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## Position of Village Head in Publishing Land Description Letter in Buying Sale of Village Land

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**Abstract:** The position of the Village Head in issuing Land Certificates in land sales and purchases in the Village reviewed from Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration (PPPT 2021) as a replacement for Government Regulation Number 24 of 1997 concerning Land Registration (PPPT 1997) is interesting to study especially in rural areas. This study uses normative legal research with a rule approach, a concept approach and an analysis approach to conformity with legislation. In the presence of PPAT, the Land Certificate has become the basis for village communities to transfer land rights or buy and sell land only in front of the village head, resulting in disputes.

**Keyword:** Position, Village Head, Land Certificate

### INTRODUCTION

The village head is a central figure in governance at the village level, who has a strategic role in regulating and managing various aspects of village community life, including the management of assets and resources owned by the village. In the context of land management, the village head is often the first person contacted by villagers when they want to conduct a land sale and purchase transaction. This is due to the closeness of the village head to the community and his role as an administrative leader who is trusted to issue supporting documents such as Land Certificates. However, this role raises various legal questions regarding the position and authority of the village head in making regulations or documents related to land sales and purchases, especially in relation to applicable laws and regulations.

Rural development aims to improve the welfare of rural communities in order to accelerate rural development by providing facilities and infrastructure to realize effective economic, social, cultural and human resource development. (Nutvi, A.2021). Overall, this is a community activity that is moving towards a better direction. Because development begins with the community, and is indeed directed at the community it self. (Dionisius, R. 2012).

The background to this problem arises from the fact that land sale and purchase transactions in villages often use Land Certificates issued by the village head as a basis or temporary proof of ownership. The main function of proof of ownership or land certificate is as proof of land ownership and mortgage rights (Perangin 2016). Although this Land Certificate has an administrative function and is a reference for the community, its legal force in the context of land rights transfer is still being debated, especially because a legally valid land sale and purchase transaction must be based on an authentic deed made by a Land Deed Making Officer (PPAT), which in this case is usually the Sub-district Head. The discrepancy between field practices and legal provisions often gives rise to land disputes that are detrimental to the parties and disrupt legal order at the village level.

The urgency of analyzing the legal standing of the village head in making land sale and purchase regulations is very important to provide legal clarity and certainty for the village community. By understanding the limitations and authorities of the village head based on laws and regulations, it is hoped that it can reduce the potential for disputes and improve village asset governance more professionally and in accordance with applicable legal provisions. In addition, this analysis also aims to provide constructive recommendations for the village government and related officials so that the land sale and purchase process in the village can run safely, transparently, and legally. In this case, the people as the holders of the highest sovereignty in a country have the right to manage and at the same time control a piece of land in full. This control is proven by a land certificate issued by the National Land Agency, hereinafter referred to as (BPN) (Caesar Noor Ivan, 2018).

The legal position of the village head in regulating land sales and purchases in the village based on Law Number 6 of 2014 concerning Villages, the Basic Agrarian Law, and Government Regulation Number 24 of 1997 and Government Regulation Number 18 of 2021 concerning Land Registration. The discussion will begin with the legal framework governing the authority of the village head, followed by an analysis of the role of the village head in issuing Land Certificates, legal procedures for land sales and purchases involving the Sub-district Head as PPAT, a review of disputes arising from the use of Land Certificates, and ending with a conclusion regarding the legal force of Land Certificates without authentic deeds. With this systematic structure, the report is expected to provide a clear and in-depth picture of the legal problems faced and the solutions that can be taken to improve the governance of land sales and purchases in the village.

## METHOD

Research in this writing make full effort to use qualitative methods in collecting primary and secondary data. Primary data is obtained through interviews with respondents. They are the Village Head, Village Deliberative Body, and the community in the village. As well as the district government and the Land Agency. This empirical legal research method is carried out to trace the real facts in the community about the welfare of village communities, village development, and the position of the Village Head in issuing Land Certificates for village communities in terms of land ownership rights. This study will be combined with normative research so that such research has indeed directed legal studies towards interdisciplinary (Santoso et al. 2024).

