

THE BENEFITS OF THE FULL SYSTEMIC LAND REGISTRATION (PTSL) PROGRAM BASED ON THE REGULATION OF THE MINISTER OF AGRARIAN AND SPATIAL PLANNING/NATIONAL LAND AGENCY NUMBER 6 OF 2018 CONCERNING FULL LAND REGISTRATION FOR THE COMMUNITY SYSTEMIC

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ABSTRACT

Land registration consists of systematic and sporadic land registration. What is referred to as systematic land registration is a land registration for the first time which is carried out simultaneously including the land registration objects that have not been registered in one village/kelurahan area. The research on the benefits of the full systematic land registration (PTSL) based on the Minister of ATR/Head of BPN Number 6 of 2018 for this community has a problem formulation which includes the background of the holding of PTSL, the implementation of PTSL and the inhibiting factors in the implementation of PTSL. In general, the implementation of PTSL has been going well although in the field there are still obstacles or obstructions such as the lacks of human resources, public awareness in completing administrative requirements, socialization time, and the difficulty in collecting heirs and the missing proof of the ownership of letter C.

Keywords: systematic land registration, physical data, juridical data

INTRODUCTION

Land with its various uses has a very important meaning for the life of a human being since he was born, as long as he lives, and ends when someone dies, or in other words, everyone needs land.

Soil has an important meaning for human life. As a source of life, the existence of land in life has meaning and at the same time has a dual function, namely as a *social asset* and a *capital asset*.¹ This means that land becomes a means of binding social unity in the community and can be used as capital in development.

Land ownership in the community has a close relationship with the welfare of a person and his family, which will later indicate a person's social status in society. The use of the land must be regulated in such a way that it is not used freely by unauthorized parties. Arrangements on land must be made by law, because the law was created as a means or instrument to regulate the rights and obligations of legal subjects so that each legal subject can carry out their obligations properly and get their rights correctly.²

As a state of law, Indonesia regulates land issues in laws and regulations to limit the use and control of land that is not carried out freely which will harm a person's rights.

Article 33 paragraph (3) of the 1945 Constitution is an article in the 1945 Constitution which states that the earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

The article must be interpreted that everything related to the earth, water and natural resources contained therein must be regulated by the state and this must be done in the form of statutory regulations.

The legislation made to regulate land is Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, hereinafter referred to as UUPA.

Article 4 of the UUPA states that:

- (1) On the basis of the state's right to control as referred to in Article 2, it is determined that there are various types of rights to the earth's surface, called land, which can be given to and owned by people, either alone or together with other people and legal entities.
- (2) The rights to land as referred to in paragraph (1) of this article authorize the use of the land in question, as well as the body of the earth and water and the space above it, which is only needed for interests directly related to the use of the land within the limits according to this law and other higher laws.

Referring to the article, all citizens can have land rights, but there must still be rules so that land is not used freely. Land rights are still seen as natural rights that must be respected by all groups including the state, although there are still restrictions relating to public interest, control and utilization as well as its extent.³

The ongoing development in Indonesia requires the support of legal certainty in the land sector.

¹ Jayadi Setiabudi, *Panduan Lengkap Mengurus Tanah, Rumah Serta Segala Perijinannya* (Complete Guide to Managing Land, Houses and All Permits), Yogyakarta, Smart Books, 2013, p. 5

² Jazim Hamidi and Charles Christian, *Hukum Keimigrasian Bagi Orang Asing Di Indonesia* (Immigration Law for Foreigners in Indonesia), Sinar Graphic, Jakarta, 2016, p. 32

³ Aslan Noor, *Konsep Hak Milik Atas Tanah Bagi Bangsa Indonesia Ditinjau Dari Ajaran Hak Asasi Manusia* (The Concept of Property Rights to Land for the Indonesian Nation Viewed from the Teachings of Human Rights), Mandar Maju, Bandung, 2006, p. xxi

National development in all these fields requires the increasing role of land, namely to live and to carry out business activities to support their needs. For this purpose, there must be support in the form of guarantees of legal certainty in the land sector, because in Indonesia there are still many unregistered lands.

