

POWER OF PROOF ON THE LAND WITH THE RIGHT TO OWNERSHIP BETWEEN CERTIFIED LAND AND LAND NOTIFICATION LETTER (SKT)

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ABSTRACT

One of the objectives of establishing Law Number: 5 of 1960 concerning Basic Rules of Agrarian Principles, hereinafter referred to as UUPA is laying the foundation - the basis for providing guaranteed legal certainty regarding land rights for all Indonesian people. Land registration is carried out in order to guarantee legal certainty by right holders by producing a certificate which is a strong proof of ownership, but in reality the legal certainty is sometimes not guaranteed as expected with many deviations from the applicable provisions. This research method was carried out using the Approach of Normative Juridical, which is a research conducted by examining literature or secondary data. This research was a research using analytical descriptive research. The data analysis was conducted by comparing it with theories put forward by experts. Although Land Certificate issued by Village Head is not a proof of rights, it has an important position in proving land tenure by someone who is corroborated by the statement of village head. The legal basis that makes the power of proof of the right to ownership of land between the certified land and the Land Notification Letter (SKT) is contained in the RBg and HIR. The power of proof of individual deed is not as extensive and as high as the degree of authentic deed. Concerning the accountability of the National Land Agency which issues administrative defect certificates, in accordance with the authority of the Land Office, the Head of the Land Office is obliged to cancel / revoke the issuance of the certificate concerned on the basis of court decision that has been completed.

Keywords: Power of Proof,, Certified Land, Land Notification Letter (SKT)

A. INTRODUCTION

Based on its position, land is divided into certified land and uncertified land. An Right to Ownership of Land must be proven with a certificate, land that is certified is land that has rights and has been registered at the land office such as Ownership Rights, Building Use Rights, Business Use Rights and Use Rights¹ while land that is not certified is land that does not yet have certain rights and the status of the lands controlled by old rights can originate from customary land rights. Not always land that is not certified is the Girik Land. Girik Land is a former customary land which is recognized as ownership and can be certified as Ownership if the applicant is an individual (WNI).²

Customary lands are widely used in various regions, in rural areas there are many different terms but this is the same as basic documents or initial evidence before being certified, Communities in Pontianak City refer to it as a Land Notification Letter (SKT) . Basically, customary land that has been controlled and cultivated by the people of Pontianak City continuously and from generation to generation is issued a letter made in front of the Village Head with 2 (two) witnesses from the local community, Land Notification Letter (SKT) in this case included in written proof form. As stipulated in the Regulation of the Minister of Agrarian Affairs / Head of BPN Number 3 of 1997 concerning Provisions for the Implementation of PP Number 24 of 1997 concerning Land Registration, namely:

"Article 76 paragraph (2) If proof of ownership of a parcel of land as referred to in paragraph (1) is incomplete or incomplete there is, proof of ownership of the parcels of land can be carried out with other evidence that is equipped with the statement concerned and reliable information from at least 2 (two) witnesses from the local community who do not have family relations with the concerned until the second degree both in vertical and horizontal kinship, which states that the person concerned is the right owner of the plot of land. "

There are 2 (two) ways that can be taken in obtaining a certificate of ownership right for the first time, meaning that the land has never been previously certified.³ The first way, using the Sporadic land registration method is an initiative coming from yourself as a certificate applicant to go to the local Land Office. Second way, using the systematic land registration method, which is an initiative coming from the Land Office, they come to visit you at the site.

Land Registration for the first time in accordance with PP Number 24 of 1997 Article 1 paragraph (10) and paragraph (11) includes:

- a. Systematic land registration is the activity of land registration for the first time carried out simultaneously covering all objects of land registration that have not been registered in the area or a region in a village / kelurahan.
- b. Sporadic registration is the activity of land registration for the first time concerning one or several objects of land registration in the territory or territory of a village / kelurahan individually or in bulk.

¹ <http://www.legalakses.com/tanah-girik-vs-tanah-sertifikat/>

² <http://www.hukumonline.com/klinik/detail/lt5372c17274d7f/status-tanah-dengan-surat-keterangan-peralihan-penguasaan-lahan>

³ Ir.Herman Hermit,MT, 2004, *Cara Memperoleh Sertifikat Tanah Hak Milik, Tanah Negara Dan Tanah Pemda, Teori Dan PraktekPendaftaran Tanah Di Indonesia* (Bandung: Mandar Maju CV), p..3.

Related to granting legal certainty and protection for legal holders of land rights who have registered their rights, as proof of rights issued certificates which are copies of registers.⁴ It is mentioned in Article 32 paragraph (1) PP Number 24 of 1997, concerning Land Registration, namely that:

"A certificate is a proof of rights which are valid as a means of substantiating physical and juridical data contained therein, as long as physical data and data the juridical is in accordance with the data contained in the Measure Letter and land book of the relevant rights. "

Whereas the certificate of evidence which applies as a means of proving rights is the Certificate Land, as referred to in Article 1 of Government Regulation Number 24 of 1997, the Certificate is a certificate of proof the rights as referred to in Article 19 paragraph (2) letter (c) of the LoGA for land rights, management rights, waqf land, ownership rights to the unit of flats and mortgages which have each been recorded in the relevant land book.⁵

Land Registration that produces a certificate is held by the National Land Agency (BPN), which is a Non-Departmental Government Institution whose field of assignments covers the land sector. Land Office is a work unit of the National Land Agency in the Regency or Municipality area.

The study of the validity of the certificate is very important, at least because *first*, the certificate provides legal certainty of land ownership for the person whose name is listed on the certificate. Issuance of certificates can prevent land disputes.⁶ Owning a certificate will give you a sense of calm and peace because it is protected from arbitrary actions by anyone.⁷ *Second*, the granting of certificates is intended to prevent land ownership disputes. *Third*, by owning a certificate, the land owner can do any legal action as long as it does not conflict with the law, public order and decency.⁸ In addition, certificates have economic value⁹ where certified land has a high economic value if it is used as collateral for debt with mortgage rights on the land.¹⁰

Even though it has been recognized in the LoGA, the certificate does not guarantee legal certainty of ownership because in its own regulation it provides an opportunity where as long as there are other parties who feel that they own land, they can sue the party whose name is stated in a civil certificate to the General Court, or sue the Head of BPN / Head of the Land Office concerned to the State Administrative Court, or a lawsuit relating to the technical administration of the issuance.¹¹

Therefore, it is to respond to the issue of the dispute, followed by taking the deliberation of the parties to the dispute by referring to the applicable regulations. If it cannot be reached by deliberation, it can be done through a court process.¹²

In addition to the case of certificate overlapping with the Land Notification Letter (SKT) the author wants to compare with a case of certificate overlapping with the certificate, as stated in the Law that the certificate is a strong evidence. Principles for forming laws and regulations mean the basis or something that is used as a foundation in drafting legislation. The equivalent of the word principle is the principle which means truth which is the basis of thought, opinion and action. Policy Registration of land rights contained in the legislation as a *das solen* (ideal according to law), has not been realized as a *das sein* (in fact).

The formulation of the problem is as follows:

1. How is the Power of Proof of Right to Ownership of Land between certified land and Land Notification Letter (SKT) ?
2. What is the legal basis that makes the Power of Proof of Right to Ownership of Land between a certified land and a Land Notification Letter (SKT) ?
3. What is the Responsibility of the National Land Agency that issues the administrative defect certificate?

