



Analysis of the Legal Power of SKPT in Land Sale and Purchase Transactions in Paleleh District, Buol Regency

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Abstract: The purpose of this research is to find out the legal force of SKPT in land sale and purchase transactions in Paleleh District, Buol Regency. The research method used is empirical research, namely, the author will seek and find information that will later be used as the substance of this research by means of observation or conducting field studies in the place that is used as the object of this research. this research is carried out in a planned and systematic manner to obtain answers to problem-solving related to the problems that occur, especially regarding the existence of buying and selling transactions using Land Tenure Certificate (SKPT) in Paleleh District. The results of this research on the legal force of land ownership certificates in sale and purchase transactions in the Paleleh Subdistrict, where many people in the Paleleh Subdistrict conduct land sale and purchase transactions using only a Land Ownership Certificate. This is due to the habits of people in rural areas who do not want to be complicated in thinking about the legal aspects of land sale and purchase transactions, for them it is enough just to provide receipts as proof that payment has been made.

Keywords: SKPT, Sale and purchase transaction. Land

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1. Introduction

Land in a juridical sense includes the surface of the earth as stipulated in article 4 paragraph (1) of the Basic Agrarian Law (UUPA). Land rights Includes rights to a certain portion that is limited to the surface of the earth. Land is given to and owned by people with rights provided for by the Basic Agrarian Law (UUPA) for use or utilization. Giving and owning land with these rights will not be meaningful if its use is limited only to land as the surface of the earth. Land in Article 1 Number 51 of the PRP Law of 1960 concerning the prohibition of land without a permit entitled to the power of attorney, is formulated:

- 1) Land directly controlled by the State;
- 2) Land which is not controlled by the State which is owned with a right by an individual or legal entity.¹

The land policy is based on the main provisions contained in the Basic Agrarian Law (UUPA) which are the basic principles of the National Land Law . The Indonesian nation still believes in the relevance of Law Number 5 of 1960 to the demands of the times and demands for reform, bearing in mind that Law Number 5 of 1960 is still full of enthusiasm and mandate to create justice in the land sector and prioritize people from weak groups.

In line with efforts to provide protection and legal certainty for land ownership rights and in the framework of reform land registration, the government issued Government Regulation Number 24 of 1997 concerning Land Registration as a substitute for Government Regulation Number 10 of 1961. this is in accordance with Article 19 Paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Regulations which reads "To ensure legal certainty by the Government, Land Registration is held throughout the territory of the Republic of Indonesia according to the provisions stipulated by Government regulations". This provision of Article 19 confirms that legal certainty includes:

1. Legal certainty regarding the legal subject of land rights (persons/legal entities);
2. Certainty regarding the location, boundaries, size/area of land or certainty regarding the object of rights;
3. Types / types of land rights that form the basis of legal relations between land and legal persons / entities²

Thus land registration reform is the legal basis for carrying out the mandate of the BAL. Land registration reform is very important given that in Indonesia one of the causes of problems Land use is largely due to the unregistered lands. Of the currently

¹ SH Prof. Dr.H Hambali Thalib, *Sanksi Pemidanaan dalam Konflik Pertanahan*, t.t.

² Bambang Eko Muljono, "Pendaftaran tanah pertama kali secara sporadik melalui pengakuan hak," *Jurnal Independent* 4, no. 1 (2016): 20-27.

estimated 55 million plots of land, which are expected to grow to 75 million by the end of Long Term Development II in 2018, only about a third have been registered since the Dutch colonial era. In relation to the transfer of land rights through land sale and purchase transactions, this is things that happen in people's lives.

Article 37 paragraph (1) Government Regulation Number 24 of 1997 Concerning Land Registration (PP No. 24 of 1997)³ mentions, Transfer of land rights and voting rights over flat units through buying and selling, swaps, grants, problems within the company and legal actions on the transfer of rights others, except for the transfer of rights through an auction can only be registered if it is proven by a deed drawn up by the Land Deed Making Officer (PPAT) which is authorized according to the provisions of the applicable laws and regulations. Even though Government Regulation Number 24 of 1997 requires that the transfer of ownership rights to land must be evidenced by a deed drawn up by the PPAT⁴, However, sometimes in carrying out transactions related to the transfer of land rights through buying and selling, some people still use governance customary law way. Buying and selling according to customary law is a legal act in which the seller surrenders the land he is selling to the buyer forever even though the price paid is only partially without being bound by a deed of sale and purchase agreement as required in the provisions of laws and regulations.

