Number 4385)

⁵ A. P. Parlindungan. 2009, Pendaftaran Tanah Di Indonesia, Mandar Maju, Bandung. p.79

4. Government Regulation Number 16 of 2004 on Land Management (State Gazette of the Republic of Indonesia of 2004 Number 45, Supplement to the State Gazette of the Republic of Indonesia Number 4385)
5. Presidential Regulation Number 36 of 2005 on Provision of Land for Realizing the Development for Public Interests as amended in Presidential Regulation No. 36 of 2006 on Procurement of Land for Realizing Development for Public Interest.
6. Presidential Regulation Number 10 of 2006 on the National Land Agency
7. Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 3 of 2007 on Provisions for the Implementation of Presidential Regulation Number 36 of 2005 on Provision of Land for Realizing the Development for Public Interests as Amended by Presidential Regulation Number 65 of 2006 on the Amendments to Presidential Regulation Number 36 of 2005 on Procurement of Land for Realizing Development for Public Interest
8. Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 5 of 2012 on Technical Guidelines for the Implementation of Land Procurement
9. Law Number 2 of 2012 on Land Procurement for Development for the Public Interest
10. Presidential Regulation Number 71 of 2012 on Implementation of Land Procurement for Development for the Public Interest

11. Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 2 of 2013 on Delegation of Authority to Grant Rights to Land and Land Registration Activities
12. Regulation of the Minister of State Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 35 of 2016 on Complete Systematic Land Registration Acceleration, which regulates the implementation of complete systematic land registration for any Land Registration object throughout the territory of the Republic of Indonesia and regulates the acceleration of the implementation of systematic registration systematic
13. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 1 of 2017 on Complete Systematic Land Registration Acceleration, which regulates the implementation of complete systematic land registration for any Land Registration object throughout the territory of the Republic of Indonesia and regulates the acceleration of the implementation of systematic registration systematic
14. Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 6 of 2018 on Complete Systematic Land Registration Acceleration, which regulates the implementation of complete systematic land registration for any Land Registration objects throughout the territory of the Republic of Indonesia and regulates the acceleration of the implementation of systematic registration systematic

The Basic Agrarian Law Articles 42 and 43, followed by Government Regulation Number 40 of 1996 on Cultivate, Right to Build and Right to Use on Land, and

other implementing regulations such as Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 7 of 1996 and then substituted by Number 8 of 1996 on Requirements for Housing or Residential Ownership for Foreign Citizens, none other but to provide convenience by the government which is expected to create a conducive atmosphere for economic actors so they do not hesitate to invest in Indonesia. They will be guaranteed and ascertained of having Land Rights with Use Rights or Lease Rights for land needs as offices or building houses.⁶ Therefore, foreign ownership of land in Indonesia in accordance with the laws and regulations is the status of Rights to Land Use and Rights to Lease Building. Based on the provisions of the Basic Agrarian Law Article 41 paragraph (1), The right of use is the right to use and/or to collect the product, from land directly controlled by the State, or land owned by other persons which gives the rights and obligations stipulated in the decision upon granting this right by the authorized official, or in the agreement to work the land, as far as it does not conflict with the spirit and the provision of this law.

Article 42 of the Basic Agrarian Law stipulates that those who may have the right to use are:

1. Indonesian citizen
2. Foreigners residing in Indonesia
3. Corporations which have been established according to Indonesian Law and have their seat in Indonesia
4. Foreign corporations having a representation in Indonesia

⁶See the Basic Agrarian Law Article 42 concerning parties with the right to use land

Furthermore, Government Regulation No. 40 of 1996 concerning Cultivate, Right to Build and Right to Use on Land, Article 39 regulates the subject of use rights are:

1. Indonesian Citizen
2. Legal entities which are established under Indonesian Law and located in Indonesia
3. Ministries, Non-Departmental Government Agencies, and Local Governments
4. Religious and social institutions
5. Foreigners residing in Indonesia
6. Foreign legal entities that have representatives in Indonesia
7. Representatives of foreign countries and representatives of international agencies

Then, Government Regulation Number 40 of 1996 on Right to Cultivate, Right to Build and Right to Use on Land, Article 41 regulates the object of use rights, namely State Land, land under right to manage, and land under right of ownership. Right of Use on State Land:

1. If the holders of right to use are:
 - a. Departments, Non-departmental Government Agencies, and local governments
 - b. Representatives of foreign countries and representatives of international bodies
 - c. Religious and social bodies

The holder of rights can be granted for an indefinite period of time;

2. If the holders of right to use are other than the above, namely:

- a. Indonesian citizens
- b. Foreigner residing in Indonesia
- c. Legal entities which are established under Indonesian Law
- d. Foreign legal entities that have representative in Indonesia

Therefore, the first-time right to use is granted for a maximum 25 years and extended for 20 years. The right to use is regulated by Government Regulation Number 40 of 1996 article 42 paragraph (1) that the Right to Use on State land is granted by a decision granting the right by the Minister or appointed official and paragraph (2) Right to Use over the Right to Manage is granted by a decision on granting rights by the Minister or an appointed official based on the proposal of the holder of the Right to manage.

Article 44 paragraph (1) Government Regulation Number 40 of 1996 stipulates that the right of use may occur due to the granting of land by the holder of the Right to Own with a deed made by the Official of the Land Deed Maker. For that, the Right to Use may effectuate on State Land or Right to Property. Government Regulation Number 40 of 1996 Article 50 provides obligations to the holder of the Right to Use, namely:⁷

1. Entry payment, amount, and method are determined in the deed of granting the right, the deed of right to use, and right to manage over land in the deed of granting the right to use.

⁷Supriadi, *Hukum Agraria*, Cet.4, Jakarta: Penerbit Sinar Grafika, 2010, p. 122

2. Right to use over land is according to its purpose and conditions as stipulated in the decision or deed of the right to use or right to manage or deed of the right to use or right to own.
3. Maintain the land and buildings and preserve the environment.
4. Return the land with the Right to Cultivate to the state, the holder of Right to manage, or the holder of Ownership Right after the Right of Use is abolished.
5. Submit a certificate of Use of Land Rights that has been terminated to the Land Office.