B. DISCUSSION

1. Power of Proof of Right to Ownership of Land between Certified Land and Land Notification Letter (SKT)

Based on the results of research on Right to Ownership of Land between certified land and Land Notification Letter (SKT) in the case study in PTUN Pontianak can be described as follows:

a. Parties

Parties in Case Number 06 / G / PTUN-PTK / 1994 are Ahmad Bin Bujang and Umar Bin Bujang as Plaintiffs, while the Head of Pontianak Land Office as Defendant.

b. Object of Dispute

The object of dispute in Case Number 06 / G / PTUN-PTK / 1994 is the decision of the Head of Pontianak Land Office in the form of Situation Picture (GS) Number 1125 of 1989, Situation Picture (GS) Number 196 of 1989 along with certificate of HGB Number 1303, Situation Picture (GS) Number 197 of 1989, Building Use Certificate (HGB) Number 6537, Situation Picture (GS) Number 2346 of 1986 along with Certificate of HGB

⁴ Boedi Harsono, *Op.cit.*,p..78.

⁵ Bactiar Effendi, 1998, *Pendaftaran Tanah di Indonesia*, (Jakarta:Koperasi Bumi Bhakti Badan Pertanahan Nasional), p..5

⁶ United Nation Centre for Human and Land Settlements (Habitat), 1990, *Guidelines for The Improvement of land-Registration and Lan Information System in Developing Countries*, (Nairobi), p..5.

⁷ Bachsan Mustafa, 1988, *Hukum Agraria dalam Perspektif*, Cetakan Ketiga, (Bandung: Remaja Karya), p..57-58.

⁸ Adi Kusnadi, 1999, *Laporan Teknis Intern tentang Masalah Hukum Perubahan Status*, (Jakarta),p..15

⁹ Hary Grant Atkinson dan Percy E.Wagner, 1974, *Modern Real Estate Practice an Introduction to a Career In Real Estate Brokerage*, (Homewood, Illionis: Dow Jones Irwin, Inc),p..26

¹⁰ Jack Harvey, 1996, *Urban Land Economics*, Fourt Edition, (London: MacMillan Press Ltd), p..22.

¹¹ Rusmadi Murad, 1997, *Administrasi Pertanahan Pelaksanaannya dalam Praktik*, Cetakan I, (Bandung: Mandar Maju),p..46.

¹² Ali Achmad Chomzah, 2003, *Hukum Pertanahan Seri Hukum Pertanahan III-Penyelesaian Sengketa Hak Atas Tanah dan Seri Hukum Pertanahan IV-Pengadaan Tanah Instansi Pemerintah* (Jakarta: Prestasi Pustaka),p..27.

Number 2659, Situation Picture (GS) Number 199 of 1989, along with Certificate, HGB Number 1304, Situation Picture (G, S) Number 2345 of 1986, Situation Picture (GS) Number 1347 of 1986, along with Certificate of HGB Number 2659, Situation Picture (GS) Number 2945 of 1987, along with Certificate of HM Number 4080, Situation Picture (GS) Number 2946 of 1987, along with Certificate of HM Number 4081, Situation Picture (GS) Number 1946 of 1987, along with Certificate of HGB Number 989, Situation Picture (GS) Number 2348 of 1986, along with Certificate of HM Number 4117.

c. Brief Description of Case

Sitting case in Case Number 06 / G / PTU N-PTK / 1994 was briefly begun by the Plaintiffs as the heirs of BUJANG Bin H.OESOEPE as the Certificate of Land Holder (SKT) sued the Defendant because they felt disadvantaged by the publication of Situation Pictures and Situation Certificates of land rights by the Defendant. The Plaintiff's land overlaps with the certificate issued by the Pontianak City Land Agency located on Jalan Situt Mahmut, Siantan Hulu Village, North Pontianak District, Pontianak City

d. Laws

1) Considerations in the Decree of the Pontianak Administrative Court Number: 06 / G / PTUN-PTK / PTK / 1994 is as follows:

- a) That from the facts obtained and the results of the local inspection it turned out that the land of the late Bujang Bin Oesop was no longer found because it had been sucked into the results of the separation of Certificate No. 44 of 1966 (Parent Certificate)
- b) That based on these considerations, the Plaintiff's claim filed for so that the following certificate Picture Situation-Gamb ar The situation issued by the Defendant in excess of the declared area is canceled, it must be granted
- c) that the Plaintiff's request that the Defendant be ordered to issue the following Certificates: Situation Pictures on the Plaintiff's name as heirs cannot be accepted, as this matter has never been requested by the Plaintiff.

2) The legal considerations in the Decision of the Jakarta Administrative High Court Case Number: 180 / B / PT-TUN JKT are as follows:

- a) That the Plaintiffs / Compared sued about the Certificates and Situations Pictures Situation
- b) that if the Plaintiffs / Compared sued the Situation Pictures the situation lawsuit is unacceptable for Picture This situation is one of the requirements for the issuance of the certificate so it can not be sued to the administrative court
- c) that is actually being sued or being the object of the lawsuit is the certificate for the certificate is the Decree (SK) Administrative (TUN)
- d) that of consideration above, the initial lawsuit must be canceled, the Jakarta State Administrative High Court will judge for itself
- e) that the Jakarta State Administrative High Court is of the opinion that the claim is unacceptable.
- f) Because the claim is unacceptable, the Plaintiff is charged with paying the case costs jointly for both levels of legal

3) Legal considerations in Decision of the Supreme Court Case Number: 213 / K / TUN 1996 is as follows:

- a) That the State Administrative High Court has wrongly applied the law in this case, because it has ignored and is not careful / inaccurate in considering the lawsuit of the Cassation Applicants stating that only suing Situation Drawings even though it is clear that the Cassation Appellant's claim is clear about the certificate of Ownership Rights, Building Use Rights and Situation Pictures, so it is not only a Situation Picture such as the legal considerations of the Jakarta State Administrative Court.
- b) That the objection can be justified because the Jakarta State Administrative High Court wrongly applied the law with the following considerations / reasons:
 - That the area of land certificate number 44 of 1966 An.Entikik Achmad bin Entjik Basok was sold to Lie Kie Kam with the Sale and Purchase Deed Number 64/1966 is an area of: 20,560 M², but after reversing the name to Lie Kie Kam with Situation Figure Number 174/1971 the area of land changed to 26,979 M² on the appointment of Lie Kie Kam himself.
 - That the Defendant's actions that changed the land area were contrary to the general principles of government which good and contrary to the principles of accuracy and accuracy, thus fulfilling the provisions of article 53 paragraph (2) letter C, so that the resolution of certificate No. 44/1966 that exceeds the area of 20,560 M² must be canceled
 - That based on the consideration / reasons according to the opinion of the Supreme Court there are sufficient reasons for granting the cassation request submitted by the Kasas Applicant i (the heirs) and cancel the cassation decision canceling the lawsuit of the PTUN-Pontianak Decision and the Supreme Court to try this case by taking over the consideration and decision of the appropriate and fair Pontianak PTUN
 - That the petitioned cassation on the losing side must pay all case costs in the First Level , This Appeals and Appeals

e. Court Decision

1) Court Decision of Pontianak District Court Case Number 06 / G / PTUN-PTK / 1994 are as follows:

- a) Granting the Plaintiff's Claim partially
- b) Stating null and void the Decision of the State Administration Court issued by Head of Pontianak City Land Office
- c) Stating Plaintiff's Claim The rest is unacceptable

2) Court Decision Jakarta Administrative Procedure Number 180 / B / PT-TUN JKT is as follows:

- a) Receive Appeal from the Defendant / Comparator's attorney
 - b) cancels the PTK PTUN Decision
 - c) Declares the Plaintiff / Comparable lawsuit is unacceptable
 - d) Punishes the Plaintiffs / Compared to pay the case responsibly jointly k the second level of the
- 3) Decision of the Supreme Court Case Number 213 / K / TUN 1996 is as follows:
- a) Granting the Cassation Request AHMAD Bin BUJANG & UMAR Bin BUJANG
 - b) Canceled the Decision of the TUN High Court Jakarta
 - c) Granted the Plaintiff's Claims in part
 - d) Stated the nullification of the Decision of the TUN issued by the Head of the Pontianak City Land Office
- In case case Number: 06 / G / PTUN-PTK / 1994, the Plaintiff has filed a Cancellation claim against:
- 1) Situation Image (GS) Number 1125 of 1989;
 - 2) Situation Picture (GS) Number 196 of 1989 along with certificate of HGB Number 1303
 - 3) Picture of Situation (GS) Number 197 year 1989
 - 4) Certificate of Building Use Rights (HGB) Number 6537
 - 5) Situation Picture (GS) Number 2346 of 1986 along with Certificate of HGB Number 2659
 - 6) Picture of Situation (GS) Number 199 of 1989, along with Certificate, HGB Number 1304
 - 7) Situation Picture (GS) Number 2345 of 1986
 - 8) Situation Picture (GS) Number 1347 of 1986, along with Certificate of HGB Number 2659
 - 9) Situation Picture (GS) Number 2945 of 1987, along with Certificate HM Number 4080
 - 10) Situation Drawings (GS) Number 2946 of 1987, along with HM Certificate 4081 of
 - 11) Situation Images (GS) Number 1946 of 1987, along with Certificate of HGB Number 989
 - 12) Situation Images (GS) of Morrow 2348 of 1986, along with Certificate of HM Number 4117.

Documents as mentioned above, was issued by the Head of the Pontianak City Land Office based on the division of certificate of ownership in number 44 in the last name Lie Kie Kam for $\pm 20,530 \text{ M}^2$.

The reason used as the basis of the lawsuit by the Plaintiff is that at the end of December 1993, the Plaintiffs obtained information through Mr. Basirun, that the inherited land of the deceased Bujang bin Oesoep was in the form of a 20 x 100 fathoms land ($\pm 16 \times 180 \text{ M}^2 = 6,480 \text{ M}^2$) located on Jalan Gusti Situt Mahmud, Siantan Hulu Sub-district, North Pontianak District, Pontianak Municipality, with boundaries:

North side : by road to Malaya river (Gusti Situt Mahmud road)
South side : with black TONG KIANG warehouse
East side : with Djaenab land (Encik Ahmad Baso)
West side : with Ijot / Jauzah land

Has been divided / divided into several lots, and even in recent days (1994) the Plaintiffs received information that the inherited land had been split and published. certificates and pictures of the situation by the Defendant to and / on behalf of others (not to and / on behalf of the late BUJANG bin H. OESOEP or his heir).

Defendants' actions / decisions by issuing certificates and pictures of the situation by the Defendant to and / on behalf of others (not to and / on behalf of the late BUJANG bin H. OESOEP or his heirs) without the permission or knowledge of the late BUJANG bin H. OESOEP or his heir in casu Plaintiff clearly violates the law / is against the law and is very detrimental to the heirs of the late BUJANG bin H. OESOEP who have never been transferred / transferred to others.

Based on the consideration of the Panel of Judges, although HGB Certificate Number 1303, Certificate of Right to Building (HGB) Number 6537, HGB Certificate Number 2659, HGB Certificate Number 1304, HGB Certificate Number 2659 Certificate HM Number 4080, HM Certificate Number 4081, HGB Certificate Number 989, HM Certificate 4117 is a strong evidence according to Government Regulation Number 24 of 1997 concerning Land Registration, but because the issuance process is not in accordance with the provisions, namely the breakdown of the Parent Certificate of Ownership Certificate Number 44 of 1966 turned out to exceed the area recorded in the Certificate, then must be canceled.

In the case above, the problem is regarding the validity of the certificate as proof of rights as referred to in Article 19 paragraph (2) letter c of the Basic Agrarian Law for land rights, management rights, wakaf land, ownership rights over units of flats and mortgage rights, each of which has been recorded in the relevant land book.

In the case of Case Number 06 / G / PTUN-PTK / 1994 between Ahmad Bin Bujang and Umar Bin Bujang as Plaintiff and Head of Pontianak Land Office as Defendant, the object of dispute in Case Number 06 / G / PTUN-PTK / 1994 is the decision of the Head Pontianak Land Office in the form of Situation Drawings (GS) Number 1125 of 1989, Situation Drawings (GS) Number 196 of 1989 along with certificates of HGB Number 1303, Situation Images (GS) Number 197 of 1989, Certificate of Building Use Rights (HGB) Number 6537, Pictures Situation (GS) Number 2346 of 1986 along with Certificate of HGB Number 2659, Situation Picture (GS) Number 199 of 1989, along with Certificate, HGB Number 1304, Situation Picture (G, S) Number 2345 of 1986, Situation Picture (GS) Number 1347 1986, along with Certificate of HGB Number 2659, Situation Picture (GS) Number 2945 of 1987, along with HM Certificate of Number 4080, Situation Picture (GS) Number 2946 of 1987, along with Certificate of HM Number 4081, Situation Picture (GS) Number 1946 of 1987, along with the Certificate of HGB Nomo r 989, Situation Image (GS) Number 2348 of 1986, along with Certificate of HM Number 4117 which is considered to be detrimental to the legal interests of the Plaintiffs as BUJANG Bin H.OESOP's Heirs as Holders of Land Notification Letter (SKT).

The legal considerations used by PTUN essentially stated that from the facts obtained and the results of the local inspection it turned out that the land of the late Bujang Bin Oesop was no longer found because it had been sucked into the results of the separation of Certificate No. 44 of 1966 (Parent Certificate). Based on these

considerations, the Plaintiff's claim requesting that the following certificate Picture the Situation Images issued by the Defendant exceed the area be declared null and void must be granted. Pontianak Administrative Court Decision No. 06 / G / PTUN-PTK / 1994 is partially granted the Plaintiff's Lawsuit, Declared the nullification of the TUN Decree issued by the Head of Pontianak City Land Office, Stated the Plaintiff's Claim The rest is unacceptable.

In the above case, the Pontianak State Administrative Court considers that the process of issuing HGB certificate Number 1303, Certificate of Right to Building (HGB) Number 6537, HGB Certificate Number 2659, HGB Certificate Number 1304, along with HGB Certificate Number 2659, Certificate HM Number 4081, Certificate of HGB Number 989, along with Certificate of HM Number 4117 is legally flawed so it must be canceled.

Land Certificate is a Statement / Recognition from the land tiller made before the Village / Dusun Head witnessed by 2 (two) witnesses from the local community, with the recognition that he is entitled to the land bag that has been tilled, maintained and managed continuously and descending downward. Land Certificate is a basic letter as one of the requirements to be able to apply for a certificate of ownership at the local Land Agency Office. Pontianak City people feel safe by sticking to the Land Certificate without being registered to be made a certificate.

According to Article 1 number 20 Government Regulation Number 24 of 1997 certificate is a certificate of proof of rights as referred to in Article 19 paragraph (2) letter c of the Basic Agrarian Law for land rights, management rights, waqf land, ownership rights over units of flats and mortgage rights, each of which has been recorded in the relevant land book.

Based on the provisions of Article 19 paragraph (1) of the LoGA, further regulation regarding land registration is further regulated in a Government Regulation, namely Government Regulation Number 10 of 1961 concerning Land Registration which has subsequently been amended and replaced with Government Regulation Number 24 of 1997 concerning Land Registration.

Proof of old rights in the context of obtaining the truth of juridical data for old rights and for the registration of rights, according to Article 24 paragraph (1) Government Regulation Number 24 of 1997 concerning Land Registration states that for the purpose of registering rights, land rights originating from conversion old rights are proven by evidence regarding the existence of said rights in the form of written evidence, witness statements and or statements concerned which the level of truth by the Adjudication Committee in systematic land registration or by the Head of the Land Office in sporadic land registration, is considered enough to register rights, rights holders and the rights of other parties that burden them.