In principle, the sale and purchase of land is considered legal if the land buyer has submitted money or the sale and purchase price agreed upon by both parties before the Village Head, and it is considered safe and clear. They only need to capitalize the receipt of receipt of payment in front of the Village Head or Customary Chair. Such a system of buying and selling land is considered safe and there are no violations, so it has been transferred from the seller to the buyer after the transfer of money witnessed by the Village Head and Village Community Leaders. In practice, proof is only in the form of receipts or paper seals.⁵

Based on its position, land is divided into titled land and land that has not been titled. Titled land is land that has rights and has been registered at the land office while untitled land is land that does not yet have certain rights and its land status is still State land. Usually, State-owned lands that have been controlled and cultivated by the community for generations have evidence of a land certificate from the Village Head or Lurah as initial evidence before being titled.

³ Peraturan Pemerintah Nomor, tahun 1997 tentang Pendaftaran Tanah, 24.

⁴ Maharini Febiantika, "AKIBAT HUKUM JUAL BELI TANAH DI BAWAH TANGAN DIHUBUNGKAN DENGAN PERATURAN PEMERINTAH NOMOR 24 TAHUN 1997 TENTANG PENDAFTARAN TANAH" (FAKULTAS HUKUM UNIVERSITAS PASUNDAN, 2022).

⁵ Wicipto Setiadi, Muhammad Arafah Sinjar, dan Heru Sugiyono, "Implementasi peraturan pemerintah no. 24 tahun 1997 tentang pendaftaran tanah dikaitkan dengan model jual beli tanah menurut hukum adat di tanjungsari, kabupaten bogor," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 8, no. 1 (2019): 99-111.

Article 24 Paragraph (1) PP on land registration explains that for the purposes of registration of old rights it can be proven by means of evidence against these rights in the form of written evidence and witness statements and or statements from the party concerned as the applicant and the degree of truthfulness . will be assessed by the adjudication committee in systematic registration or through sporadic land registration assessed by the Head of the local Land Office , and deemed sufficient to register the right. Furthermore, Article 24 Paragraph (2) explains that if there is no more complete evidence as in paragraph (1) above, then paragraph (2) still allows the registration of rights to the land, namely by means of physical possession based on good faith. And these rights are not disputed by society⁶

Land Certificate or now referred to as Land Tenure Certificate which is a right base that is widely used in various regions. A letter of tenure that was previously controlled by someone is issued by the Village / Head of Village in the form of a slash and burn permit, to prove they can recognize the land, a land certificate / Land Tenure Certificate is issued.

Then the cultivator wants to sell this land, by the parties to the village, the proof is the compensation of everything that has been issued by the cultivator, so the village apparatus designs the compensation until now it is called a certificate of compensation. This occurred after the 1970s and above, so that land certificates issued before 1970 did not exist. The certificate of compensation is made by the parties concerned, namely the party whose land is being compensated (the cultivator) and the party giving the loss (the buyer). The process is quite simple, starting with the testimony of the head of the Neighborhood Association (RT), the head of the Community Association (RW), and then known by the Village Head, approved by the Village Head and then confirmed by the Sub-district Head and witnesses.

The process of obtaining land ownership rights is like this if referring to the Basic Agrarian Law, a land certificate is the initial process or basis for rights to obtain land rights certificates. However, by pocketing the certificate of land, the community feels that their rights are safe and protected, even though in the practice of issuing certificates of land tenure many negative things are encountered. This Land Ownership Certificate is also recognized by the government as one of the proofs in submitting a certificate for property rights to obtain a right under the UUPA. The community prefers to use a Certificate of Land Ownership issued by the head of village at a more affordable price.

Based on the sound of Article 39 paragraph (1) letters b numbers (1) and numbers (2) Government Regulation No. 24 of 1997 concerning Land Registration, it can be understood that the village head/ lurah has the authority to make a supporting statement as proof of the right of the person concerned to control the land parcel. For

⁶ Ayu Bimo Setyo Putri, "Makna Iktikad Baik Dalam Pendaftaran Hak Atas Tanah Berdasarkan Penguasaan Fisik (Analisis Pasal 24 Ayat (2) Peraturan Pemerintah Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah)" (Universitas Brawijaya, 2017).

subdistrict areas outside the City where the Land Office is located, the Letter of Statement from the Head of the Land Registration Office can be corroborated by a statement from the Village Head⁷.