The abolition of the Right of Use is regulated in Article 55 paragraph (1) of Government Regulation Number 40 of 1996, the abolition of the Right of Use is expiry of time period as stipulated in the decision for granting, extending, or renewing the right, for the right to use with time period. The purpose of the time period is in accordance with the provisions of Article 45 paragraph (1), namely the Right to cultivate as referred to in Article 42 is granted for a period of maximum thirty-five years and extended for a period of maximum twenty years or renewed an indefinite period of time as long as the land is used for certain purposes. However, as long as the land is used for purposes of the subject interests of the right of use, the time period is not limited, implying that the period will end if it is no longer used for the subject interest of the right to use and the right of use is automatically abolished.⁸

Right to cultivate is one of the primary land rights, in addition to Right to Ownership, Right to Build, and Right to Use over Land. The development of the Right to Cultivate is a primary right second to Right to Build. Right to Build is

⁸ See Government Regulation Number 40 of 1996 on Right to Cultivate, Right to Build, Right to Use over Land Atas, Article 45

supplementary housing development facility that is currently growing expeditiously. The importance of setting up Right to Cultivate corresponds to the rapid development of housing to fulfill the demand of the Indonesian people and foreigners so that the government attempts maximum efforts to perfect the term of the Right to Build. Correspondingly, the development and widespread of housing or buildings that have shown significant increases, have targeted three land objects, namely State Land, Right to Manage land, and Rights to Ownership of Land.⁹

One of the fundamental aspects in the granting of Right to Cultivate is the legal certainty regarding the time period. In connection with the extension of time period in the event of the Right to Cultivate, thus the right on state land at the request of the holder of right can be extended or renewed, by fulfilling the requirements as stipulated in Article 26 of Government Regulation 40 of 1996, namely:

1. the land is still cultivated and utilized properly in accordance with the condition, nature, and purpose of right granting;
2. the condition of right granting is duly met by the right holder;
3. the right holder still meets the conditions as the holder of right as referred to in article 19
4. the land still conforms to the spatial layout plan

In connection with the extension of the Right to Cultivate, the obligations of the holder for the land and building right granting are regulated in Government Regulation Number 40 of 1996 Article 30, namely:

⁹ Ibid, Supriadi, *Hukum Agraria*, hal. 116

1. Entry payment, amount, and method are determined in the deed of granting the right, the deed of right to use, and right to manage over land in the deed of granting the right to use
2. Right to use over land is according to its purpose and conditions as stipulated in the decision or deed of the right to use
3. Maintain the land and buildings and preserve the environment
4. Return the land with the Right to Cultivate to the state, the holder of Right to manage, or the holder of Ownership Right after the Right of Use is abolished
5. Submit a certificate of Use of Land Rights that has been terminated to the Land Office

Foreigners residing in Indonesia can control the land with the Right to Use or the Right to Lease Land for Building and own the building erected on it.

According to the Basic Agrarian Law Article 44:

Paragraph (1) A person or a corporation has the right to lease land, if he is entitled to utilize land owned by another for the purpose of building, by paying to its owner an amount of money as rent

Paragraph (2) The payment of rent may be effected (a) Once or at intervals; (b) Before or after use of the land

Paragraph (3) Agreement for the lease of land meant in this Article may not be accompanied by conditions having the elements of extortion.

Right to Lease for buildings can only occur on land with Right of Ownership as per the conception of the National Land Law that only Right of Ownership can serve as the outset of other land rights because compared to other

land rights, Right of Ownership is hereditary and strongest and fullest right. Hence, qualifications can be the basis for land right granting, including Right to Cultivate, Right to Use, and Right to Lease for Building.¹⁰

The Basic Agrarian Law, Article 43 paragraph (1) stipulates that As far it concerns land directly controlled by the State, the right of use may only be transferred to another party with the permission of the authorized official, and paragraph (2) regulates that The right of use of land with right of ownership may only be transferred to another. Principally, the granting of this Right to Use is personal, and, therefore, it cannot be transferred. This is unlike the provisions regarding Rights of Ownership, Right to Use, and Right to Cultivate that do not incorporate any element of restriction in their transfer. The personal nature of this Right to Use, if compared to the personal principle in the binding agreement, it is evident that this Right to Use is intended for the benefit of the person to whom the Right to Use has been granted.¹¹

The Basic Agrarian Law stipulates that foreigners may have the right of ownership, and within a period of one year (1) year are obliged to relinquish or to transfer that right to another party. If the right of exploitation concerned is not relinquished or transferred within the mentioned period of time, then that right becomes not valid by the law. Article 21 Paragraph (3) of the Basic Agrarian Law stipulates Any foreigner, who after the coming into force this Act has obtained the right of ownership through inheritance, without a will or through communal marital property, and any Indonesian citizen too, having the right of ownership

¹⁰Maria S.W. Sumardjono, *Kebijakan Pertanahan : Antara Regulasi dan Implementasi*, (Jakarta: Penerbit Buku Kompas, 2009), p.177.

¹¹ Ibid., p. 253.

and losing nationality after the coming into force of this law, are obliged to relinquish that right within a period of one year after the obtaining of that right of after losing that nationality. If after expiry of that period the right of ownership is not relinquished, then it becomes invalid by the provision that the right of other parties, incumbent hereon, endure.¹²

There is a fascinating point about the right to use that cannot be found in the Basic Agrarian Law, different from the provisions concerning Rights of Ownership, Right to Use Building, and Right to Cultivate. In the articles that regulate Right to Use, no regulation addresses the obligation to register Right to Use, while Right of Ownership is written in Article 23 of the Basic Agrarian Law, Right of Building is regulated in Article 38 of the Basic Agrarian Laws, and Right to Cultivate is stipulated in Article 32 of the Basic Agrarian Law.¹³

In order to provide legal certainty regarding the proprietary right or property right for foreigners, Government Regulation Number 41 of 1996 on Ownership of Residential Houses or Residences by Foreigners domiciled in Indonesia.