The normative research approach is implemented through two types of approaches, namely the legislative approach, namely by conducting a study from the perspective of existing legislation and the conceptual approach, namely the approach of legal concepts regarding the authority of the Village Head to issue Land Certificates to the Community. Therefore, the analysis is also carried out normatively in order to obtain a deep and comprehensive understanding.

According to Peter Mahmud Marzuki, legal research (*rechtsonderzoek*) is a process of finding legal rules, legal principles and legal doctrines with the aim of being able to

answer the legal issues faced, this is in accordance with the character of legal science itself, besides that legal research is also said to be research in the framework of know-how in law, and by conducting legal research it will be able to produce new arguments, theories or concepts as prescriptions in solving legal problems faced (Peter Mahmud Marzuki, 2005).

## RESULT AND DISCUSSION

In Indonesia, there are still many unregistered or uncertified lands, especially in rural areas (Harsono 2018). However, ownership is still recognized with evidence of a Land Certificate issued by the Village Head. The transfer of land ownership rights, including sales and purchase transactions, is based solely on trust between the seller and the buyer by making a private deed signed by both parties with two witnesses and witnessed by the Village Head (Risandy, Susetyo, and Anwar 2021).

The legal position of the village head in regulating land sales and purchases in the village is regulated through various complementary laws and regulations, especially Law Number 6 of 2014 concerning Villages (Village Law), Basic Agrarian Law (UUPA) Number 5 of 1960, and Government Regulation Number 24 of 1997 and Government Regulation Number 18 of 2021 concerning Land Registration. This legal framework provides a mandate as well as limitations on the authority of the village head in managing village assets, including in the context of making documents related to land sales and purchases.

In another explanation, the Position of the Village Head is reviewed from PP Number 24 of 1997 which has been amended by PP Number 18 of 2021 concerning Land Registration, regulated in the provisions of Article 7, Article 8 and Article 39, and in PP No. 37 of 1998 concerning the PPAT Position Regulations in Article 5 paragraph (3) letter (a) that the Village Head as the lowest government apparatus has very strategic tasks in assisting the Head of the Land Office in implementing land registration including the preparation of land sale and purchase deeds in accordance with statutory regulations (Hadiman, 2011). Therefore, with the strategic duties of the Village Head, it is hoped that he can be a motivator for community members who hold land rights so that they have the awareness to carry out land sales and purchases before the PPAT, not before the Village Head (Irawan 2014).

In addition to that, in the broader context of land registration, the Village Head can be a motivator and is able to socialize the community to register their land, both sporadically and in the context of maintaining land registration data. Because the Village Head in everyday life is always in contact with the community and the paternalistic nature that is still closely attached, the Village Head is placed in the position of a figure and becomes a role model, as a result all his recommendations will always be adopted by the community (Samuel Christian, 2008).

The village head has an important role in managing land administration at the village level, one of which is through the issuance of a Land Certificate. A Land Certificate is a document issued by the village head as a form of administrative recognition of land ownership or control by village residents. This document is often used as a basis for land sale and purchase transactions in the village, especially in areas that have not been fully officially registered with the National Land Agency (BPN). However, the legal status of the Land Certificate and the authority of the village head in issuing it need to be analyzed in depth so as not to cause misunderstandings and legal disputes.

Land Certificate which is the initial evidence of rights that is widely used in various regions, in rural areas there are different terms but this is the same as a basic letter or some people call it the beginning of written evidence. Evidence of land rights in the form of letters made by the community with various types whose purpose is to create written evidence of objects or land areas controlled by the community including rights

originating from the customs of each region in Indonesia have different names: Girik, letter C, patuk and similar rights originating from special customary rights this research is called a Land Certificate (Muhammad Nadzir, 2017).

The legal force of the Land Certificate is very limited and cannot replace an authentic deed made by a Land Deed Making Officer (PPAT), the Land Certificate issued by the Village Head is valid and has legal force for land that has not been certified. However, after the sale and purchase takes place based on the Land Certificate, the buyer is obliged to immediately register the land at the land office for certification. Therefore, although the Land Certificate can be the initial basis for a land sale and purchase transaction, the transaction is only considered valid and has strong legal force if followed by the making of an authentic deed by the PPAT. This is in accordance with the provisions of Article 37 paragraph (1) of the Basic Agrarian Law Number 5 of 1960 and the explanation in PP No. 24 of 1997 and PP No. 18 of 2021.