Based on evidence of land ownership owned by the community in the form of a land certificate/land tenure certificate issued by the Lurah/Village Head which was legalized by the local District based on Article 7 Paragraph (2), and Article 39 of Government Regulation Number 24 of 1997 concerning Registration Land, can be categorized as a basis for rights submitted as a completeness of the requirements for land rights applications, therefore if there is an error or there is a legal defect in the issuance of the said Land Certificate it will have fatal consequences or the certificate issued will be invalid due to an error in the procedure for issuing the certificate.

Table : 1

Data on residents who only use SKPT in buying and selling transactions in Paleleh District, Buol Regency, Central Sulawesi Province

No	Year	Number of SKPT Users	Information
1	2019	9 families	Not Managing
2	2020	11 families	Not Managing
3	2021	10 families	Not Managing
Amount		30 families	Not Managing

Source: Paleleh District Data⁸

this research was on the legal strength of land tenure certificates in buying and selling transactions in Paleleh District , where the people in Paleleh District carried out a lot of Land sale and purchase transactions only use a Land Ownership Certificate . This is due to the habits of people in rural areas who do not want to think too complicated about the legal aspects of the land sale and purchase transaction, for them it is enough just to provide a receipt as proof that payment has been made .

Meanwhile, to accelerate land registration, the minister of agrarian affairs and spatial planning issued a circular letter Number 1756/15.IIV/2016 concerning instructions for implementing land registration. In connection with this Circular Letter, the Minister of Agrarian Affairs and Spatial Planning provided convenience for accelerating the registration of community land, no longer including a certificate of

⁷ R. Merza Venrian, Ardiansah Ardiansah, dan Bagio Kadaryanto, "PERTANGGUNGJAWABAN LURAH TERHADAP PEMALSUAN DOKUMEN TANAH DI KOTA PEKANBARU BERDASARKAN PERATURAN PEMERINTAH NOMOR 24 TAHUN 1997," *PROCEEDING IAIN Batusangkar* 1, no. 1 (2022): 405–11.

⁸ "Data Penduduk Kecamatan Paleleh," t.t.

land as a requirement for certification as stipulated in Article 76 paragraph (3) letter b Permenag No.3 of 1997 which states that when incomplete or have absolutely no basis for control and/or proof of ownership, then it is sufficient to prove it with a statement letter as attached in the Circular Letter.

In this regard, difficulties will be encountered if the land is later certified at the National Land Agency (BPN) office. the fact that researchers found in the field was that there were many overlapping land tenure documents, and also that many village heads did not know the legal basis on which they issued the land tenure certificates, so mistakes often occur when people carry out land sale and purchase transactions using only a certificate of land tenure.

2. Research Method

The type of research used is empirical research, namely the author will seek and find information that will later be used as the substance of this research by means of observation or conducting field studies at the place used as the object of this research. This research was carried out in a planned and systematic way to get answers to solving problems related to the problems that occurred, especially regarding the existence of buying and selling transactions using a Land Ownership Certificate (SKPT) in Paleleh District.

3. Land Acquisition Letters (SPT) have the force of law as proof of ownership of a plot land

In practice, if a person or a member of the Pontianak City community wanted to own land in the Pontianak City area, in the past they had to clear a forest first, because the forest was so vast and not cultivated by anyone, a person could open a forest as he wished. While the government at that time let it go because it was considered for the lives of the citizens surrounding⁹

Certificate of land tenure in Paleleh District , which is the community in the District. Many entrust the process of buying and selling land to the village head. The village head is a person who is the main figure in village governance and is a formal leader who is influential in social life. With the issuance of the UUPA, freedom to open forests is further regulated because progress and development increasingly require forest clearing. In addition to the incomplete registration of land and property rights, sometimes there are incidents of close proximity, either on purpose by the community or not known by the government officials in charge of that field, so that these incidents cause disputes that can hamper development activities. In order to overcome this problem, it is only now that we realize how important it is to register land and have land rights land.

⁹ "Hasil wawancara dengan Masyarakat kecamatan palele," t.t.

Based on its position, the land is divided into certified land and non-certified land. Certified land is land that has rights and has been registered at the land office, while land that has not been certified is land that does not have certain rights and the status of the land is still state land. Usually state-owned land that has been controlled and cultivated by the community for generations has evidence of a land certificate from the village head as initial evidence before certified.