Subsequently, it is followed by the Decree of the Minister of Agrarian Affairs/Head of the National Land Agency Number 7 of 1996 on Requirements for Ownership of Residential Houses or Residences by Foreigners and replaced by Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 8 of 1996 on Requirements for Ownership of Residential Houses or Residences by Foreigners (hereinafter abbreviated as Permen Agraria Number 8 of 1996), and Circular Letter of the Minister of Agrarian Affairs/Head of National

¹² See Basic Agrarian Law Article 21 Paragraph (3)

¹³ *ibid*, Kartini Mulyadi and Gunawan Widjaya, *Hak-Hak Atas Tanah.*, p. 252

Land Agency Number 110-2871 on Implementation of Government Regulation Number 41 of 1996 on Ownership of Residential Houses or Residences by Foreigners.

The ministerial regulation above contains, among others: ¹⁴

1. Foreigner whose existence gives benefits to national development is any foreigner who possesses and maintains economic interests in Indonesia by investing in ownership of residential houses or residences.
2. Ownership of residence by acquiring rights of land for foreigners can be carried out by purchasing or erecting houses on land with right to use, state land or right to build on Land under right of ownership, purchasing apartment units built on rights to use on State land, purchasing or erecting a house on right to use or right to lease to build based on deed with the said owner.
3. Residences that can be built or purchased and apartment units that can be purchased by foreigner is residential houses or apartment units that are not classified as simple houses or very simple houses.
4. As long as the residence is not occupied by the owner, the residence can be leased through an Indonesian company based on an agreement between the foreign who owns the residence and the company.
5. Foreigner who is holder of residences in Indonesia does no longer meet the requirements for residing in Indonesia, if the person said does no longer own and maintain economic interests in Indonesia.

¹⁴Ibid, Maria S.W. Sumardjono, *Pengaturan Hak Atas Tanah*, p.11.

The Basic Agrarian Law has been designed in such a way and after 50 (fifty) years of implementation, this law has provided space for foreigners and foreign legal entities to have a right to land in Indonesia, which is called Right to Use.

Tebing Tinggi City is a city with rapid development, both implemented by the government and private sectors. This development, indeed, poses the consequences of increasing land demand.

This is shown by the high desire of the community to possess a certificate as proof of land rights that guarantees legal certainty through simple, safe, affordable, and open procedures.

In Tebing Tinggi City, many land parcels have not been registered and have not been registered in the Land Office, which may result in unsettled ownership. This obscurity occurs because it has not been recorded or bad administration, thus it is feared that it will lead to problems and disputes.

The problem identifications in this thesis are:

1. To understand the process of implementing systematic land registration
2. To investigate constraining factors in the systematic land registration process

C. Limitation of Study

The author limits the scope of the problems. The problems in this research are limited to only discussing the Registration of Land Ownership Through Adjudication Project and its sanctions in the Civil Code.

D. Formulation of Study

In writing a scientific work, especially this thesis, it is necessary to create a problem that corresponds to the proposed title to facilitate the author in the discussion chapter.

Therefore, the main problems in this thesis are as follows:

1. What is the implementation process of systematic land registration through adjudication?
2. What are the constraining factors in the systematic land registration process?

E. Objectives and Significance of Study

In connection with the discussion of this thesis, the main objectives of the author are as follows:

1. To fulfill one of the requirements of law degree at the Faculty of Law, Universitas Medan Area University, which is a duty for every student who will complete the study.
2. To understand the implementation of systematic land rights registration through adjudication projects

In addition to the purpose, there are benefits from writing this scientific paper, including:

1. From a theoretical perspective, it contributes theories to the scientific development and progress of science, particularly the development and progress of Civil Code Science. It is expected that this writing can be used as

an additional reference for academics, writers, and those who are interested in the same field of study

2. From a practical point of view, it can be used as input and a source of information for the government and related institutions. It can also be used as a source of information and reference for policymakers to make strategic steps in the implementation of land registration. For the wider community, this study can be used as a source of information.



CHAPTER II

LITERATURE REVIEW

A. Theory Description

1. Overview of Land Registration

Land has developed into an increasingly strategic resource due to its limited quantity and the increasing diversity of interests related to it. This prompts the significant role of land in the fulfillment of human needs.

The dynamics of land issues have dense and complex contents owing to the reality which displays that the human need for land continues to increase along with the development pace in any fields. On the other hand, the amount of land, quantitatively, does not increase.

Based on the aforementioned facts, the land sector is required to manage the available land optimally so each interest can be accommodated and coordinated professionally and properly. This is indispensable since the function of government is to regulate, govern, provide facilities, and provide services to the community. Meanwhile, Said Zainal Abidin, as quoted by Inu Kencana Syafie, emphasizes the importance of public policy to solve problems and realize the goals dreamed by the community.¹⁵

Furthermore, public policy according to Inu Kencana cited from William N. Dunn explains that "public policy is a series of interrelated choices made by government institutions or officials in area related to government responsibilities".¹⁶

¹⁵ Said Zainal Abidin, *Kebijakan Publik*, Yayasan Pancur Siwah, Jakarta, 2002, p. 35

¹⁶ Inu Kencana Syafie, et al., *Ilmu Administrasi Publik*, PT Rineka Cipta, Jakarta, 1999, p. 107

In its implementation, public policy always entails issues but sometimes there is a gap between the formulation and implementation. Thus, Said Zainal Abidin concludes, "a good policy is one that has rational and desirable goals, realistic assumptions, as well as relevant and complete information".¹⁷

The complexity of a policy requires a process of policy formulation, implementation, and evaluation that engages various parties in society. In the last five years, the government has issued various policies in the land sector. These policies are generally further details of the provisions of the BAL that are required to implement the basic principles of national land law in order to satisfy community and development needs. One of the government policies in the land sector is the issuance of Government Regulation Number 24 of 1997 on Land Registration.

