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Position Of “Land Information Letter”As Evidence Of Land Ownership Rights In Land Registration Regulations

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Abstract: "Land Information Letter" once played an important role in land registration, but their issuance often caused problems such as overlapping and lack of understanding by village heads regarding the legal basis for their issuance. The government continues to strive to improve the land registration system, one of which is by revising Government Regulation Number 24 of 1997 to Government Regulation Number 18 of 2021. This research is a Doctrinal/normative research that adopts a statutory approach to analyze Land Information Letter. The data used are secondary data in the form of primary legal materials, secondary legal materials, and non-legal materials. Based on an in-depth analysis of the position of the “Land Information Letter” as proof of land ownership in the context of land registration in Indonesia, it can be concluded that the “Land Information Letter” does not provide a strong guarantee of legal certainty regarding land ownership. Government Regulation Number 18 of 2021, which changes the function of the “Land Certificate” to merely instructions in the land registration process, is expected to encourage the public to immediately take care of land registration and obtain stronger land title certificates. However, the implementation of this regulation needs to be carried out carefully and pay attention to the rights of vulnerable communities, as well as ensuring that they get sufficient understanding and information regarding changes in land registration regulations.

Keyword: Land Information Letter, Land Ownership, Land Registration

INTRODUCTION

Land ownership rights are a crucial basic right for every individual, covering economic, social, and cultural aspects. In Indonesia, land ownership regulations have been regulated since the enactment of the Republic of Indonesia Law Number 5 of 1960 concerning Aturan Dasar Pokok-Pokok Agraria (UUPA). UUPA mandates land registration as an effort to provide legal certainty. Precisely stated in Part II: Land Registration Article 19 paragraph 1 which more or less states "With the aim of creating legal certainty in land ownership, the government requires

all land in Indonesia to be registered. The procedures for land registration are regulated in detail in Government Regulations."

Government Regulation Number 24 of 1997 became an important milestone in the reform of the land registration system in Indonesia. This regulation replaced previous regulations that were considered inadequate. One of the main focuses of PP No. 24 of 1997 is to provide legal certainty for the community, especially those in rural areas and who do not yet have land certificates. The transfer of land rights in Indonesia has been regulated in detail in Government Regulation Number 24 of 1997, specifically stated in Article 37 paragraph 1:

Transfer of land rights and ownership rights to apartment units through sale and purchase, exchange, donation, company investment and other legal acts of transfer of rights, except transfer of rights through auction, can only be registered if proven by a deed made by an authorized PPAT according to the provisions of applicable laws and regulations.

In many areas, especially in rural areas, people are more familiar with the "Land Information Letter" as proof of ownership of their land. "Land Information Letter" is a document that records the history of individual land ownership, including the owner's identity, land boundaries, witness statements and has been legalized by the local head of the region upon request from the owner. However, "Land Information Letter" is actually more often used as a basis for tax records and data on land ownership.

For example, in Kalijambe sub-district, Sragen Regency, there are still many lands whose proof of ownership is still in the form of Letter C or a Certificate explaining the land owner, as well as the boundaries of the land made by the village head. a "Land Information Letter" itself is a legal document that records the history of individual land ownership, including the owner's identity, land boundaries, witness statements, and has been legalized by the local regional head upon request from the owner.

In fact, Kalijambe sub-district, Sragen Regency, Central Java is not included in the remote areas that are difficult to access for land registration, but the lack of public understanding of the importance of land ownership certificates and the costs required for land registration are the reasons why there are still many lands that have not been certified.

The land registration system in Indonesia, which adopts a mixed or negative publication system with a positive tendency, also provides space for parties who feel they have rights to land to file objections, even if the land has been certified. Although legally a land certificate is the strongest proof of ownership, a "Land Information Letter" still has a role as initial evidence in the land registration process. As a result, many lawsuits based on "Land Information Letter" have appeared in court.

The government continues to make various improvement efforts to increase the security and efficiency of land ownership rights registration. One example is the amendment of Government Regulation Number 24 of 1997 to Government Regulation Number 18 of 2021. This revision aims to improve the land registration system, increase legal certainty, and provide convenience for the community in managing their land rights.