Based on the above provisions, it can be understood if the registration of rights to land originating from the conversion of old rights, sufficiently evidenced by evidence regarding the existence of these rights in the form of written evidence, witness statements and or statements concerned whose level of truth by the Adjudication Committee in systematic land registration or by the Head of the Land Office in sporadic land registration.

If it turns out that the legal data owned is incomplete, according to the provisions of Article 24 paragraph (2) of Government Regulation Number 24 of 1997 concerning Land Registration, bookkeeping rights can be carried out based on the reality of physical control of the relevant parcels of land for 20 (twenty) years or more in full successively by the applicant for registration and his predecessors, provided that: the

- a. control is carried out in good faith and openly by the person concerned as entitled to the land, and is powerened by the testimony of a person who can be trusted;
- b. Such control either before or during the announcement as referred to in Article 26 shall not be disputed by the adat law community or the village / kelurahan concerned or other parties.

A study is considered good if it can display comparative data as material for analysis. In this study, the author tries to provide comparative data in the form of sample cases examined and tried in the Semarang District Court in Case Number 23 / Pdt / G / 2008 / Semarang PN as follows:

1) Parties

The parties in Case Number 23 / Pdt. / G / 2008 / Semarang District Court is Sudiarto Sutaryo as the Plaintiff, while the Defendant is Mariyem, Wahyu Hidayat and the Head of the Land Office.

2) Object of Dispute The

object of dispute in Case Number 23 / Pdt. / G / 2008 / PN Semarang is the land for Building Rights Number 1472 / Kalipancur Village, Area: 346 M² (formerly Building Use Rights Number 260 / Kelurahan Manyaran).

3) Brief Description of the Case

Sitting the case in Case Number 23 / Pdt / G / 2008 / PN Semarang briefly begins with the Plaintiff who feels that he is the legal owner of the land for Building Use Number 1472 / Kalipancur Village, Area: 346 M² (originating from the Right Use Noomor 260 / Kelurahan Manyaran). The land was obtained based on the Sale and Purchase Deed Number 061/2002, Date: 15 October 2002. In the Sale and Purchase of the land, the land rights were in the form of Building Use Rights Number 260 / Kelurahan Manyaran. The Right to Build after the name was reversed on behalf of the Plaintiff and because of the division of the Kelurahan and Kelurahan in Semarang City, it was changed to Right to Build Number 1472 / Kalipancur Kelurahan.

The Plaintiff who feels that he is the Rightful Owner of the Right to Build Number 1472 / Kalipancur Village, area: 346 M², filed a lawsuit because he felt disadvantaged by the issuance of the Right to Ownership Number 01430 Area: 259 M² which was issued by the Semarang National Land Agency so that there was an Overlapping

f. Legal Consideration

- 1) Legal considerations in the Decision PN Semarang Case Number 23 / Pdt. / G / 2008 / PN Semarang is as follows:

- a) that the Panel of Judges, along the prosudur Broking and Proprietary is lawful

- b) Whereas if Broking validity period of the exceeded, then the right will be deleted \
- c) That there is no evidence that shows that the Right to Build is still valid / upgraded to Ownership
- d) That the Panel of Judges believes that the Right to Building has been deleted and is no longer valid and therefore has no legal force
- e) That the lawsuit filed is not has legal grounds, the lawsuit cannot be accepted
- 2) Legal considerations in the Decision of Semarang District Court Case Number 69 / Pdt / 2009 / PT Semarang is as follows:
 - a) That the appeal was filed within a period of time and according to the procedure and meet the requirements specified in the law, the appeal was accepted
 - b) That the High Court has examined and examined and examined the file the Semarang District Court case, apparently there was nothing new, the High Court agreed to the decision of the first-rate judge, because legal considerations had contained and described correctly and the reasons underlying the decision had also been included in the decision of the level appeal.
 - c) Whereas, therefore, the considerations of the trial judge was taken over and used / powerened into consideration the decision of the High Court itself
- 3) Legal consideration in the Decision of the Supreme Court Case Number 189 / K / PDT / 2011 is as follows:
 - a) that the High Court to decide on the level the appeal did not give consideration in dropping the verdict and simply took over the consideration of the Semarang District Court which did not give consideration of the appeal memory submitted by the Comparator / Plaintiff.
 - b) Whereas based on the above considerations, in the opinion of the Supreme Court, there is sufficient reason to grant the appeal, and cancel the decision of PT Semarang which reinforces the PN decision in Semarang and the Supreme Court to adjudicate the case itself with the ruling: if the petitionee is in the losing party, then he must be punished to pay legal fees at all levels of justice.
- g. Court
 - 1) Decision of the Semarang District Court Number 23 / Pdt. / G / 2008 / Semarang PN is as follows:
 - a) Granting the defendant's exception to some extent
 - b) Stating the plaintiff's claim is not acceptable
 - c) Punishing the Plaintiff to pay a case of Rp.389,000
 - 2) Semarang District Court Decree Number 69 / Pdt / 2009 / PT Semarang is as follows:
 - a) Receiving Appeal from the Plaintiff / Appeals
 - b) Powerening the Semarang District
 - c) Punishing the Plaintiff / Appellant to pay the court fee in both court levels in the appeal level of Rp.73,000
 - 3) Court Decision of the Supreme Court Case Number 189 / K / PDT / 2011 is as follows:
 - a) Granting the Cassation Request
 - b) Canceling the Semarang High Court's decision which upheld the Semarang District Court's decision
 - c) Punishing the Cassation Defendant / Defendant to pay the Case Fee in all court levels which in this cassation level was set at Rp. 500,000

In the Case Number 23 / Pdt / G / 2008 / Semarang Semarang, the Plaintiff has filed a claim for Right to Ownership of Land based on the Building Use Certificate Number 1472 issued in 1983 against the holder of land rights with the Certificate of Ownership Number 01430 issued in 1999, the land overlapping with that of Building Certificate Number 1472.

The reason for the Plaintiff filed a lawsuit is that the Plaintiff is the legal owner of the plot of land with a Certificate of Building Use Number 1472 / Kalipancur Village, Area: 346 M2 (derived from the Right to Building Number 260 / Kelurahan Manyaran). The land was obtained by the Plaintiff based on the Sale and Purchase Deed Number 061/2002, dated October 15, 2002 in the sale and purchase of the land with the object of Land Use Certificate Number 260 / Kelurahan Manyaran. The Plaintiff's Certificate of Building Number 260 was then reversed by the Plaintiff's name because of the division of the Kelurahan and Subdistrict area so that it was changed to the Certificate of Building Certificate Number 1472.

The Plaintiff at the end of 2002 wanted to build a dwelling house on the disputed object land, but was prevented by the Defendant on the grounds that the disputed object's land belonged to the Defendant with proof of Ownership Certificate Number 01430 / Kelurahan Kalipancur on behalf of defendant, with the width: 259 M2.

Based on the consideration of the Panel of Judges, that as far as the publication procedure is concerned, the Building Use Certificate and Ownership Certificate are lawful. With respect to the Right to Building Certificate, if the validity period of the Right to Building Certificate is exceeded, then the right will automatically be deleted. In case Number 23 / Pdt. / G / 2008 / PN Semarang, there was no evidence that showed that the Right to Building Certificate was still valid / upgraded to the Right of Ownership Certificate, so that according to the Judges' consideration, the Building Right Certificate was deleted by itself and not valid again, so therefore not legally binding.