In order to accelerate the implementation of land registration based on Government Regulation Number 24 of 1997, the government, in this case, the National Land Agency, designs plans to complete the registration of land certificates across the Republic of Indonesia through the Land Administration Project with a systematic approach, known as the Adjudication Project. This project can be accessed by any level of society, including those economic disadvantages.

Adjudication as a public policy is an activity within the framework of the land registration process. This is the opinion of Harold D. Lasswell in M. Irfan Islamy stating policy as: "a projected program of goals, values, and practices".¹⁸

¹⁷ Ibid, Said Zainal Abidin, p. 208

¹⁸ M. Irfan Islamy, *Prinsip-prinsip Perumusan Kebijakan Negara*, PT Bumi Aksara, Jakarta, 1991, p. 15

Meanwhile to Amara Raksasatata in M. Irfan Islamy, policy is defined as "a tactic and strategy aimed at achieving goals".

Another expert, Said Zainal Abidin, affirms that policies in general fall into three levels; general policies, implementation policies, and technical policies.¹⁹

Land policy and land management combined in national land policies are regulated in the Basic Agrarian Law which can generally be categorized as follows:

1. Policy on regulating ownership and land rights
2. Policy on land use planning
3. Policy on land registration

Principally, land management is a process of making and effectuating decisions on how land and its resources are distributed, used, and protected in society.

In relation to land management, land administration is a key factor in making decisions. Several definitions of Land Administration, as cited by National Development Planning Agency and National Land Agency in the final report of the Land Administration Project, namely "Land Administration is the management of the land tenure system". Subsequently, according to the Land Administration Guideline issued by the United Nations, it defines: "Land Administration is the processes of recording and disseminating information about the ownership, value and use of land and its associated resources".

¹⁹ 19 Ibid, Said Zainal Abidin, p. 28

Apart from the various definitions of land administration, it is important to understand to accomplish the implementation of orderly land administration, comprising:

1. Land parcel has available records regarding physical and juridical data, control, use, land value, land type, and types of rights managed in a complete land information system
2. There are procedure mechanisms for services in the land sector that are simple, fast, and cheap, however, guarantee legal certainty performed in an orderly and consistent manner.
3. Filing concerning the grant of rights and land certificates has been administered in an orderly and certainly

2. Definition of Land Registration

In the book Indonesian Agrarian Law, Boedi Harsono said that: "Land registration is a series of activities carried out by the Government continuously, sustainably, and regularly, including collection, processing, recording, presentation, and maintenance of physical and juridical data in form of maps and lists relating to land parcels and apartment units, including the right-evidencing certificates of land parcels that already possess rights and ownership of rights to apartment units as well as certain rights that encumber the said rights".²⁰

The terms "series of activities" indicate the existence of various activities in the administration of land registration. The word "continuously" refers to the implementation of the activity; once commenced, it will be uninterrupted. The

²⁰ Boedi Harsono, *Hukum Agraria Indonesia*, Edisi Revisi, Djambatan, Jakarta, 2005, p.474

word "regular" indicates that all activities should be based on the prevailing laws and regulations.

Land registration is a series of activities carried out by the government to collect physical data and juridical data from land parcels to be registered. Hence, land registration is the administrative process that becomes the authority of the Land Office to issue a certificate as proof of ownership rights over land parcels.²¹

The juridical basis for the regulation of the land registration implementation in Indonesia is regulated in Article 19 paragraph (1) of the Basic Agrarian Law (BAL) which reads as follows: " to guarantee legal security the Government shall conduct land registration throughout the territory of the Republic of Indonesia according to provisions sown by Government Regulation."

The Government Regulation referred to in the provisions of the article above is Government Regulation Number 24 of 1997 on Land Registration as an amendment of Government Regulation Number 10 of 1961 which in the course of almost 36 years is deemed to be unable to provide adequate results in the implementation of land registration. The issuance of Government Regulation Number 24 of 1997 was motivated by the awareness of the increasingly important role of land in development that demands the support of legal certainty in the concerned sector.

Following the enactment of Government Regulation Number 24 of 1997 on the new Land Registration, all existing laws and regulations as the implementation of Government Regulation Number 10 of 1961 are still in effect,

²¹ Ana Silviana, *Penerapan Pasal 32 ayat (2) Peraturan Pemerintah No. 24 Tahun 1997 Dalam Penyelenggaraan Pendaftaran Tanah di Indonesia*, Masalah-Masalah Hukum, Majalah Ilmiah Fakultas Hukum Universitas Diponegoro Vo. 33 N0. 3 July-September 2004, p. 252

as far as they do not contradict or be replaced based on Government Regulation Number 24 of 1997.

As a result of the land registration process, the holders of registered land rights are given evidence of rights called a "Certificate". According to Government Regulation No. 24/1997, a certificate is an evidence document title containing juridical data and physical data of the registered object, each of which has been recorded in the land register. The juridical data are collected from the land register, while the physical data are collected from the letter of measurement. With the use of the negative publication system containing positive elements in land registration activities in Indonesia, the certificate of the rights on land is valid as strong evidence, as stated in Article 19 paragraph (2) letter c, Article 23 paragraph (2), Article 32 paragraph (2), and Article 38 paragraph (2) of BAL. Therefore, as long as these provisions cannot be proven otherwise, the physical data and juridical data recorded in the certificate must be accepted as correct data, both in carrying out daily legal actions and before the court.