However, the role of the "Land Information Letter" has undergone significant changes after the issuance of Government Regulation Number 18 of 2021. In this regulation, the validity of the "Land Information Letter" as written evidence for former customary land is limited. This of course has an impact on the implementation of Article 32 paragraph (2) of PP Number 24 of 1997. In addition, land registration in PP No. 18 of 2021 is carried out with a more comprehensive and integrated approach and is no longer focused on one type of document such as the "Land Information Letter".

Positively, PP No. 18 of 2021 provides easy access and creates a more comprehensive and integrated legal framework, but the implementation of this regulation poses its own challenges, especially for ordinary people in regions who do not fully understand the new rules.

Article 96 of the Regulation raises questions about how this regulation accommodates or ignores common land ownership practices in rural areas. Without effective socialization and assistance, ordinary people have the potential to have difficulty meeting the administrative requirements set. As a result, the land they have controlled for generations is at risk of being considered to have no strong legal basis and is vulnerable to disputes or even claimed as state land.

Therefore, it is important to carry out intensive socialization and education efforts to rural communities regarding PP No. 18 of 2021, as well as provide a registration mechanism that is easily accessible and understandable, so that their rights to land can be protected. In addition, is the implementation of PP No. 18 of 2021 fair for all parties, especially for people who have long controlled the land physically but do not have proper access and sufficient understanding to obtain legal proof of ownership and in accordance with statutory regulations.

Based on this phenomenon, the author feels the need to further research the legal position of "Land Information Letter" in the context of land registration and its implications for legal certainty regarding land ownership in Indonesia.

METHOD

This study uses a normative or doctrinal legal research method with a statutory approach. The statutory approach was chosen because statutory regulations are the main basis for regulating and understanding all aspects related to "Land Information Letter". This approach discusses existing legal problems or issues by examining all relevant statutory regulations. Legal research uses legal materials as the basis for its research. This study uses primary legal materials and secondary legal materials, which are types and sources of secondary research.

RESULT AND DISCUSSION

A. Land Information Letter

Before the modern land registration system, Indonesian people had various ways to prove land ownership. These proofs of ownership, often referred to as rights bases, generally took the form of letters made by the community itself. The forms of these letters vary widely, such as *girik*, *letter C*, or *petuk*, all of which have roots in local customs. In some areas, such as the location of this research, a "Land Information Letter" in the form of *Letter C* is the commonly used proof. These letters, although different in form, have the same purpose, namely to provide information on land ownership.

"Land Information Letter" is an official document issued by the village or sub-district government as proof of ownership of a plot of land. A "Land Information Letter" application is submitted by the community as the land owner to the local village or sub-district. The "Land Information Letter" issuance process begins with checking the village land register, after going through the verification process and collecting information from the RT Head and witnesses, the "Land Information Letter" application is then submitted to the Village Head or *Lurah* to obtain approval and be officially issued. The "Land Information Letter" has a long history in proving land ownership in Indonesia. Before the modern land registration system, "Land Information Letter" was one of the commonly used forms of proof of ownership. Although land title certificates have now become the official standard, SKT is still relevant, especially in areas that have not fully implemented the modern land registration system or for certain purposes that do not require a certificate.

Government Regulation Number 24 of 1997 concerning Land Registration provides clear regulations regarding evidence of land ownership, especially for land originating from the conversion of old rights. Article 24 paragraph (1) of the regulation states that to register

rights to the land, it is sufficient to have written evidence, witness statements, or statements from the land owner.

B. Guarantee of legal certainty of "Land Information Letter" in relation to land ownership.

The background of the existence of a "Land Information Letter" comes from the contents of PP Number 24 of 1997 concerning "proof of old rights". This article explains that to prove ownership rights to a plot of land, a person needs to show that he or she or people who previously owned the land have continuously controlled the land for at least 20 years, this proof can be obtained through a certificate made by the Village Head. This is also supported by PP Number 37 of 1998 concerning the Position of PPAT, Article 5 paragraph (3) Letter a states that:

"The Village Head as the lowest village official has very strategic tasks in assisting the Head of the Land Office in carrying out land registration in accordance with the provisions of applicable laws and regulations."