In the case of the Case Number: 23 / Pdt. / G / 2008 / PN Semarang, the problem is the ownership of land rights between the holder of land rights with the Certificate of Building Rights Number 1472 issued in 1983 against the holder of land rights with the holder of the rights over land with Ownership Certificate Number 01430 issued in 1999 whose land overlaps with the land of Building Certificate No. 1472.

In the author's opinion, the expiry of the period of acquisition of Building Use Rights, legally it causes the status of the land rights to be automatically deleted, but nevertheless the third party may not automatically propose the acquisition of new rights bearing in mind the physical control of the land is still in the hands of the old right-holders. In accordance with statutory regulations, someone who physically controls a certain land for a certain

period of time may submit registration of land rights by attaching a certificate of control signed by the local authority (lurah / village head).

Judges' considerations which are based solely on formal evidence, show that judges do not understand the basic philosophy of national agrarian law which is not only based on written law, but is also based on customary law. According to agrarian law adopted in Indonesia, a certificate is not an absolute proof, but only a strong proof, so that in terms of proof material facts are needed that have a causal relationship with the issuance or deletion of a deed.

According to the explanation of the Head of the Land Rights and Land Registration Section of the Pontianak City Land Office, for land registrations that do not have complete evidence, the verification of rights can be carried out based on the physical mastery of the relevant land parcels for 20 (twenty) years or more in a row by the applicant. Registration and predecessors, provided:

a. the control is carried out in good faith and openly by the person concerned as entitled to the land, and is powered by the testimony of a person who can be trusted;

b. Such control either before or during the announcement as referred to in Article 26 shall not be disputed by the adat law community or the village concerned or other parties.

The above is in accordance with Article 23 of Government Regulation Number 24 of 1997 concerning Land Registration, which states that in the context of obtaining the truth of juridical data for new land rights and for the purpose of registering rights, it is proven by:

a. New land rights are proven by:

1) Stipulation of the granting of rights from an authorized official to grant the relevant rights in accordance with applicable provisions if the granting of said rights originates from State land or land management rights;

2) original PPAT deed which contains the granting of said right by the holder of the ownership right to the recipient of the said right if it concerns the right to use the building and the right to use the land of the ownership right;

b. For management rights, it is evidenced by the stipulation of the granting of management rights by the authorized official;

Procedure for granting rights over state land or land for Management Rights is regulated by Regulation of the Minister of Agrarian / Head of BPN Number 9 of 1999 concerning Procedures for Granting and Cancellation of State Land Rights and Management Rights. Stipulation of granting Management Rights in the form of the issuance of Decree on Granting Management Rights by the Head of the National Land Agency of the Republic of Indonesia. The mechanism for granting Management Rights is regulated in the Agrarian Regulation / Head of BPN Number 9 of 1999 concerning Procedures for Granting and Cancellation of State Land Rights and Management Rights.

a. For endowment land is proven by endowment pledges;

Pledge of Endowment Pledge is the Pledge of Endowment Pledge as referred to in Government Regulation Number 28 of 1977 concerning Title of Land Ownership. The official authorized to issue the Waqf Pledge Deed is the Official Makers of Waqf Pledge Deed (PPAIW) held by the Head of the Office of Religious Affairs (KUA Head). Provisions regarding the bookkeeping of waqf are viewed from the point of view of the object, the bookkeeping is the registration for the first time, even though the relevant parcels of land have previously been registered as private property.

b. For ownership rights to the unit of flats is evidenced by the deed of separation;

The right of ownership for a unit of flats is the right of individual ownership of a certain unit of flats, which includes and is an inseparable unity with the common right of the so-called common parts, common objects and shared land, where the flats are built. Bookkeeping of ownership of an apartment unit is a registration for the first time, even though the right to the land on which the building is concerned has been registered. The bookkeeping of ownership of a unit of flats is carried out based on the deed of separation, which shows which unit of flats is owned and what proportion of the owner's proportion of the objects that are shared.

c. For granting mortgage rights, this is proven by the deed for granting mortgage rights.

Regarding the deed of granting Mortgage Right is regulated in Article 1 number 5 of Act Number 4 of 1996 concerning Mortgage which states that the deed of granting mortgages is the deed of the Actor of Land Deed Maker (PPAT) which contains the granting of Mortgage Rights to certain creditors as collateral for repayment of its receivables. .

The purpose of holding a land registration, according to the Head of Land Registration Section of the Pontianak City Land Office, is basically to provide legal certainty for holders of land rights and other parties with an interest in land and the end of the land registration process is the issuance of a document called a certificate.

The meaning of juridical certificate can be seen in the provisions of Article 1 number 20 of Government Regulation Number 24 of 1997 concerning Land Registration which states that the Certificate is proof of rights as referred to in Article 19 paragraph (2) letter c of the Basic Agrarian Law for land rights , management rights, waqf land, ownership rights to the unit of flats and mortgage rights, each of which has been recorded in the relevant land book.

The certificate acts as a strong proof, meaning that the certificate is a proof of rights that acts as a strong proof of physical data and juridical data contained in it, as long as the physical and juridical data are in accordance with the data in the measuring letters and books available land. So, if as long as it cannot be proven otherwise, physical data and juridical data contained in the land certificate and land book, must be accepted as true and certain data. In other words, what can be proven from the certificate is:

a. Land Physical Data, i.e. data concerning the physical land concerned, concerning concerning: location of land, land boundaries and land area;

b. Juridical Land Data, namely data regarding the juridical land concerned, concerns about: what rights, who is the owner and whether or not there are other rights that burden him.

The holder of a certificate of land rights has strong evidence of the land he owns. The certificate contains physical data and juridical data of land including the type of rights such as ownership rights (HM), business use rights (HGU), building rights (HGB), and so forth, so that the certificate of land rights is very important.

The certificate of land rights serves as a means of proof that guarantees legal certainty regarding the person who is the holder of the land rights, legal certainty regarding the location of the land, boundaries and area of a parcel of land, and legal certainty regarding the rights to his own land. The legal certainty can be given legal protection to the person whose name is included in the certificate against the interference of other parties and to avoid disputes with other parties as affirmed in Article 19 paragraph (2) letter c of the LoGA that granting proof of rights documents, which act as a tool strong proof.

The main function of the certificate is as a strong evidence, so that anyone can easily prove himself as the holder of land rights if he already has a certificate that lists his name as the holder of the land rights and prove about the conditions of the land such as the extent, boundaries, or everything related to the intended plot of land.

Granting of certificates of land rights in accordance with the legal status, land rights applied for. Giving a valid proof of right in the form of a certificate as a strong evidentiary tool, regarding physical data and juridical data contained therein, as long as the physical and juridical data are in accordance with the data contained in the measuring certificate and the relevant land title book. The certificate of land rights becomes a strong proof as long as there is no other evidence that proves its untruth, so the information contained therein must be considered true without the need for additional evidence, while the other evidence is only considered as preliminary evidence and must be powered by evidence the other.

In such a position, according to the author the certificate is one of the strong evidentiary tools in determining the truth of ownership of land rights. Issuance of certificates to the right is intended so that right holders can easily prove their rights. Whereas the certificate function is as a means of proving ownership of land rights. In accordance with Article 19 of the Basic Agrarian Law, it can be understood that the certificate can provide legal certainty if there is physical data and juridical data in accordance with the data contained in the Land Book and the Measurement Letter concerned must be considered as true data unless proven otherwise by Court. So long as it cannot be proven otherwise, the physical data and juridical data contained therein must be accepted as correct data, both in carrying out daily legal actions, and in litigating in court, so that the data listed really must be in accordance with the relevant measurement letter in question, because the data taken comes from the land certificate and land book.