As stated in the elucidation of Article 24 of Government Regulation Number 24 of 1997 concerning Land Registration,⁷ there is written evidence to be able to prove ownership of land that can be used for registration of old rights and is a complete document for land registration purposes, including deed of transfer rights made under the hand with testimony from the Customary Head/Village/Kelurahan Head made before the enactment of Government Regulation Number 24 of 1997 concerning Land Registration. Land Acquisition Letter (SPT) which is the basis for rights that is widely used in various regions, in rural areas there are different terms but this is the same as a basic letter or some people call it "SPT Head of Village/Kelurahan" and this is included in form of written evidence.¹⁰

A Land Acquisition Letter (SPT) that was previously controlled by someone was issued by the Village Head in the form of a cutting permit, to prove they can recognize the land, a Land Acquisition Letter (SPT) is issued. Then the cultivator wanted to sell this land, by the parties to the village the proof was compensation for everything that had been issued by the cultivator, so the village officials designed compensation regarding compensation until now it is called a statement of compensation¹¹. This happened after the 1970s and above, so that Land Acquisition Letters (SPT) issued before 1970 did not exist.

This compensation statement is made by interested parties, namely the party whose land is compensated (cultivator) and the party giving the loss (buyer). The process is quite simple, starting with the testimony of the head of the Rukun Tetangga (RT), the head of the Rukun Warga (RW), then it is known by the Village Head, approved by the Village Head or Lurah and so on it is corroborated by the Camat and witnesses.¹²

The process of obtaining land ownership rights is like this if referring to the basic agrarian law, a land certificate is the initial process or basis for rights to obtain land rights certificates. However, by pocketing the land certificate, the community feels that their rights are safe and protected, even though in the practice of issuing Land Acquisition Certificates (SPT) there are many negative things that are encountered.

¹⁰ Dono Doto Wasono dan SH NPM, "Kekuatan hukum surat keterangan penguasaan tanah (Skpt) sebagai bukti hukum penguasaan atas sebidang tanah (Studi di Kota Pontianak)," *Jurnal Nestor Magister Hukum* 1, no. 1 (2017): 209799.

¹¹ Muhammad Yamin Lubis dan Abd Rahim Lubis, *Hukum pendaftaran tanah* (Mandar Maju, 2008).

¹² Iga Gangga Santi Dewi, "Peran Camat Selaku Pejabat Pembuat Akta Tanah (PPAT) dalam Jual Beli Tanah," *Pandecta Research Law Journal* 5, no. 2 (2010).

This Land Certificate is also recognized by the government as one of the proofs in submitting a certificate for property rights to obtain a right under the UUPA. The community prefers to use a Land Certificate made by the Village Head at a more affordable price.¹³

The legal strength of the Village Head's Land Acquisition Letter (SPT) in buying and selling transactions, it can be understood that the position of the Village Head in terms of Government Regulation Number 24 of 1997 concerning Land Registration, reads as follows: Article 7 paragraph (2), it states that: "For villages -Villages in remote areas. The Minister may appoint a Temporary PPAT".

Based on the provisions of the elucidation of Article 7 paragraph (2) it is explained that in order to make it easier for people in remote areas where there is no PPAT to carry out legal actions regarding land, those appointed as Temporary PPAT are Government Officials who control the conditions of the area concerned, namely the Head of the Village/Kelurahan.

The authority of the Village/Kelurahan Head is also stipulated in the provisions of Article 39 paragraph (1) letter b number 1) and number 2), it states that: Regarding land parcels that have not been registered, they are not submitted: proof of title as referred to in Article 24 paragraph (1) or a statement letter from the Village/Kelurahan Head stating that the person concerned controls the land parcel as referred to in Article 24 paragraph (2); and a statement stating that the land parcel in question has not been certified by the Land Office, or for land located in an area far from the position of the Land Office, from the right holder in question and confirmed by the Head of the Village/Kelurahan ; Based on the sound of Article 39 paragraph (1) letter b number (1) and number (2) it can be understood that the Village Head has the authority to make a supporting statement as proof of the right with the person concerned who controls the land parcel. For sub-district areas outside the city where the Land Office is domiciled, a certificate from the head of the land registration office can be corroborated by a statement from the village head.¹⁴

Based on evidence of land ownership owned by the community in the form of a land certificate issued by the Village Head which was legalized by the local sub-district based on Article 7 paragraph (2), and Article 39 of Government Regulation Number 24 of 1997 concerning Land Registration, it can be categorized as a basis of rights granted submitted as a completeness of the requirements for the application for land rights,⁸ therefore if there is an error or there is a legal defect in the issuance of the said title it will result in the cancellation or invalidity of the certificate issued due to an error in the procedure for issuing the certificate.