In practice, the use of Land Certificates as the basis for land sale and purchase transactions often causes legal problems and disputes. This happens because village communities sometimes consider Land Certificates issued by the Village Head to be sufficient as proof of ownership and the basis for the transfer of rights, so they do not continue the process of making authentic deeds before the PPAT. So the Land Certificate then becomes written evidence under hand whose evidentiary force is not as strong as an authentic deed (Thamrin 2021). As a result, land sale and purchase transactions based only on Land Certificates do not have strong legal force and are vulnerable to being disputed later. Disputes that arise are usually related to double claims on land, unclear ownership status, and inconsistencies in applicable legal procedures.

Overall, the position of the Village Head in issuing Land Certificates is as an administrative facilitator who helps the community in managing and applying for land rights. Mis a certificate issued by the Village Head, Sub-district Head or Traditional Head in an area at that time (Andi Sufiarma, 2021). The Land Certificate serves as an important supporting document in the process of buying and selling land in the village, but cannot replace an authentic deed made by a PPAT as valid legal evidence. However, if in an area there is already a sub-district head appointed as a PPAT or Temporary PPAT, then the implementation of the sale and purchase of land rights based on the Land Certificate issued by the Village Head only has legality and legal force if the sale and purchase of land rights is known and signed by the sub-district head as a PPAT or Temporary PPAT appointed by the government.

In the context of land sales and purchases in villages, the legal procedures that must be fulfilled are very important to ensure that the transfer of land rights takes place legally and has strong legal force. One of the main aspects in this procedure is the involvement of the Land Deed Making Officer (PPAT), which in village areas is usually held by the Sub-district Head. PPAT has the authority to make authentic deeds that serve as valid evidence of the transfer of land rights in accordance with the provisions of laws and regulations, especially Government Regulation Number 24 of 1997 concerning Land Registration and Government Regulation Number 18 of 2021 which replaces PP No. 24 of 1997.

The legal land sale and purchase procedure begins with an agreement between the seller and the buyer regarding the land object to be traded. After an agreement is reached, the next step is the preparation of a land sale and purchase deed carried out by the PPAT. The sub-district head as PPAT is tasked with checking the completeness of the documents, ensuring that the status of the land to be traded is not in dispute, and verifying the identities of the parties involved. This process aims to provide legal certainty and protect the rights of the parties in the land sale and purchase transaction. The sub-district head also has a central role in ensuring that the land sale and purchase process meets applicable legal requirements and provides legal protection for the parties.

Overall, the legal procedures for buying and selling land in the village require integration between the role of the village head in issuing a Land Certificate as an administrative document and the role of the Sub-district Head as a PPAT in making an authentic deed that has full legal force. Both must go hand in hand by paying attention to the provisions of the law so that land buying and selling transactions can run safely, legally, and provide legal certainty for all parties involved. Failure to follow this procedure has the potential to cause disputes and legal uncertainty that are detrimental to the village community.

Land sale and purchase transactions that are only based on a Land Certificate issued by the Village Head without an authentic deed from the Land Deed Making Officer (PPAT) often give rise to various complex legal disputes and are detrimental to many parties. Although the Land Certificate functions as an administrative document that provides information on the status of land ownership, it does not have the same legal force as an authentic deed made by the PPAT. As a result, transactions that only rely on the Land Certificate as the basis for the transfer of land rights are prone to being disputed and give rise to legal uncertainty.

Problems that occur in the community and they experience Complex ownership problems and are often unresolved. Many cases of land disputes between communities, companies, and the government, due to the lack of clear evidence of ownership and complicated licensing processes. There are two forms of legal protection for holders of rights to land that have not been certified, namely the first preventive legal protection is legal protection that is more directed at preventing disputes. Preventive legal protection for holders of rights to land that have not been certified is by registering the land. A person who has registered their land will be issued a certificate of proof of rights in the form of a certificate by the BPN.