Before the enactment of UUPA Number 5 of 1960, "Land Information Letter" was generally recognized as proof of land ownership. However, after the enactment of the law, the legal status of "Land Information Letter" underwent significant changes. This was emphasized in the Supreme Court Decision Number 34/K/Sip/1960, dated February 19, 1960, which stated that a certificate of petuk or girik (proof of receipt of PBB) could no longer be considered as valid proof of land ownership.

Based on UUPA Number 5 of 1960, every plot of land in Indonesia must have a Certificate of Ownership (SHM) or Land Certificate issued by the National Land Agency as proof of legal ownership. Government Regulation Number 24 of 1997 Article 24 paragraph (2) also states that a "Land Information Letter" is used as physical evidence in the land registration process and continues to play an important role in proving land ownership for the issuance of land certificates.

Legislation is not static, but must continue to be adjusted to social, economic, technological, and political developments in order to achieve a more effective and efficient system. For this reason, Government Regulation Number 24 of 1997 has also changed with the issuance of Government Regulation Number 18 of 2021 to complement the previous regulation. After the issuance of the Regulation, the role of the "Land Information Letter" has also changed. One of the rules stipulated in the regulation is regarding the position of the Land Certificate, namely in Article 96;

(1) Written evidence of former customary land owned by individuals must be registered within a maximum period of 5 (five) years from the enactment of this Government Regulation.

(2) If the period as referred to in paragraph (1) ends, then written evidence of former customary land is declared invalid and cannot be used as evidence of Land Rights and only as a guide for Land Registration purposes.

This study examines the legal certainty of "Land Information Letter" in relation to land ownership using the legal certainty theory put forward by Jan M. Otto, a Dutch legal expert, who emphasizes the importance of clear, consistent, and easily accessible legal rules. According to Otto, legal certainty must include clear and understandable rules, consistency in the application of the law, public acceptance of the law, judicial independence, and certainty in the implementation of court decisions. In the context of "Land Information Letter", the application of this legal certainty theory is very relevant to assess whether "Land Certificates" provide adequate legal guarantees;

- a. The existence of clear, consistent and easily accessible legal regulations
“Land Information Letter” is often a matter of debate because the related regulations are spread across various regional regulations, and there is no comprehensive national regulation. This is exacerbated by the lack of socialization regarding changes to regulations, which often makes people assume that “Land Information Letter” is still valid with the same legal force as before
- b. Consistency in the application of the law.
Consistent application of the law is essential to create certainty. In Indonesia, although the rules related to “Land Information Letter” have been changed, their application is often inconsistent between regions. These different interpretations cause uncertainty for the community, which is caused by inconsistent regulations and lack of socialization from the central government
- c. Public acceptance of the law.
Public acceptance of the law is essential to create social stability. Changes in regulations that are not balanced with adequate socialization cause the community and local governments to have a poor understanding of changes in the rules intended to provide legal certainty.
- d. Independence and impartiality of the judiciary.
Judicial independence means that judges must be free from the influence of any party, while impartiality means that judges must be fair and impartial. In land disputes involving “Land Information Letter”, the independence of judges is key to ensuring that the resulting decision is fair and based on the facts revealed in the trial. However, in some cases, the courts often favor the party in power, which reduces the credibility of the legal system.
- e. Certainty in the implementation of court decisions.
Court decisions must be enforced without hindrance. Unfortunately, in many land dispute cases, the losing party often defies the court decision and continues to occupy land that is not theirs. This creates uncertainty and hinders the implementation of legitimate decisions.

C. Legal solutions that need to be implemented to determine “Land Information Letter” as proof of ownership of land rights.

The Indonesian government issued Government Regulation Number 18 of 2021 to improve land regulations, which were previously regulated by Government Regulation Number 24 of 1997. This regulation allows land registration to be carried out electronically, with provisions further regulated in the Ministerial Regulation. This regulation also recognizes that previously issued location permits remain valid until their validity period expires. One significant change is the downgrading of the position of the “Land Information Letter”, which was previously considered strong enough proof of ownership. Now, it only functions as a guide in the land registration process and is no longer valid proof of ownership. This aims to encourage people to immediately register their land in order to obtain a stronger land title certificate that has higher legal force.