¹³ May Linda Sari, "Kedudukan Hukum Surat Keterangan Penguasaan Tanah Sebagai Bukti Kepemilikan Di Kabupaten Karo," *Jurnal Hukum Kaidah: Media Komunikasi dan Informasi Hukum dan Masyarakat* 21, no. 2 (2022): 372-86.

¹⁴ Rocky Samuel Palantung, "PROSEDUR PENERBITAN SERTIFIKAT HAK MILIK ATAS TANAH MELALUI JUAL BELI MENURUT PERATURAN PEMERINTAH NOMOR 24 TAHUN 1997," *Lex Privatum* 9, no. 6 (2021).

Based on the description above, it can be seen that even though the land certificate is written evidence under the hand, the strength of proof is not as strong as an authentic deed, but because the land certificate is letters that are categorized as rights or juridical data on land which is used as a completeness requirement the requirements for applying for land rights as stipulated in the provisions of the law on land, the land certificate is a very important document in the process of issuing land rights certificates.

The legal strength of the Village Head's land certificate in land sale and purchase transactions in terms of Government Regulation Number 24 of 1997 concerning Land Registration, has legal force if it is known by the Camat as the official making the land deed, with a legal basis based on the Elucidation of Article 7 paragraph (2) and Article 39 paragraph b numbers (1) and numbers (2) of Government Regulation Number 24 of 1997 can be categorized as a basis for rights submitted as a completeness of the requirements for land rights applications.¹⁵

4. Land Acquisition Letters (SPT) can be used as legal evidence in the process of making certificates

Land Acquisition Letters (SPT) can be used as legal evidence in the process of making certificates. Guarantee legal certainty over community land rights and to improve people's welfare through land registration. Considering that there are still people who control the land but do not have complete proof of land ownership (the basis of rights) and even do not have any proof of ownership at all so that they are constrained in applying for the registration of their land rights.

One of the requirements in processing a land certificate to the Ministry of ATR/BPN BPN Buol Regency is a Land Tenure Letter (SPT). This Land Tenure Letter (SPT) is issued by the local urban village. According to the Head of ATR/BPN BPN Buol District, later this requirement will be removed by ATR/BPN BPN Buol District because often the management takes a long time. "We will not allow the village to hold the Land Tenure Letter (SPT) for too long. Any certificate from the village is not something to hamper," if the people of Buol District cannot get a Land Tenure Letter (SPT) in processing certificates at ATR / BPN BPN Buol District, the government will be proactive in checking the process.¹⁶

Thus, the community and ATR / BPN Buol District do not need to wait for the issuance of a Land Tenure Letter (SPT) from the village. In this case, the ministry of atr/bpn to the community itself so that there are no obstacles. The Land Tenure Letter (SPT) actually confirms the history of the land. If it does not exist, we (the government) are proactive. Village officials are also often appointed not from the area, how does he know the history of the land.

¹⁵ Pingkan Martina Manueke, "Jual Beli Tanah Yang Mempunyai Sertifikat Hak Atas Tanah Menurut Peraturan Pemerintah Nomor 24 Tahun 1997," *Lex Privatum* 6, no. 5 (2018).

¹⁶ "Hasil Wawancara dengan Kepala ATR/BPN BPN kecamatan palele," t.t.

Village officials who are appointed and not from the area, most often apply in the sub-district. For this reason, the Land Tenure Letter (SPT) at the sub-district should no longer be required as a condition for obtaining a land certificate. This is good news for people whose land is not yet certified. So far, people have considered the process of obtaining a certificate to be complicated, taking years and requiring a lot of money. Often landowners after waiting for some time there is no government program to certify land en masse through (the term pronounced) in the region, then take the initiative to apply for registration / land certification at the local land office. This is what is called sporadic land titling.¹⁷

For example, in the registration/certification of former customary land rights (known as "tanah girik"). The transfer of rights over girik land is usually done in the presence of the camat or village head. However, many are done based on the trust of the parties and a single receipt. There is no documentation to trace the ownership. The land certification of girik land is referred to in land law terms as first-time land registration.

Land registration for the first time for former customary property rights and cultivated land, one of the requirements is to obtain a recommendation from the sub-district head regarding the land concerned, stating that the land has never been certified and the history of ownership of the land in question is attached to a land history letter. And a letter stating that the land is not in dispute from the village. With the elimination of the skt requirement, the land registration process can be faster.