With this certificate, a person can prove himself as the legitimate holder of land rights and can provide legal certainty and legal protection for the rights holder and his land as intended by the purpose of land registration as regulated in Article 3 PP 24/1997 and Article 2 paragraph (2) of Permen ART/BPN 6/2018 which was amended by PP Number 18 of 2021 concerning Complete Systematic Land Registration. Article 19 paragraph (1) of the UUPA, emphasizes, "In order to guarantee legal certainty, the Government of the Republic of Indonesia shall carry out land registration throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulations". Ownership is proven by ownership of the land of the rights holder at the time the UUPA came into effect. if the rights are subsequently transferred, the transfer of rights can be successive until it reaches the hands of the rights holder at the time the rights are recorded.

If a lawsuit occurs in court later, then all information contained in the land ownership certificate has the power as evidence until the judge is obliged to accept it as long as there is no other evidence that denies or proves otherwise. If an error is found, then changes or improvements can be made as needed. The institution that has the right to make changes is not the Court, but the issuer, namely the BPN. The method is, the injured party submits a request to change the certificate with an attachment in the form of a court decision stating the error in question (Nae 2013).

Registered land must be issued in the form of a certificate of title which is authentic written evidence (Christian 2018). It certainly contains some information related to the land. Legally, the state recognizes ownership of a land to the subject of land rights whose name is registered on the land certificate. Other parties cannot sue for ownership of the land. Meanwhile, land ownership with SKT/letter C is obtained from the village office where the land is located. This letter C is proof in the form of a record in the Village or Sub-district Office. Some people do not understand what is meant by a Land Certificate or letter C, because discussions and regulations in literature or legislation are still rare (Oktara 2019).



Land Certificate or letter C is actually only the basis for recording tax collection and information about the land is not proof of ownership like a land certificate. In the sale and purchase of land without a certificate, it is very possible for legal consequences to arise that are detrimental to one of the parties. Among them, the transfer of land rights does not occur so that the certainty of the transfer of land rights does not arise. The certainty of legal protection is then not guaranteed. Therefore, the government continues to strive in various programs to provide land rights certificates to the community since the birth of the UUPA until now.

The implications for village governance are enormous. Village heads must realize that the issuance of Land Certificates is not a substitute for authentic deeds and must be carried out with great care and based on valid data. However, its use is often not as it should be. Land Certificates are not used as an introduction to certification registration but tend to be used as proof of ownership during land sale and purchase transactions. However, Village Heads who do not know the legal basis for their actions on the Land Certificate often make mistakes and misuse the authority held by the Village Head.

## CONCLUSION

Based on the analysis that has been carried out, it can be concluded that the legal position of the village head in making regulations or documents related to land sales and purchases in the village, especially through the issuance of a Land Certificate, has limited legal force. The Land Certificate issued by the village head functions as an administrative document that provides information regarding the status of land ownership or control locally and temporarily. However, this SKT cannot replace an authentic deed made by the Land Deed Making Officer (PPAT), namely the Sub-district Head, who has the official authority to validate the transfer of land rights in accordance with the provisions of laws and regulations such as the Basic Agrarian Law and Government Regulation Number 24 of 1997 and Government Regulation Number 18 of 2021.

Village governments are also advised to develop a transparent and accurate land administration system, as well as provide training to village officials and the community on land sale and purchase procedures in accordance with laws and regulations. Thus, land sale and purchase transactions in the village can run safely, legally, and provide legal certainty for all parties involved. This effort will not only reduce the potential for disputes, but also support more professional and sustainable management of village assets, in line with the mandate of Law Number 6 of 2014 concerning Villages.

Overall, strict law enforcement and increasing legal awareness at the village level are the main keys to creating orderly and fair land sale and purchase governance. The village head as an administrative leader must understand that his role is very important as a facilitator and administrator, but cannot replace the function of authorized officials in making authentic deeds. With good synergy between the village head, sub-district head, BPN, and the community, it is hoped that land sale and purchase transactions in the village can take place smoothly, safely, and provide optimal benefits for village development and the welfare of its people.

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