The position of the certificate as a strong means of proof cannot mean that the certificate cannot be revoked by the ownership of the land. This needs to be understood bearing in mind that certificates are not the only absolute means of proof, there are still other pieces of evidence that can be used as evidence in a settlement of land ownership disputes in court. The emergence of a lawsuit in court regarding ownership rights or control of land, requires the judge to act carefully by examining other written evidence outside the certificate that is able to prove otherwise to the validity of the information in the certificate.

The nature of proof of certificate as proof of rights is powered again in the provisions of Article 32 paragraph (2) Government Regulation Number 24 of 1997 concerning Land Registration which states that in the case of a plot of land a legal certificate has been issued on behalf of the person or legal entity that obtained the land in good faith and actually mastered it, then other parties who feel they have rights to the land can no longer demand the implementation of these rights if within 5 (five) years of the issuance of the certificate do not submit objections in writing to the certificate holder and the Head of the Land Office who concerned or not filed a lawsuit to the Court regarding land acquisition or the issuance of the certificate.

The provisions of Article 32 are in the framework of providing legal certainty in the field of land to be seen and felt to be of practical significance even though the publication system used is a negative system. Specifically in Article 32 paragraph (2) that a person cannot claim land that has been certified in the name of a person or other legal entity, if for 5 (five) years since the certificate was issued he did not sue or file a lawsuit in court regarding the possession of the rights over or the issuance of the certificate. So the certificate of land rights is a copy of the land book and the measuring certificate is then bound together with a cover that has been determined in its form, so that a certificate of land rights is created.

According to Article 1 number 19 Government Regulation Number 24 of 1997 concerning Land Registration, a Land Book is a document in the form of a list containing juridical data and physical data of an object for registration of land for which there is already a right. The land book is a sheet of entries, which contains and is evidence of:

- a. Types of land rights that are recorded;
- b. The subject that has it;
- c. Which land is insured (refer to the measurement letter or picture of the situation)
- d. Other rights that burden it.

Measuring letter according to Article 1 number 17 Government Regulation Number 24 of 1997 concerning Land Registration is a document containing physical data of a parcel of land in the form of maps and descriptions, containing at a minimum:

- a. Registration number;
- b. Number and year of land certificate or land book;
- c. Tax number if possible;
- d. A description of the location of the land;
- e. Description of the condition of the land;

f. Surface area.

Regarding matters that can be proven in the substance of a certificate of land rights are as follows:

1. Types of land rights;
2. Rights holders;
3. Physical information about the land;
4. Load on the ground;
5. Legal events that occur with the land.

Based on the description above, it can be understood that if a person has a certificate of land rights, then he will feel secure certainty of the rights to his land, because if there is a violation of his property rights, the land owner can claim his rights back because the certificate is one of the evidences which is strong in proving ownership of land rights.

With regard to land certificates, the village / lurah head as part of the government apparatus at the lowest level has the authority to produce a certificate confirming proof of rights. These provisions can be found in Article 39 paragraph (1) letter b, which basically states that for land that has not been registered, a statement is needed from the Head of the Village / Lurah which states the mastery of the parcels of land concerned.

Certificate of physical mastery of parcels based on Article 24 (2) Government Regulation Number 24 of 1997 and Article 76 paragraph (3) PMNA / KBPN Number 3 of 1997, are:

- a. The real ownership of the land concerned for 20 (twenty) years or more successively by the applicant and his predecessors.
- b. Land acquisition has been carried out in good faith.
- c. This control is not contested and is therefore considered to be recognized and justified by the adat law community or the village / kelurahan concerned
- d. The land is now not in dispute;
- e. Whereas if the signatory falsified the contents of the statement letter, he was willing to be prosecuted before the Judge both criminal and civil by providing false information.

Then the statement needs to be accompanied by the statement of witnesses of 2 (two) people whose testimony can be trusted, because of its function as local traditional elders and / or residents who have long lived in the village / kelurahan where the land is concerned and has no family relations with concerned to the second degree both in vertical and horizontal kinship as well as the existence of testimony from the Village / Lurah Head.

Based on the provisions of Article 60 paragraph (4) PMNA / KBPN Number 3 of 1997, to be able to assess the truth of the witnesses' information or the information concerned, it can be done:

- a. looking for additional information from the community who are around the parcel of land that can be used to poweren testimony or information about the proof of ownership of the land
- b. request additional information from the community as referred to in letter a which is expected to know the history of ownership of the land parcels by looking at the age and duration of residence in the area.
- c. look at the condition of the plot of land in its location to find out whether the person concerned physically controls the land or is used by other parties with the permission of the person concerned, and in addition can assess existing buildings and plants on the plot of land that may be used as a guide to prove one's ownership of these parcels.

According to the Head of the Village of Siantan Hulu, the Head of the Village / Lurah can produce a certificate because it is he who is closest to know the origin of the land being applied for registration. Certificate made by the Village / Lurah Head containing information as regulated in Article 24 paragraph (2) Government Regulation Number 24 of 1997, so that what the Village / Lurah Head needs to do first is to conduct an initial investigation of the land history, its boundaries, the length and width of the land. If all of the requirements have been fulfilled, then the certificate of the Village / Lurah Head can issue a Certificate as the basis for the issuance of a certificate and has the power of proof.

Based on the above it can be understood that the certificate of the Village / Lurah Head is not a proof of land rights but a certificate of the Head of the Village / Lurah which contains the provisions of Article 24 paragraph (2) Government Regulation Number 24 of 1997 and contains truth, then the certificate of the Head of the Village / Lurah can be used as the basis for the issuance of a certificate and has the power of proof.

In Case Case Number 06 / G / PTUN-PTK / 1994, Plaintiffs as BUJANG Bin H.OESOP Heirs only have proof of Land Notification Letter (SKT) which turns out that their land overlaps with Land Title Certificates issued by the Land Agency Pontianak City is located on Jalan Situt Mahmut, Siantan Hulu Sub-district, North Pontianak District, Pontianak City.

In Case Case Number 06 / G / PTUN-PTK / 1994, even though the Defendant has the authority to issue certificates of land rights that have a strong proof of power, but because according to the judge's judgment the process of issuing certificate of HGB Number 1303, Certificate of Right to Building Number (HGB) Number 6537, Certificate of HGB Number 2659, Certificate of HGB Number 1304, Certificate of HGB Number 2659, Certificate of HM Number 4080, Certificate of HM Number 4081, Certificate of HGB Number 989, Certificate of HM Number 4117 is not in accordance with statutory regulations and is proven to overlap with Letter of Certificate Statement of Land (SKT) owned by BUJANG Bin H.OESOP's heirs, the panel of judges declared that the TUN Decree issued by the Head of the Pontianak City Land Office was in the form of HGB certificate Number 1303, Certificate of Building Use Rights (HGB) Number 6537, Certificate of HGB Number 2659, Certificate , HGB Number 1304, Certificate of HGB Number 2659, Certificate of HM Number 4080, Certificate of HM Number 4081, Certificate of HGB Number 989, Certificate of HM Number 4117.

Land Certificate issued by the Village Head, although not a proof of rights, but has an important position in proving land tenure by someone who is corroborated by the statement of the village head. The village / lurah head as part of the government apparatus at the lowest level has the authority to produce a certificate confirming evidence of rights. This is in line with the provisions of Article 39 paragraph (1) letter b, which basically states that for land that has not been registered, a statement is needed from the Head of the Village / Lurah which states the mastery of the parcel of land concerned. Certificate of physical mastery of parcels based on Article 24 (2) Government Regulation Number 24 of 1997 and Article 76 paragraph (3) of PMNA / KBPN Number 3 of 1997 contains substance which explains that the person concerned really possesses the actual land concerned for 20 (twenty) years or more consecutively by the applicant and his predecessors, the control of land has been carried out in good faith, the control is not contested and therefore considered to be recognized and justified by the customary law community or the village / kelurahan concerned, the land it is now not in dispute and if the signer falsifies the contents of the statement, he is willing to be prosecuted before the judge in a criminal or civil manner for providing false information.