However, it must also be understood by the community that not all uncertified land is derived from former customary land titles or girik land. This is because one form of title that may be held by the community is ex-Western land that dates back to the Dutch era, but had not yet been converted by the time the land conversion provisions came into force in 1960. Such lands usually still have the status of eigendom land, eigendom verponding, opstal land or erfpacht land, which of course the certification process will be different from the process of certifying the former customary property rights.

1. procedures for filing community land ownership that are incomplete/absolutely lacking in evidence ownership.
 - a) In the event that the basis of control and/or proof of ownership of the community's land is incomplete or does not have any basis for control and/or proof of ownership of the land, this must be proven by a written statement regarding the physical possession of the land parcel in good faith from the person concerned (no objection from other parties). on land that is controlled/ not in dispute; does not include government or local government assets; does

¹⁷ Ni Made Rian Ayu Sumardani dan I. Nyoman Bagiastra, "Tanggung Jawab Hukum Badan Pertanahan Nasional Terkait Ketidaksiuaian Hasil Pengecekan Sertifikat Secara Elektronik," *Acta Comitas: Jurnal Hukum Kenotariatan* 6, no. 02 (2021).

not include areas forest).

- b) The statement letter is made in the presence of at least 2 (two) witnesses from the local environment who do not have a family relationship with the person concerned to the second degree, both kinship vertically or horizontally stating that the person concerned is the true owner and controls the land parcel.

The statement is made based on true information from the party making the statement of criminal and civil liability. Of course, if in the future it is proven that there is an element of untruth in the statement, the certificate can be canceled and the perpetrators can be prosecuted. the land office /bpn and its officials as administrators in charge of receiving applications & records and issuing certificates "certainly not wrong" if all the procedures & completeness of documents required by applicable regulations have been fulfilled as stipulated.¹⁸

April 14 2016 No. 1756/15.1/IV/2016 is an effective breakthrough and pruning to facilitate the issuance of current land certificates by implementing Article 60 paragraph 3 & Article 61 paragraph 1 PMNA No 3/1997. Thus the circular of the minister of atr/bpn April 14 2016 no 1756 does not violate and does not conflict with laws and regulations in land registration, instead it is consistent and consequently strictly implements article 60 paragraph 3 and article 61 paragraph 1 pmna no. 3/1997. The certification program in a short time is suitable if it is carried out in the pronora or larasita process.

However, if the sporadic method of land certification is carried out in a short time and with lightning speed, it is feared that this simplification effort will result in the emergence of various new problems, especially the rise of multiple certificates or falsification of land ownership of a land parcel that has been registered. In closing, basically I personally hope that all the long and multilevel bureaucracy and the relatively long time required and the high cost of issuing certificates on land parcels can be simplified. Hopefully the realization in the field can run according to the operational guidelines set by the central government. Let's hope that in the future all processes will be easy, cheap, fast and free from various land disputes.¹⁹

In the regulations on land affairs, the term "Certificate" issued by the Village Head as a permit to control state land is not specifically stated or explained. However, the term "Certificate" issued by the Village Head as a statement stating that someone owns a plot of land is known in the land registration process, especially for land parcels that have not been registered.

In the land registration process, to prove the legal relationship between a person and his land, basic evidence that has valid legal force is needed which is called the basis of

¹⁸ Grafita Aji Parama Bhakti, "Kedudukan hukum surat keterangan tanah sebagai alat bukti penguasaan atas tanah yang belum terdaftar di badan pertanahan nasional" (UNS (Sebelas Maret University), 2019).

¹⁹ CLARA HELMY SIHITE, "Analisa Kasus Atas Jual Beli Tanah Warisan (Studi Kasus Putusan Ma Nomor 680 K/pdt/2009) Antara Aston Purba Dkk Melawan Patar Simamora Dan Gomar Purba," *Premise Law Journal* 3 (2014): 13987.

rights. The basis of rights must be able to describe in a straightforward, clear and firm manner how a person can control a land so that the history of his ownership of the land is clear.