Providing guarantees of legal certainty in the land sector requires the existence of laws and regulations that completely and clearly regulate and are consistently implemented.

Land registration carried out consistently allows land rights holders to easily prove their land rights and interested parties can obtain the necessary information regarding the land that is the object of legal action to be carried out with land, as well as for the Government to be able to implement policies in the field of land. land.

Since the promulgation of the LoGA and then followed up with Government Regulation Number 10 of 1961 concerning Land Registration, there has been no satisfactory result in the field of land registration.

PP Number 10 of 1961 was later revoked and replaced by Government Regulation Number 24 of 1997 concerning Land Registration.

Article 1 point 1 of PP Number 24 of 1997 reads:

"Land registration is a series of activities carried out by the Government continuously, continuously and regularly, including collection, processing, bookkeeping, and presentation and maintenance of physical data and juridical data, in the form of maps and a list of land parcels and flats, including the issuance of a certificate of title for land parcels that already have rights and ownership rights to flat units as well as certain rights that encumber them."

One form of registration activity is registration. Land is land registration activities for the first time, namely activities carried out on land objects that have not been registered based on Government Regulation Number 10 of 1961 concerning Land Registration which was later replaced by Government Regulation Number 24 of 1997 concerning Land Registration.

The forms of land registration activities for the first time are divided into 2 (two), i.e.:

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

In the context of accelerating the realization of systematic land registration, the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency has issued the Regulation Number 35 of 2016 concerning Acceleration of Full Systematic Land Registration.

The regulation was amended by Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 1 of 2017 concerning Amendments to National Regulation Number 35 of 2016 concerning Changes in the Implementation of Full Systematic Land Registration.

The regulation was finally revoked and replaced by Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Full Systematic Land Registration.

In this paper, what will be discussed is the benefits of a systematic land registration program for the community, because it is seen as being able to accelerate the realization of unregistered land in the village or sub-district area in Indonesia and further for various needs.

Problems

1. What is the background for the establishment of PTSL (what is the legal basis for PTSL)?
2. How is PTSL implemented?
3. What are the inhibiting factors in the implementation of PTSL?

DISCUSSION

A. The Background of the establishment of PTSL

Land has become an inseparable part throughout the history of human life, because it always requires land to live in and to carry out all human activities. In Indonesian society, which is mostly an agrarian society, it is necessary to guarantee legal certainty in the land sector so that there is a guarantee of legal certainty for their land rights.

The UUPA as a legal rule that contains basic basic rules in the land sector is the main basis for legal certainty for the community in utilizing land, including water, the natural resources contained therein and the space above the land to improve their welfare.

Article 19 of the UUPA reads:

- (1) To guarantee legal certainty by the government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions stipulated in a Government Regulation.
- (2) The registration referred to in paragraph 1 of this article includes:
 - a. Measurement, mapping and bookkeeping of land.
 - b. Registration of land rights and the transfer of these rights.
 - c. Provision of valid proof of rights documents as a strong evidence.

- (3) Land registration is carried out taking into account the state and community conditions, socio-economic traffic needs and the possibility of its implementation according to the consideration of the Minister of Agrarian Affairs.
- (4) In the Government Regulation above, the costs related to registration are included in paragraph 1 above, provided that people who cannot afford are exempted from paying these fees.

Land registration is an administrative activity carried out by the owner of the land rights of the land he owns so that there is clarity on the status of the land.

To implement Article 19 of the LoGA, Government Regulation Number 10 of 1961 concerning Land Registration was issued, but in its implementation, there were no encouraging results, so the Government Regulation was revoked and replaced with Government Regulation Number 24 of 1997 concerning Land Registration which is still valid.

Article 1 point 1 of PP Number 24 of 1997 reads:

"Land registration is a series of activities carried out by the Government continuously, continuously and regularly, including collection, processing, bookkeeping, and presentation and maintenance of physical data and juridical data, in the form of maps and a list of land parcels and apartment units, including the issuance of certificates of proof of rights for land parcels that already have rights and ownership rights over flat units and certain rights that encumber them. "

Land registration is carried out by the Government in the context of providing legal certainty over land ownership. With legal certainty, there will be legal protection for holders of land rights.