This change has important implications, where people who still hold a “Land Information Letter”, are encouraged to immediately register their land, because the “Land Information Letter” issued before Government Regulation Number 18 of 2021 is no longer valid after five years. The SKT which was previously used as proof of land rights now only functions as a guide in land registration. In the long term, this change

aims to create a more modern, efficient, and accountable land registration system, as well as reduce the potential for disputes and increase legal certainty in the land sector.

Although Government Regulation Number 18 of 2021 brings positive changes to the land registration system, the inequality in technological development and human resources in Indonesia still needs attention in order to create justice for all people. This concept of justice is contained in the fifth principle of Pancasila, which prioritizes social justice for all Indonesian people. The implementation of land regulations must be carried out fairly, especially in less developed areas, which are often vulnerable to land disputes and lack of access to information regarding land rights.

The concept of justice is also related to John Rawls' theory, which emphasizes the importance of distributive justice, where inequality in society should be arranged to provide the greatest benefit to the weakest group. In this case, land regulations should be designed to provide greater protection for vulnerable groups in society, such as indigenous or poor communities. The increasing agrarian conflicts in Indonesia show the urgency to carry out fairer and more effective land policy reforms, in order to protect people's rights to land. Failure to implement the principle of justice has the potential to worsen social inequality and increase political instability.

CONCLUSION

- a. Does a land certificate provide legal certainty regarding land ownership?

An in-depth analysis of "Land Information Letter" in the context of legal certainty shows that the legal status and power of "Land Information Letter" have undergone significant dynamics along with changes in land regulations in Indonesia. The main problem faced by "Land Information Letter" is the lack of clear and comprehensive regulations in legislation. Frequent changes in regulations and differences in interpretation in the field cause legal uncertainty for the community. As a result, people who rely on "Land Information Letter" as proof of land ownership often feel insecure and vulnerable to disputes.

"Land Information Letter" in the context of Jan M. Otto's legal certainty theory also reveals a number of fundamental weaknesses. Although "Land Information Letter" was initially recognized as proof of ownership, with changes in regulations and practices in the field, its legal standing has become increasingly uncertain. First, the clarity of legal regulations related to "Land Information Letter" is still very limited. Existing regulations are often general and non-specific, giving rise to diverse interpretations in the field. This causes legal uncertainty for people who rely on SKT as proof of ownership. Second, consistency in the application of the law to "Land Information Letter" is very low. Differences in the application of the law in various regions and even within the same region cause injustice and undermine public trust in the legal system.

Based on Jan M. Otto's theory of legal certainty, "Land Information Letter" fails to meet the criteria for clear, consistent, and easily accessible legal rules. In addition, consistency in the application of law to "Land Information Letter" is also far from expectations. As a result, people who rely on "Land Information Letter" as proof of land ownership often face legal uncertainty and the potential for prolonged disputes.

- b. What legal solutions need to be implemented to determine a land certificate as proof of ownership of land rights?

Land disputes in Indonesia are complex and deeply rooted in various factors. One of the main factors is the weakness in the land administration system. The lack of clarity

on land ownership status, either due to a lack of strong evidence or a complicated licensing process, often becomes a loophole for disputes to occur.

The issuance of Government Regulation Number 18 of 2021 brought significant changes to the position of “Land Information Letter”. Now functions more as a guide in the land registration process, no longer as absolute proof of ownership. The goal is to encourage people to immediately take care of land registration and obtain stronger land title certificates. However, the updated regulations actually threaten the rights of more vulnerable people due to lack of understanding.

Government Regulation Number 18 of 2021 was made to facilitate the land registration process through electronic registration and requires the registration of uncertified land within 5 years after the regulation was issued, this threatens the ownership rights of the community who have so far controlled land only based on “Land Information Letter” but have not received active understanding and information from the government regarding changes to land registration regulations, this is contrary to John Rawls' theory of justice.

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