Based on the description above, it can be concluded that, although the certificate of land rights has a position as a strong means of proof, it means that the certificate is a proof of rights that acts as a strong proof of physical data and juridical data contained therein, as long as the data the physical and juridical data are in accordance with the data in the available land certificate and land book, but because the way to obtain it is not in accordance with the law, it can be defeated by the Land Certificate.

2. Legal Basis That Makes the Power of Proof of Ownership of Land Rights between Certified Land and Land Notification Letter (SKT)

In case Number: 06 / G / PTUN-PTK / 1994, the legal basis as the power of evidence of the Plaintiff is a Land Notification Letter (SKT) on a plot of Customary Land area of 20 x 100 fathoms ($\pm 16 \times 180 \text{ M}^2 = 6,480 \text{ M}^2$) which is located on Gusti Situt Mahmud Street, Siantar Hulu Village, North Pontianak District, Pontianak Municipality, owned by the Plaintiffs who came from the land of the late Bujung bin Oesoep.

HGB Certificate Number 1303, Certificate of Right to Building (HGB) Number 6537, Certificate of HGB Number 2659, Certificate of HGB Number 1304, Certificate of HGB Number 2659 Certificate of HM Number 4080, Certificate of HM Number 4081, Certificate of HGB Number 989, Certificate of HM Number 4117, which is a Certificate of HGB Number 2659 strong evidence according to Government Regulation No. 24 of 1997 concerning Land Registration, but because the issuance process is not in accordance with the provisions, then it becomes invalid must be canceled.

Proof law is one of the fields of law that is quite old. This can be seen from the role of humans in social life which in essence has justice. In general, proof is needed if a dispute occurs in court or before a judge. The judge is in charge of investigating whether the legal relationship in the case really exists or not. This legal relationship must be proven before the judge and the duty of both parties to the litigation is to provide the evidence needed by the judge. Proving in a broad sense is to justify the legal relationship, that is, for example if a judge grants the claimant of the plaintiff, the granting of the claim implies, that the judge draws the conclusion that what the plaintiff put forward as a legal relationship between the plaintiff and the defendant, is correct in relation to it and proves in the sense broad is to poweren the judge's conclusion on the condition of valid evidence. Proof in the limited sense is only necessary if what is stated by the plaintiff is denied by the defendant and what is not denied is not necessary to prove as stated in Article 283 RBg / 163 HIR that whoever said he had a right or stated an act to affirm his rights, or to deny the rights of others, must prove the existence of the act.

This is also contained in Article 1865 of the Civil Code which states that whoever submits events on which he bases a right is obliged to prove the events; conversely whoever submits events in order to rebut the rights of others, is also required to prove the events.

Every person who postulates that he has a right or to affirm his own rights or to deny someone else's rights, pointing to an event is required to prove the existence of that right or event. Among the many agreements in the community many events including buying and selling, which is the transfer of rights to land, this is very important because it could have been an event that initially had no problems then problems arose because beforehand the legal rights owned by someone could have been sued by another party. In court, each party submits contradictory propositions in which the judge will examine and determine the correct arguments and incorrect arguments based on the rules of proof.

Proof law in civil procedural law occupies a very important place. Procedural law or formal law aims to preserve and maintain material law. So formally the evidentiary law regulates how to carry out the proof as contained in the RBg and HIR. Whereas, materially, the law of proof regulates whether or not evidence can be received with certain evidences at the trial and the power of proof.

In answering questions before a court hearing, litigants can bring up legal facts that can be used as a basis for establishing their civil rights or for disputing the civil rights of others. These events are certainly not enough just stated, both in writing and orally, but according to the author must be accompanied by evidence that is valid according to law in order to ensure the truth. This means that the proposition that reveals an event must also be proven with juridical evidence.

Proof as such is the presentation of legal proofs according to law to the judge examining a case in order to provide certainty about the truth of the incident stated. Regarding the evidentiary law, it has been regulated in the fourth book of the Civil Code and is contained in Articles 1865 to 1945 that contain all the basic rules of proof in the civil law, so that this proof is only related to the case only.

If viewed from a case that occurs in court to obtain an evidence from the argument submitted by the plaintiff against the plaintiff, a judge can pay attention to the evidence submitted by the plaintiff and the defendant in court in which

the evidence (bewijsmiddel) has a variety of forms and types who is able to provide information and clarification about the problem being brought to trial in the court. Which is the evidence submitted by the parties in order to justify the arguments or arguments.

According to Article 1866 of the Civil Code, there are 5 (five) types of valid proof, including: Proof of writing; Evidence with witnesses; Estimates; Recognition; Oath.

A letter is a bearer of reading signatures which means translating a thought content in Article 1867 of the Civil Code which regulates written evidence, the law divides the letters in authentic letters and underhanded letters. An authentic letter is a letter made by an employee in his position. Written evidence is what is called the deed of a signed letter, made as evidence and to be used by people for the purposes for which the letter was made.

Signing here is very important in a deed because the signatory is assumed to bear the truth of what is written in the deed and is responsible for what is written in the deed. There are three types of letters as evidence, namely authentic Deed which is a deed made in the form determined by the law by or in front of the public official authorized for that place where the deed was made, Deed under the hand which is a deed signed under the hand and not made and signed before the competent authority, but made by a person or parties, other letters which are written letters that are inadvertently or intentionally intended as evidence, but this letter can be used as additional evidence and can also be ruled out or not used at all (for example: tickets, receipts, plane tickets, etc.).

Based on the description above, according to the author, it can be concluded that the legal basis that makes the power of proof of ownership of land rights between the certified land and the Land Notification Letter (SKT) is contained in the RBg and HIR. The power of proof of deed under the hand, is not as extensive and as high as the degree of authentic deed. Authentic deeds have physical, formal and material evidence. Not so with a deed under the hand, to which it does not have the power of proof, but only limited to the power of formal and material evidence with a weight that is much lower than the authentic deed.

3. Accountability of the National Land Agency which Issues Certificate of Administrative Disability

In case Number: 06 / G / PTUN-PTK / 1994, the Panel of Judges has revoked Certificate of HGB Number 1303, Certificate of Right to Building (HGB) Number 6537, Certificate of HGB Number 2659, Certificate of HGB Number 1304, Certificate of HGB Number 2659 Certificate of HM Number 4080, HM Certificate Number 4081, HGB Certificate Number 989, HM Certificate 4117 which is a product of the Head of the Pontianak City Land Office.

Due to the legal cancellation of Certificate of HGB Number 1303, Certificate of Right to Building (HGB) Number 6537, Certificate of HGB Number 2659, Certificate of HGB Number 1304, Certificate of HGB Number 2659 Certificate of HM Number 4080, Certificate of HM Number 4081, Certificate of HGB Number 989, Certificate of HM Number 1304, Certificate of HGB Number 4117 by Pontianak State Administrative Court, the Head of the Pontianak City Land Office must revoke the issuance of HGB Certificate Number 1303, Certificate of Right to Building (HGB) Number 6537, HGB Certificate Number 2659, HGB Certificate Number 1304, HGB Certificate Number 2659 Certificate HM Number 4080 , Certificate of HM Number 4081, Certificate of HGB Number 989, Certificate of HM Number 4117 based on the decision of a state administrative court.