Land registration activities can only be carried out in 2 (two) ways, namely:

1. Systematic registration;

What is meant by systematic land registration is the activity of registering land for the first time which is carried out simultaneously which includes all land registration objects that have not been registered in the territory or part of the territory of a village/or kelurahan. (Article 1 number 10 of PP Number 24 of 1997).

2. Sporadic registration.

Sporadic land registration is a land registration activity for the first time regarding one or several objects of land registration in the territory/region of a village/kelurahan individually or in bulk. (Article 1 point 11 of PP Number 24 of 1997).

In the case of sporadic land registration, the technical registration is carried out by individuals or groups of people, or it means that it is carried out individually or in bulk, either on one or more parcels of land.

Meanwhile, systematic land registration is land registration carried out by the Government simultaneously for all land registration objects that have not been registered in the territory or part of the territory of a village/kelurahan.

The history of systematic land registration began in 1981 in the form of land activities called the National Agrarian Operations Project (PRONA) which was carried out based on the Decree of the Minister of Home Affairs Number 189 of 1981 concerning the National Agrarian Operations Project (PRONA).

The purpose of implementing PRONA is as an effort to implement the Outlines of State Policy (GBHN) and Land Orders, which include:

1. Orderly Law,
2. Orderly Administration,
3. Orderly use of Land,
4. Orderly Maintenance of Land and the Environment

PRONA was implemented from 1981 to 2016, but the results were unsatisfactory because with the various problems that exist PRONA activities have not been able to 100% certify land throughout Indonesia, so the Government then initiated the idea to carry out a Full Systematic Land Registration (PTSL) activity to be able to certify land in Indonesia gradually because there are still many lands in Indonesia that are not yet certified.

PTSL is a program of land registration activities for the first time which is carried out simultaneously for all land registration objects throughout the territory of the Republic of Indonesia in one village/kelurahan area or another name at the same level, because outside Java many other names are used for the area. at the village/kelurahan level, for example Nagari in West Sumatra.

For the first time PTSL was implemented based on the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 35 of 2016 concerning Acceleration of Full Systematic Land Registration.

The Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 35 of 2016 was later amended by the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 12 of 2017 concerning Amendments to the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 35 2016 concerning Acceleration of Full Systematic Land Registration.

After a while, it turned out that the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 12 of 2017 concerning Acceleration of Full Systematic Land Registration was revoked and replaced by Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 6 of 2018 concerning Full Systematic Land Registration.

Currently the applicable legal rules for the implementation of PTSL are:

1. Presidential Instruction Number 2 of 2018 concerning Acceleration of Systematic Land Registration.
2. Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 6 of 2018 concerning Full Systematic Land Registration.
3. Joint Decree of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency, Minister of Home Affairs, Minister of Villages and Development of Disadvantaged Regions and Transmigration Number 25/SKB/V/2017.
4. Joint Decree of the Minister of Agrarian and Spatial Planning/Head of BPN, Minister of Home Affairs, Minister of Villages and Development of Disadvantaged Regions Number 590-3167A of 2017, Number 34 of 2017 concerning Funding for Systematic Land Registration.

These regulations form the basis for the implementation of PTSL which is one of the land registration activities, especially land registration for the first time which is carried out simultaneously for all land registration objects throughout the territory of the Republic of Indonesia which are in one village/kelurahan area. This PTSL activity has the aim of creating legal certainty and legal protection for land rights owned by the community.

Article 2 of PP No. 24/1997 stipulates that PTSL is implemented based on the following:

1. Simple Principles
This principle intends that its main provisions and procedures can be easily understood by interested parties, especially land rights holders.
2. Safe Principle
This principle is intended to show that land registration needs to be carried out carefully and carefully so that the results can guarantee legal certainty according to the purpose of land registration.
3. The Affordability Principle
This principle is intended to be affordable for those in need, especially by taking into account the needs and abilities of the weak economic groups. The services provided in the context of carrying out land registration must be affordable by those who need it.
4. Up-to-date Principle
This principle is intended for adequate completeness in its implementation and continuity in data maintenance. Available data must show the current state of affairs. For this reason, it is followed by the obligation to register and record changes that occur at a later date. This principle requires the maintenance of land registration data continuously and continuously, so that the data stored in the land office is always in accordance with the conditions in the field.
5. The Open Principle
This principle is intended so that the public can know or obtain correct information on physical data and juridical data at any time at the Regency/City land office.