Land registration is held to ensure legal certainty, land registration is held to meet the needs of the community and the government.²²

In meeting this need, the government conducts data on land tenure, especially those involving land owners. Land registration was originally carried out for fiscal cadastral and guaranteeing legal certainty as aforementioned, therefore land registration becomes *Recht Cadastre*.²³

²² Badan Pertanahan Nasional, *Himpunan Karya Tulis Pendaftaran Tanah*, Jakarta, March 1989, p.

3

²³ Ibid, p. 5

Indonesia established a land registration agency for the first time under the Government Regulation No. 10 of 1961,²⁴ which was later amended by Government Regulation No. 24 of 1997, and only took effect on October 8, 1997.²⁵ Prior to the enactment of Government Regulation No. 10 of 1961, the Cadastre Office was known as Registry Office for land rights subject to the Western Civil Code.

Government Regulation Number 10 of 1961 is an order from Article 19 of the Basic Agrarian Law Number 5 of 1960 which reads as follows:

1. In order to guarantee legal security the Government shall conduct land registration throughout the territory of the Republic of Indonesia according to provisions sown by Government Regulation.
2. The registration mentioned in paragraph (1) of this Article covers;
 - a. The measuring, mapping, and recording of land
 - b. The registration of the rights on land transfer of these rights
 - c. The issue of certificates of rights on land which will be valid as strong evidence.
3. The registration of land shall be conducted, with due consideration to the condition of the States and the society, the needs of social and economic activities, and its implementation possibilities according to the consideration of the Minister of Agrarian Affairs.
4. The expenses related to the registration meant in paragraph (1) mentioned above shall be regulated by Government Regulations, with the provision that those who are without meant shall be exempted from those expenses.

²⁴ A. P. Parlindungan, *Pendaftaran Tanah di Indonesia*, Ed. 2, Bandung, Mandar Maju, 1994, p. 1

²⁵ Ibid

The order in paragraph (1) of Article 19, has been issued by the Government in Government Regulation No. 10 of 1961, in which the paragraph (1) of Government Regulation No. 10 of 1961 is further confirmed as follows:

1. To provide legal certainties and legal protection for the holders of rights on land parcels and apartments and the holders of other registered rights so as to enable them to prove easily that they are the true holders of the rights in question;
2. To provide information to interested parties, including the Government, so as to enable them to obtain easily the necessary data which they require to be able to take legal acts on registered land parcels and apartments;
3. To keep operations orderly land administrative procedures.

It is clear that Government Regulation Number 10 of 1961 which has been amended by Government Regulation Number 24 of 1997 has enriched the provisions of Article 19 of the BAL, namely:

1. That the issuance of a certificate of land rights, the owner is given legal certainty and legal protection
2. In the information era, the Land Office as the front office shall properly preserve any information needed for a plot of land, both for the government so as to plan the country's development and for the community, this information can offer what they need regarding the land. The information is open to the public that tells everything they need about land parcels and existing buildings

3. For this reason, it is necessary to make administration land orderly equitable²⁶

As a public policy, land registration is a program the government to achieve its goals, namely the realization of the Four Principles of Orderly Land Administration, guaranteeing legal certainty, and the issuance of certificates as evidence of land rights. In this regard, as has been elucidated in the background, the state is an organization of the people (nation) which acts as the governing body to:

1. Regulate and organize the designation, use, inventory, and maintenance
2. Determine and regulate the rights that can be possessed (part of) earth, water, and space
3. Determine and regulate the legal relationship between people and legal actions concerning earth, water, and space

The authority as mentioned above is in accordance with the function of the government as a regulator, which is obliged to regulate all aspects of people's lives both in the political, economic, social, cultural, and defense fields, under Laws and Government Regulations as their implementation.²⁷

The policy on the development of land institutions is aimed at the realization of an integrated, harmonious, effective, and efficient land management system that creates an orderly land law, orderly land administration, orderly land use, and orderly control of land and the environment.

²⁶A. P. Parlindungan, *Pendaftaran Tanah di Indonesia, (Berdasarkan Peraturan Pemerintah No. 24 Tahun 1997) Dilengkapi dengan Peraturan Jabatan Pembuat Akta Tanah (Peraturan Pemerintah No. 37 Tahun 1998)*, Ed. 1, Bandung, Mandar Maju, 1999), p. 2

²⁷ Inu Kencana Syafii, et al., *Ilmu Administrasi Publik*, PT Rineka Cipta, Jakarta, 1999, p. 107

The problem which is at the same time a challenge in land management is how we attain good land management in order to support the needs of the community in development. For this reason, it is required to implement an effective and efficient land service system, by prioritizing integrated services.

The problem of land services continues to be improved. This step has the purpose of creating easy, cheap, and fast services so that people are motivated to register their land.

3. Land Registration System

The land registration system applied in a country depends on the legal principles adopted by the country in transferring land rights. There are 2 (two) legal principles, namely the good faith principle and *nemo plus iuris* (you cannot transfer more rights than you have). Even if a country adheres to one of the legal principles/land registration systems, one that purely adheres to one of the legal principles/land registration systems may be said to be non-existent. This is because the two legal principles/systems of land registration have advantages and disadvantages so each country looks for its own way out.²⁸

The good faith principle reads: a person who obtains a right in good faith will remain a legal right holder according to law. This principle aims to protect people with good intentions. In order to protect people with good intentions, it is necessary to have a general list that has the strength of evidence. The registration system is called the positive system. It is different from the principle of *nemo plus iuris* which reads: "You cannot transfer more rights than you have."

²⁸ Adrian Sutedi, *Peralihan Hak Atas Tanah dan Pendaftarannya*, Sinar Grafika, Jakarta, 2007, p. 117

This means that the transfer of rights by unauthorized persons is void. This principle aims to protect the actual rights holders. Based on this principle, the actual right holder will always be able to reclaim his registered rights in anyone's name. Therefore, land register generally does not have the power of evidence. The land registration system is called a negative system.²⁹

In a positive system, where the register generally has the power of evidence, then the registered person is the legal right holder according to law. The advantage of this system is the certainty of holders of rights, thus there is an incentive for everyone to register their rights.