In accordance with Article 5 of Government Regulation Number 24 of 1997, it is stated that land registration is carried out by the National Land Agency. Furthermore, in the provision of Article 6 paragraph (1) of Government Regulation Number 24 of 1997 it is stated that in the framework of carrying out land registration as referred to in Article 5 the task of carrying out land registration is carried out by the Head of the Land Office, except for certain activities which are by this Government Regulation or legislation the invitation is assigned to another Officer. In carrying out land registration, according to the provisions of Article 6 paragraph (2) of Government Regulation Number 24 of 1997, the Head of the Land Office is assisted by the PPAT and other Officials assigned to carry out certain activities according to this Government Regulation and the relevant laws and regulations.

Article 31 paragraph (1) of Government Regulation Number 24 of 1997, affirms that the Certificate is issued for the benefit of the relevant right holder in accordance with the physical and juridical data that has been registered in the land book as referred to in Article 30 paragraph (1). The provisions of Article 30 paragraph (1) of Government Regulation Number 24 of 1997, states as follows:

On the basis of evidence and minutes of ratification as referred to in Article 29 paragraph (3) rights to parcels of land:

a. the physical data and juridical data are complete and there is no dispute, the books are recorded in the land book according to Article 29 paragraph (1)

b. for which physical data or juridical data is incomplete, bookkeeping is done in a land book with notes on incomplete matters;

c. whose physical data and / or juridical data are disputed but the lawsuit is not submitted to the Court, the books are recorded in a land book with notes on the existence of the dispute and the objected party is notified by the Chair of the Adjudication Committee for systematic land registration or the Head of the Land Office for sporadic land registration for land registration. submit a lawsuit to the Court regarding the disputed data within 60 (sixty) days in systematic land registration and 90 (ninety) days in sporadic land registration counting from the date the notice was given;

d. whose physical data and / or juridical data are disputed and filed a lawsuit to the Court but there is no order from the Court for the status quo and no decision of confiscation from the Court, the books are recorded in a land book with notes on the existence of the dispute and the disputed matters;

e. whose physical data or juridical data is disputed and submitted to the Court and there is an order for the status quo or seizure decision from the Court, recorded in the land book by clearing the name of the right holder and other disputed matters and recording in it the confiscation or order of the status quo .

If in the land book there is a record as referred to in Article 30 paragraph (1) letter b which concerns juridical data, or the record referred to in Article 30 paragraph (1) letters c, d, and e which concerns both physical data and juridical data of

certificate issuance deferred until the relevant note is deleted. This means that certificates can only be issued if there are no more disputes, thus providing legal certainty for holders of their land rights.

For certificates which according to the court's ruling must be canceled, in accordance with the authority of the Land Office, the Head of the Land Office is obliged to cancel / revoke the issuance of the certificate concerned on the basis of a court ruling. In the case example Number: 06 / G / PTUN-PTK / 1994, the court's decision ordered the Head of the Pontianak City Land Office to cancel HGB Certificate Number 1303, Building Rights Certificate (HGB) Number 6537, HGB Certificate Number 2659, HGB Certificate Number 1304, Certificate of HGB Number 1304, Certificate HGB Number 2659 HM Certificate 4080, HM Certificate 4081, HGB Certificate Number 989, HM Certificate 4117, so that according to the authority of the Head of Pontianak City Land Office, Pontianak City Land Office is responsible for revoking the issuance of HGB Certificate Number 1303, Land Use Certificate Building (HGB) Number 6537, Certificate of HGB Number 2659, Certificate of HGB Number 1304, Certificate of HGB Number 2659 Certificate of HM Number 4080, Certificate of HM Number 4081, Certificate of HGB Number 989, Certificate of HM Number 4117 for legal certainty.

In the case sample No. 23 / Pdt / G / 2008 / PN Semarang, the Panel of Judges is of the opinion that as long as the procedure for Building Rights and Property Rights is legal according to the law, so that if the Building Use Rights are over, the rights will automatically be over. Delete. The Panel of Judges believes that the Right to Build has been abolished and is no longer valid and therefore has no legal force, so that the lawsuit filed has no legal basis, the lawsuit cannot be accepted. At the cassation level, COURT OF SUPREME COURT Case No. 189 / K / PDT / 2011 states that the Decision of the Court of Appeal which decided at the appeal level did not give any consideration in dropping the verdict and simply took over the consideration of the Semarang District Court which did not give consideration of the appeal memory submitted by the Comparator / Plaintiff. In the opinion of the Supreme Court, there is sufficient reason to grant the appeal, and to cancel the decision of PT Semarang which powerens the PN decision in Semarang and the Supreme Court to hear this case on the verdict: because the petitioned appeals are on the losing side, they must be punished to pay the case costs in all levels of justice.

The existence of a court ruling that revoked the certificate of land rights, gave legal consequences for the National Land Agency as the party that issued the certificate of land rights to follow up.

The process of revoking certificates of land rights in practice at the Land Office can be explained as follows:

a. The Land Office is awaiting the receipt of a court decision that has been *inkracht van gewisjde* (has permanent legal force) from the Plaintiff who submitted a cancellation of the certificate of land rights which became the object of the dispute.

b. The Plaintiff came to the local Land Office to submit a letter requesting the cancellation of the certificate of land rights that became the object of the dispute accompanied by a copy of the court's decision.

c. The land office after receiving the request for certificate cancellation from the applicant immediately registers the cancellation and sends it to the Regional Office of the local Provincial National Land Agency.

d. The Regional Office of the local Provincial National Land Agency after receiving the documents immediately issues a decree concerning the cancellation of the certificate of land rights for which the cancellation is requested.

e. The Land Office then records in the land book about the cancellation of the relevant land title certificate and announces the cancellation of the certificate and instructs the physical holder of the land title certificate to submit it to the Land Office.

After there is a cancellation of the certificate of land rights based on a court decision that has permanent legal force (*inkracht van gewisjde*), the Plaintiff can submit a land registration application and the Land Office must process the land registration request from the Plaintiff. The Land Agency as the Defendant took measurements to issue a map of the land parcels with a Land Plane Identification Number (NIB), made minutes of the Land Inspection Committee and the Issuance of the Decree on Land Rights on behalf of the Plaintiff and to Issue a Certificate of Land Rights.

C. CONCLUSION

Land Certificate issued by the Village Head, although not a proof of rights, has an important position in proving land ownership by someone. The provisions of Article 39 paragraph (1) letter b states that for land that has not been registered, a certificate of the Head of the Village / Lurah is required which states the control of the parcels of land concerned. Certificate of physical mastery of parcels based on Article 24 paragraph (2) Government Regulation Number 24 of 1997 and Article 76 paragraph (3) of PMNA / KBPN Number 3 of 1997 contains substance which explains that the person concerned actually controls the real land concerned 20 (twenty) years or more consecutively by the applicant and his predecessors, the control of land has been carried out in good faith, the possession is not contested and therefore considered to be recognized and justified by the customary law community or the village / *kelurahan* concerned, The land is now not in dispute and if the signing falsifies the contents of the statement letter, willing to be prosecuted before the Judge in a criminal or civil case for providing false information.

The legal basis that makes the power of proof of ownership of land rights between the certified land and the Land Notification Letter (SKT) is contained in the HIR. The power of proof of deed under the hand, is not as extensive and as high as the degree of authentic deed. Authentic deeds have physical, formal and material evidence. Not so with a deed under the hand, to which it does not have the power of evidence of physical power, but is limited to the power of formal and material evidence with a weight that is much lower than the authentic deed.

Accountability of the National Land Agency that issues administrative defect certificates, in accordance with the authority of the Land Office, Head of the Land Office Obligated to cancel / revoke the issuance of the certificate concerned on the basis of a court decision that has permanent legal force (*inkracht van gewisjde*), and issue a Certificate of Land Rights on behalf of the Plaintiff.

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