B. Implementation of PTSL

Land registration is systematically carried out by the Government based on a long-term and annual work plan and is carried out in areas determined by the Minister of Agrarian Affairs and Spatial Planning/Head of the Land Agency, which does not mean that PTSL is implemented simultaneously for all villages. / village together.

PTSL is carried out alternately in villages/kelurahan appointed by the Government.

If there is a village/kelurahan that has not been appointed for PTSL, the applicant can apply for land sporadically, either individually or jointly/in bulk.

The implementation of PTSL is started by BPN by holding a coordination meeting with the Village Heads whose land belonging to the community members in their area will be subject to land certificates and with Land Deed Making Officials (PPAT) who will later process the transfer of rights to land objects that already have land rights. the owner has died, the land will be divided by inheritance, or has changed hands but has not yet transferred rights.

This means that the PTSL object covers all parcels of land without exception, both for land parcels for which there are no land rights or land parcels that already have rights in order to improve the quality of land registration data, which includes land parcels that already have boundaries or with the boundary marks that will be determined in the implementation of PTSL.

Boundary markings are an important part of the PTSL implementation process, because boundary markings indicate the boundaries of a person's land.

The designation of boundary markings must be done correctly so as not to cause boundary marking disputes in the future.

The implementation of land activities in the PTSL program is carried out through several stages, as follows:

1. Planning
In this planning stage the Head of the Regency/City Land Office determines the location of the PTSL target distribution in several villages/kelurahan and/or sub-districts in several regencies/cities within one province.
Looking at this stage, it means that not all regencies/cities and not all villages/kelurahan get allocations for PTSL implementation.
2. Determination of Location
Determination of the location is carried out by the Head of the Land Office with priority on the location of the village/kelurahan that has PRONA/PRODA activities, cross-sectors, other mass certificates and based on the availability of funds and human resource capabilities, meaning the ability of PTSL implementing officers at the Land Office.
3. Preparation
Preparations that must be carried out by the Land Office include facilities and infrastructure, human resources, transportation needs, coordination with other government officials and budget allocations.
4. Formation and determination of the adjudication committee and task force.
The duties of the adjudication committee are:
 - Collecting physical data and original documents of juridical data on all land parcels and providing document receipts to the right holder or their proxies.
 - Providing assistance with the completeness of the requirements for proof of land ownership/control in accordance with applicable regulations in the land sector.
 - Checking the formal truth of physical data and juridical data of evidence of land ownership or control.
 - Announcing physical data and juridical data on land parcels that have been collected to give the public the opportunity to see if there may be data discrepancies.
 - Facilitating dispute resolution between the parties concerned if there is disputed data.
 - Approving the results of the announcement as the basis for bookkeeping of rights or proposals for granting rights and registration of rights.

The tasks of the physical task force are:

- Measuring the boundaries of the land cadastrally as outlined in the Measurement Drawings based on the appointment of the land owner or his proxies.
At this time of measuring, the land owner in question or his proxies and the adjacent land owners must be present to witness the correctness of the point designated by the land owner or his proxies from the boundary markers that have already been installed. Measurement Drawings must be signed by the land owner concerned or his proxies and the adjacent land owners or their proxies along with their respective names.
- Carrying out mapping of land parcels on registration maps and make maps of land parcels.
- Due to limited human resources, the Land Office can use a third party to carry out the measurement and mapping of land parcels, the activity will be carried out by a Licensed Cadastre Surveyor.
Licensed Cadastre Surveyor is a partner of the Ministry of ATR/BPN who is appointed and dismissed by the Ministry of ATR/BPN.