The shortcoming is that the registration is not carried out efficiently and registration on behalf of an unauthorized person may annul the rights of another entitled holder. Unlike the negative system, land register generally has no legal force so the registration of a person in General Register is not proof that that person is entitled to the rights that have been registered. Thus, the person who is registered will bear the consequences if the rights come from those not entitled, and make people not register their rights. This is the disadvantage of the negative system, while the advantage is that registration is carried out sufficiently/quickly and the entitled right holder is not harmed despite the person registered is not the right person.³⁰

Registration in Indonesia uses the Torrens System, however, it remains unclear from which country we imitate the system. India, Malaysia, and Singapore apply Torrens System [as well].³¹

There are several advantages of the Torrens System, including:

²⁹ National Land Agency, *Himpunan Karya Tulis Pendaftaran Tanah*, Op. Cit, p. 29

³⁰ Ibid, Adrian Sutedi, p. 118

³¹ Ibid, A. Parlindungan, p. 24

1. Set unexpected expenses
2. Eliminate repeated checks
3. Eliminate most land records
4. Firmly state that the legal basis protects against difficulties that are not listed/mentioned in the certificate
5. Eliminate counterfeiting
6. Continue to maintain the system as the system is borne by those who benefit from the system
7. Nullify land ownership
8. Guaranteed limitlessly by country³²

The registration system used is the registration of titles system, as used in the administration of land registration according to Government Regulation Number 10 of 1961, unlike the registration of deed system. This can be seen by the existence of a land book as a document containing juridical data and physical data that are collected and presented and the issuance of certificates as proof of registered rights.

In implementing land registration, the publication system used in Indonesia (BAL) is still according to Government Regulation Number 10 of 1961, namely "a negative publication system containing positive elements".

In order to provide guarantees of legal certainty and legal protection in land ownership despite the publication system adhered to being negative, Government Regulation Number 24 of 1997 has explained as outlined in the provisions of Article 32 paragraph (2). The article clearly shows that there is a

³² Ibid, p. 25

change in the guarantee of the strength of certificate proof which leads to "absolute" power, which is principally contrary to the system adopted by the BAL in Article 19 paragraph (2) letter c, that: " The issue of certificates of rights on land, which will be valid as strong evidence."

The Positive Publication System contains elements of the State guaranteeing the truth of the data presented. The data contained in the land book and survey document of absolute rights. The acquisition of land in good faith through the method as regulated by the applicable laws and regulations, based on the data presented and followed by the registration, shall receive absolute legal protection, despite it appears that the information contained therein is untrue. In this system, prospective buyers and potential creditors are unequivocally allowed to trust the validity of the data presented by the Land Registration Agency and will be protected by law if taking legal actions in good faith based on the data. In this case, the injured party shall receive compensation in another form.

The implementation of registration using the state's negative publication system does not guarantee the correctness of the data presented in the land book and survey document. Even if it has been registered under the name of a person or legal entity as the holder of the rights. In this system, the right holder can file a lawsuit to reacquire the land, if the legal act of transferring rights or encumbrance of rights conducted is proven to be legally flawed or not conducted by the entitled party. The determining aspect of the validity of the transfer to another party and the validity of the encumbrance is whether or not the underlying legal act is valid, not the implementation of the registration. In the negative publication system, land registration does not guarantee that the ownership of the land obtained or the

assignment of the rights concerned will not be contested in the future. In this system, proof of rights (Certificate) acts as strong evidence. This indicates that the information contained has legal force and must be accepted as true information, as long as and as far as there is no other evidence that proves otherwise. In this term, the court will decide which evidence is valid. In the negative publication system, the legal principle of "*nemo plus*" applies, when a person cannot give or transfer rights beyond what he has.

In order to overcome weaknesses and to provide legal protection to parties who acquire land in good faith by the State using a negative publication system, they commonly use an institution known as an "*acquisitive verjaring*" or "reverse possession" institution. That is, if the holder in good faith acts decisively as the owner and the person control the land in a real and open manner for years without any disputes involving other parties, then by law, he is designated as the owner whose ownership rights are no longer inviolable, nor by a party who can prove to be the real owner.

Indonesia does not use a pure negative publication system because the registration system used by the BAL is a "registration of rights system". In the implementation of land registration, it is not the deed that will be registered but the rights created and the following amendments. Right certificate serves as a source of juridical data to register the rights granted in the land book. Before the registration of the rights in the land book, the Land Office shall verify the validity of the data contained in the said deed.

4. Systematic Land Registration

As stated by Boedi Harsono, the definition of systematic land registration is: "The activity of first-time land registration which is carried out simultaneously, including all land registration objects that have not been registered in the territory or part of the territory of a village/urban village."³³

The implementation of systematic land registration is frequently associated with the term Adjudication. This word is a technical term in land registration which is defined as: an activity within the context of the implementation of first-time land registration, which comprises the collection and verification of physical data and juridical data concerning one land-registration object or more for purposes related to its/their registration.

Furthermore, as stated by Boedi Harsono, adjudication is: "activities carried out in the context of the first-time land registration process, including the collection and determination of the correctness of physical data and juridical data regarding one or several objects of land registration for the purposes related to its registration."³⁴

The purpose of implementing systematic land registration for legal and administrative order will be achieved, among others, through the priority of applying mass land certification through systematic land registration.

The Land Administration Control carried out by the Adjudication Team is a revolutionary step to accelerate certification at a low cost. Therefore, the implementation should not be burdened with many requirements.