The aspect of the legal relationship of a legal action between the subject of the right and the object cannot be interrupted and must continue to be intertwined with the history of ownership between the initial owner and the next owner. The SPOPP (Standard Operational Procedure for Land Services) of the Regency/Municipal Land Office or what is now more familiarly known as SOP states that a basis for rights consists of at least a Statement of Physical Mastery of a Land Sector signed on sufficient stamp duty by the subject of rights which contains various information regarding the land including the owner's personal data, location, boundaries and extent, type of land occupied (Agriculture/non-Agriculture), Land Use Plans, and Land Status (Private Land or State Land), and the most important item is information regarding history of ownership and the basis for acquisition of the intended land successively is then signed by 2 witnesses and it is known by the Village Head/Lurah where the land object is located. For the purpose of obtaining a certificate of land rights, proof of ownership is required where in Article 24 paragraph (1) of Government Regulation No. 24 of 1997 states that proof of ownership basically consists of proof of ownership on behalf of the right holder at the time the BAL applies and if the right is then transferred, the proof of the transfer of successive rights reaches the right holder at the time the rights are recorded later.

In the elucidation of Article 24 Paragraph (1) of Government Regulation Number 24 of 1997 concerning Land Registration that evidence for the purposes of registration of rights, land rights originating from the conversion of old rights, can be in the form of:

- a) Grosse deed of eigendom rights
- b) Letter of proof of ownership rights issued based on the relevant Swapraja Regulations;
- c) Certificate of Ownership Rights issued under the Regulation of the Minister of Agrarian Affairs Number 9 of 1959;
- d) Decree on the granting of property rights from an authorized official, either before or since the UUPA came into force;
- e) Deed of transfer of rights made privately with testimony from the Customary Head/Village/Kelurahan Head made before the enactment of PP No. 24 of 1997 concerning land registration accompanied by the basis of the rights transferred;
- f) Deed of transfer of rights made by the PPAT;
- g) Waqf pledge deed;

- h) Tired minutes taken by the government;
- i) A certificate of land history made by the Land and Building Tax Service Office accompanied by the basis for the rights transferred;
- j) Other forms of written evidence with any name as referred to in Article II, Article VI, and Article VII of the UUPA Conversion Provisions.

If the written evidence is incomplete or no longer available, proof of ownership can be done with witness statements or statements from those concerned whose truth can be trusted according to the Adjudication Committee in systematic land registration or the Head of the Land Office in sporadic land registration. What is meant by a witness is a person who is capable of giving testimony and knows about said ownership.²⁰

If the right holder is unable to provide proof of ownership as referred to in Article 24 paragraph (1) above, either in writing or in another credible form, then Article 24 paragraph (2) Government Regulation No. 24 of 1997 provides provisions that provide a way out. In the elucidation of Article 24 paragraph (2), the bookkeeping of rights can be carried out not on the basis of proof of ownership but on the basis of evidence of physical possession that has been exercised by the applicant and his predecessors. The conditions that must be met are as follows:

1. That the control and use of the land in question is carried out in real terms and in good faith for 20 (twenty) years or more consecutively;
2. Whereas the reality of the ownership and use of the said land has not been contested so far and therefore is considered to be recognized and justified by the customary law community or the village/kelurahan concerned;
3. That these things are confirmed by the testimony of people who can be trusted;
4. That the other party has been given the opportunity to file an objection through an announcement as referred to in Article 26;
5. That research has also been conducted regarding the truth of the matters mentioned above;
6. Whereas finally the conclusion regarding the status of the land and its right holders was set forth in a decision in the form of acknowledging the rights

²⁰ Fransmini Ora Rudini, "Analisis Yuridis Surat Pernyataan Tanah Yang Dikeluarkan Oleh Kepala Desa Sebagai Dasar Penguasaan Atas Tanah Negara Berdasarkan Pasal 7 Ayat (2) Peraturan Pemerintah Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah (Studi Kasus Di Desa Asam Besar Kecamatan...," *Jurnal Hukum Prodi Ilmu Hukum Fakultas Hukum Untan (Jurnal Mahasiswa S1 Fakultas Hukum) Universitas Tanjungpura* 3, no. 3 (t.t.).

concerned by the Adjudication Committee in systematic land registration and by the Head of the Land Office in sporadic land registration.

It is clearly stated in the article above that for land which has not been registered and the means of proof are no longer fully available, a certificate of physical possession of the land parcel in question is required. However, the statement letter of Physical Mastery of the land parcel as stipulated in Article 24 paragraph (2) PP Number 24 of 1997, is different from the Certificate of Rights referred to in the author's research.