The duties of the juridical task force are:

- Checking documents for proof of ownership/control of land parcels
- Examining land history and checking documents for proof of ownership or control of the original land and give a receipt.
- Making a list of land parcels that have been adjudicated
- Preparing announcements on juridical data
- Inventory data on objections/ disclaimers that arise from the community and their solutions.
In addition, there are outreach activities carried out by the Head of the Land Office along with the PTSL Adjudication Committee, Physical Task Force and Juridical Task Force.

Before PTSL starts, the Land Office conducts outreach to communities whose plots of land participate in the PTSL program and communities whose lands have been certified, local governments, relevant agencies, law enforcement and/or community leaders to provide an explanation at least regarding:

- a. Benefits of PTSL for the community, government and state when PTSL succeeds
- b. Stages and mechanisms
- c. Determination and installation of boundary markings for each parcel of land
- d. Juridical documents to be prepared
- e. Schedule for measuring land parcels and collecting physical data and juridical data
- f. Financing is provided by the Government
- g. Legal consequences that will occur if obligations and responsibilities regarding determination of boundaries and juridical documents are not met
- h. Right to file objections to the results of the adjudication announced during the announcement period
- i. Fees and/or taxes that must be borne by participants in PTSL activities

The factors inhibiting the implementation of PTSL

PTSL has been supported by various preparations, starting from the side of legal rules, field counseling, coordination between related agencies, as well as the funding side from the Government, but in the field there are still obstacles that arise that cause the implementation of PTSL cannot run smoothly.

The inhibiting factors of the implementation of the PTSL program are:

From the community side:

1. The low interest of the community to participate in the PTSL program, among others, the community does not pay attention to the boundaries of the land parcels because of the lack of clarity on the boundaries of the land parcels, for example the boundaries of land parcels in the form of plants that continue to grow everywhere. where, the parties are not present at the time of boundary determination, there is a family dispute or a dispute with neighbors. These things can be an obstacle to the measurement process in the field.
2. Evidence of community land ownership is incomplete or non-existent.

From the side of the Land Office:

a. Juridical Field

1. The land book has not yet been printed.
2. The measurement drawing has not been completely signed.
3. Land objects that are tax payable (PPH and BPHTB) have not been recorded in the land book and certificate.

b. Physical Field

1. There is still a Measurement Drawing (GU) whose manufacture is not yet complete.
2. The determination of the distance of land parcels bordering river and coastal borders has not taken into account the distances stipulated in the applicable laws and regulations.
3. There are plots of land that are the object of PTSL activities that are included in the production forest area.

There is still one more problem that will arise later in the community with the existence of PTSL, namely regarding Income Tax (PPh) and Customs for Acquisition of Land and Building Rights (BPHTB).

Article 33 of the Ministerial Regulation of ATR/Head of BPN Number 6 of 2018 stipulates that the transfer of rights tax with the existence of PTSL can be paid later (tax payable) when the transfer of rights is carried out.

In fact, the regulation will actually cause problems later in the day when the transfer of rights will be carried out.

CLOSING

Conclusion

1. The government has made efforts to implement the PTSL program with the intention that all lands can be certified with the aim of being legal certainty of ownership of land parcels with benefits for the community, for example improving the community's economy by being able to pledge certificates to seek additional capital in the bank.
2. The implementation of the PTSL program has been well designed by the Government, starting from the making of the underlying legal regulations, determining the location, preparation from the Land Office side starting with the preparation of facilities and infrastructure, human resources, coordination with the City/Regency Government and budget allocation, the formation of a committee Adjudication, physical task force and juridical task force.
3. Barriers that arise are technical barriers and legal barriers.
The technical barriers are the lack of human resources, the lack of public awareness in completing the administrative requirements. Meanwhile, the legal obstacle is the difficulty of collecting heirs and the missing proof of ownership of Letter C.

Suggestion:

1. Socialization of the PTSL program should be continued by the Government, either through mass media or through the Village/Kelurahan Government.
2. Thus, people realize how important it is to have a certificate of land rights and its benefits in their daily life.

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