³³ Ibid, p. 460

³⁴ Ibid, p. 471

5. Scope of Land Registration

To understand the main activities of systematic land registration, the following describes the scope of the registration. As aforementioned, land registration is a series of activities. Primarily, systematic land registration includes the following activities:

1. Collection and management of physical data

Physical data is information about the location, boundaries, and area of a certain registered land parcel or apartment and about the structures or parts of structures standing thereon. For the purposes and collection of physical data, first, measurement and mapping activities are performed. This is per Article 58 of the Regulation of the Minister of Agrarian Affairs/ Head of National Land Agency Number 3/1997, "after the determination of boundaries and the installation of boundary signs has been completed, measurement and mapping activities are carried out"

2. Collection and processing of juridical data

Juridical data is formation about the legal status of a registered land parcel or apartment, about the right holder, about the rights of other parties on it, and about the other encumbrances thereon. This is regulated in the Regulation of the Minister of Agrarian Affairs/Head of National Land Agency Number 3/1997 Article 59 that "For the purposes of researching juridical data on land parcels, evidence is collected regarding land ownership or control, either written evidence or unwritten evidence in form of witness statements and or the relevant information, which is shown by the holder of land rights or their proxies or other interested parties to the Adjudication Committee".

3. Issuance of Certificates

The certificate as evidence of rights is issued for the benefit of the right holder, in accordance with the physical data contained in the survey document and juridical data that has been registered in the land book. According to Government Regulation Number 10 of 1961 Article 13, the certificate consists of a copy of the land book containing juridical data and survey document containing the physical data of the rights in question, which are compiled together in one cover document.

4. Presentation of physical data and juridical data

As stated above, the presentation of physical data and juridical data is intended to provide information to interested parties to obtain the necessary information.

It is stated in Regulation of the Minister of Agrarian Affairs/ Head of National Land Agency Number 3 of 1997 Article 187 paragraph (1) "information on physical data and juridical data contained in registration maps, land registers, survey documents, and land books is open to the public and can be provided to interested parties visually or in written form."

5. Storage of general registers and documents

Documents constituting evidence that have been used as the basis for registration shall be identified and stored in a designated place. Article 185 of the Minister of Agrarian Affairs/ Head of National Land Agency 3/1997 confirms that whenever the land registration activity is completed, the documents which are the basis for the land registration are stored as a *warkah*

(letter) and numbered according to the order in which the work is completed as stated in the register 208.

B. Theoretical Framework

According to article 2 of the Regulation of the Minister of Agrarian Affairs/Head of National Land Agency Number 7 of 1998 on the Authority to Sign Land Book, Survey Document and Certificate, land book, certificate, and survey document in land registration can be signed by the Head of the Adjudication Committee on behalf of the Head of the Land Office in the event that:

1. First-time land registration systematically involving the Adjudication Committee
2. Maintenance and registration of first-time land registered in a systematic way, as long as this is carried out prior to the submission of results of systematic land registration activities to the Head of the Land Office as regulated in Article 72 of the Regulation of the Minister of Agrarian Affairs/Head of National Land Agency Number 3 of 1997 on Provisions of Implementation of Government Regulation Number 24 of 1997 on Land Registration.³⁵

Land rights granted by the state in the form of Ownership Rights, Right to Cultivate, Right to Use Building, Right to Use, and Right to Manage to individual or legal entity shall be used/utilized in accordance with the circumstances or the nature and purpose of granting rights or the basis for their control. In fact, many lands are not cultivated/used properly, therefore these lands can probably become

³⁵ <http://www.hukumonline.com/klinik/detail/lt4c9b73b4dbd33/keabsahan-sertifikat-tanah>

abandoned lands. For instance, land that should be used as agricultural land is not properly cultivated for agricultural purposes.

It is stated in the vision of the National Land Agency that to become an institution capable of realizing land and land agency for the prosperity of the people, land in Indonesia should be optimized according to the nature and purpose of granting land rights. Abandoned land will become an obstacle to the realization of people's prosperity due to the ineffective use of the land in accordance with the capabilities of the land one has.

The object of controlling abandoned land includes land that has been granted rights by the State in form of Ownership Rights, Right to Cultivate, Right to Use Building, Right to Use, and Right to Manage, or basic control over land that is not cultivated, not used, or not utilized according to the circumstances or the nature and purpose of granting rights or the basis for their control (Article 2 of Government Regulation Number 11 of 2010).

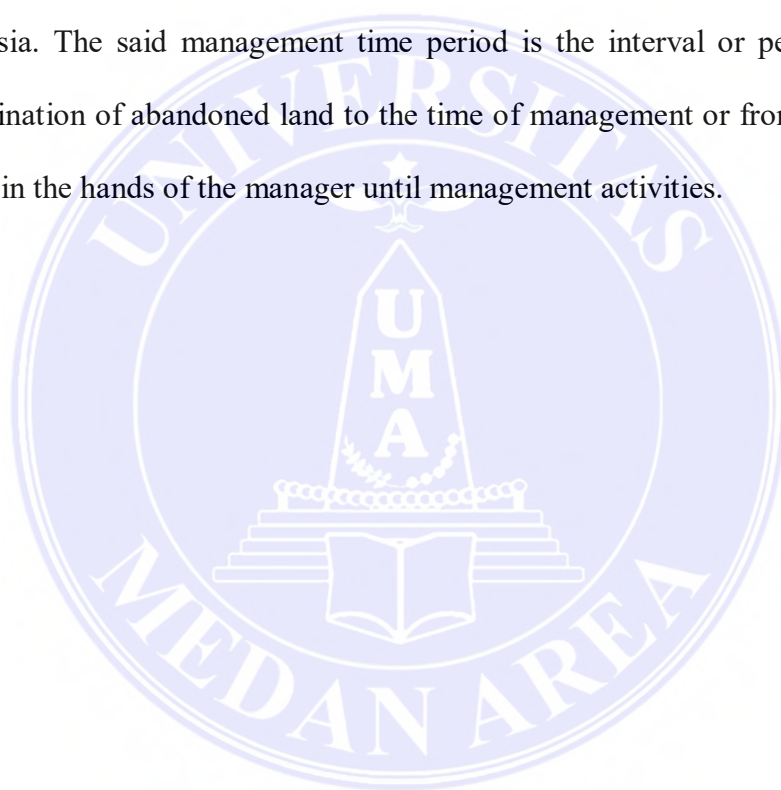
Particular lands excluded from the control of abandoned land, namely land with ownership rights and land individual rights to use buildings and land whose rights holders are economically incapable (or limited budget for the State/Regional) to seek, cultivate, and utilize in accordance with the circumstances or the nature and purpose of granting rights.

Most of the owners of the abandoned lands are entrepreneurs who were granted for right to use and right to manage. The main purpose of granting land rights is to use the premise to improve the welfare of the community through the creation of employment opportunities and increase the income as well as socio-economic capabilities of the surrounding community. However, in practice, the

land is not used as intended because the entrepreneurs have obtained personal benefits despite they have not cultivated the land. For example, entrepreneurs are granted the right to manage forests for oil palm plantations. The first stage is deforestation, in which entrepreneurs carry out land clearing by cutting down trees in the forest. Logs from the process are the entrepreneur's right and can be sold, where the proceeds from the sale go to the entrepreneur. Likewise, for other natural resources in the area, entrepreneurs have full rights to use them. Another advantage obtained by the entrepreneur is the use of land as collateral to apply for credit at the bank. The collateral should be used to cultivate oil palm plantations, however, some entrepreneurs use it as capital to open other businesses such as malls or supermarkets in the city. Given these problems, the state has been indirectly harmed, thus the Government Regulation No. 11 of 2010 states the clause for compensation grant to holders of land rights that have been designated as abandoned land.

In the expropriation process of land that has been categorized as abandoned land, several problems arise in the future regarding the use of the land after it is directly controlled by the State. Land utilization should be aimed at the prosperity of people as stated in the Vision of the National Land Agency. So far, there are unclear regulations regarding the management and utilization of abandoned land, therefore it should be compiled and stipulated as soon as possible so the abandoned land can be used immediately by those who need it and become occupied land. To anticipate this situation, the head of the agency is currently drafting a regulation on the management of abandoned land, including the recipient subject, the percentage of received land, and the maximum management

time period. Subjects receiving state land of formerly abandoned land include the community, government, and business. The criteria for community land recipients of formerly abandoned lands need to be clear and in detail to avoid any disputes in the future, consequently, the discussion on this matter still requires more in-depth analysis and discussion. The proportion of percentage received by each subject is also addressed in the analysis carried out in order to fulfill the principle of justice (equity) according to the mission of the National Land Agency of the Republic of Indonesia. The said management time period is the interval or period from the determination of abandoned land to the time of management or from the time the land is in the hands of the manager until management activities.



CHAPTER III

RESEARCH METHODS

A. Type, Nature, Site, and Time of Research

1. Type of Research

Legal research conducted by examining literature or secondary data can be referred to as normative legal research, in addition to sociological or empirical legal research which mainly examines primary data.³⁶

Based on the type of legal research, this study is sociological/empirical legal.³⁷

2. Nature of Research

The nature of this research is descriptive, which is describing, elaborating, explaining, and answering the existing problems.

3. Research Site

This research was conducted at the Land Office of Tebing Tinggi City. It was motivated by due to the research location at the place where the Systematic Implementation of Land Rights Registration through the Adjudication Project took place.

³⁶ J. Supranto, 2003, *Metode Penelitian Hukum dan Statistik*, Jakarta, Rineka Cipta, p. 2

³⁷ Ronny Hanitijo Soemitro, *Metode Penelitian Hukum Dan Jurimetri* (Jakarta :Ghalia Indonesia, 1990) p. 41

4. Research Time

This research was carried out for about 3 (three) months, starting from June 2020 to August 2020.

NO	Activity	MONTH																							
		JUNE 2020				JULY 2020				AUGUST 2020				SEPTEMBER 2020				OCTOBER 2020				NOVEMBER 2020			
		1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4	1	2	3	4
1	Proposal Seminar	■	■																						
2	Data Collection			■	■	■	■	■	■	■	■	■	■												
3	Research Result Seminar													■	■										
4	Thesis Completion															■	■	■	■						
5	Thesis Consultation																	■	■	■	■				
6	Document Completion																					■	■	■	■
7	Thesis Defense																								■

Research Time Details

B. Data Collection Techniques

Generally, in writing scientific writing and thesis, the data collection method can be attained through:

1. Library research, the author read books related to this research and simultaneously quoted the opinions of scholars related to this thesis.
2. Field research, the author visited the Land Office of Tebing Tinggi city by interviewing and asking for data relevant to this thesis, subsequently, the author analyzed and provided responses, thus the comparison between theory and practice in the field could be discovered.

C. Data Analysis

The data obtained as such, in order to become an integrated and systematic scientific writing (thesis), were connected with theory and then analyzed

qualitatively and described by outlining and describing the problems related to this problem.



CHAPTER V

CONCLUSION AND SUGGESTION

A. Conclusion

The conclusions proposed from the discussion of this research are as follows:

1. The systematic land registration process in the Tebing Tinggi city has a positive effect on the creation of orderly land administration, particularly law and order in land administration, as indicated by the number of land parcels that have been certified during the registration process. This will affect the reduction of the number of land disputes because residents already have evidence of ownership of land rights (certificates) and complete land data are available.
2. The inhibiting factors for the land registration process in Tebing Tinggi city are the lack of knowledge of land law among the residents, the low level of the economy which influences the ability of residents to pay Customs of Acquisition of Land and Building Rights, and the long time required to inform residents

B. Suggestion

The suggestions provided from the results of this study are:

1. The systematic land registration process should be carried out continuously and sustainably for all land parcels in the village/kelurahan entirely to create an orderly land administration throughout the territory of the Republic of Indonesia.

2. The inhibiting factor for systematic land registration does not only depend on the government but is also directed to public education through self-help and self-financing adjudication for the accomplishment of an independent community in the process of implementing land registration.