A certificate of right does not meet the requirements to be considered as a statement of physical ownership of a land parcel, if it does not fulfill the following conditions:

1. That the Petitioner has actually controlled the land in question for 20 (twenty) years and is used by the party who claims to own it or is actually not controlled but is used by another party on a lease or profit sharing basis, or in other forms of civil relations or has obtained such control from other parties or parties who have mastered it, so that the time of mastery of the applicant and his predecessors is 20 years or more;
2. That the control of the land has been carried out in good faith;
3. That the land is/is not in a state of dispute;
4. That the control has never been contested, and because of that it is considered to be recognized and justified by customary law or the Village/Kelurahan concerned;
5. That if the signatories falsify the contents of the statement or do not match the facts, they are prepared to be prosecuted before a judge in a criminal or civil manner for giving false statements;
6. Information from the Village Head/Lurah and at least 2 (two) witnesses whose testimony can be trusted

Proof by witnesses in land law is used as proof of ownership of a piece of land in the form of incomplete or non-existent written evidence. Proof of rights can be carried out by means of a statement from the person concerned and credible information from at least 2 (two) witnesses from the local community who do not have a family relationship with the person concerned to the second degree, both in upward and sideways kinship²¹

²¹ "PP No. 24 Tahun 1997 tentang Pendaftaran Tanah [JDIH BPK RI]," diakses 16 Mei 2023, <https://peraturan.bpk.go.id/Home/Details/56273/pp-no-24-tahun-1997>.

Apart from that, in practice, the BPN of Palele sub-district admits that the Certificate of Rights issued by the Village Head is only classified as an additional letter in the proof of land tenure included by the applicant in the land registration application file. This shows that the certificate of title issued by the Lurah is not a letter of proof of land rights or evidence of land rights needed in land registration and is also not a letter that is needed if the means of proof are not available or are no longer available. Increasing the status of land with cultivation rights to ownership rights.

The National Land Agency as a non-departmental government institution whose scope of work covers the land sector from time to time improves itself to adapt to developments and demands for community service needs in the land sector. Standardization of land services and regulation is an effort to improve public services which aims to realize legal certainty, openness and accountability of public services.²²

The increase in the status of cultivable land based only on the Village Head's Certificate was included in the Land Registration service group for the first time with the type of service for granting individual property rights. An increase in the status of cultivable land that is only based on a Certificate of Village Head rights can be upgraded to a Property right, as long as the Village Head's Certificate of Rights fulfills the juridical requirements according to the explanation of Article 24 paragraph (2) PP of 1997 above, so that the necessary steps carried out by the Village Head/Lurah in issuing a Certificate of Rights are as follows:

1. The Village Head is obliged to carry out research and initial investigations regarding the history of the land, its boundaries, the length and width of the land.
2. In making a Certificate of cultivation rights, if it is to be upgraded to a Freehold, then in the certificate, based on the facts, it must be stated:
 - a. The usufructuary of the land with cultivation rights has actually controlled the land in question for 20 (twenty) years and is used by a party who claims to own it or is not actually controlled but is used by another party on a lease or profit sharing basis, or in other forms of civil relations or has obtained control it is from the party or other parties who have controlled it, so that the time of possession of the land with cultivation rights (the applicant and his predecessor) totals 20 years or more;

²² Muhammad Rudiansyah, "KEKUATAN HUKUM SURAT KETERANGAN TANAH (SKT) SEBAGAI ALAT BUKTI KEPEMILIKAN TANAH BERDASARKAN SURAT EDARAN MENTRI ATR/BPN NO. 1756/15. I/IV/2016 TENTANG PETUNJUK PELAKSANAAN PENDAFTARAN TANAH MASYARAKAT" (Universitas Islam Kalimantan MAB, 2022).

- b. The usufructuary of cultivating rights owns the land in good faith.
- c. The land with cultivation rights is not in dispute.
- d. Ownership of land with cultivation rights has never been claimed/sued by other parties.
- e. There is a statement from the usufructuary of the land with cultivation rights, namely that they are willing to be prosecuted before a judge in a criminal or civil manner, if they provide false information.
- f. There are at least 2 (two) credible witnesses.

Information on rights issued by the Village Head/Lurah can be used as a basis for issuing certificates and has the power of proof. As for the process of upgrading land with cultivation rights to become private property based on the Regulation of the Head of the National Land Agency Number 1 of 2010 concerning Service Standards and Land Arrangements.²³

The function of the Land Certificate is as strong evidence for the owner, meaning that as long as the physical data and juridical data contained therein cannot be proven otherwise, it must be accepted as true data. The physical data as well as juridical data listed in the certificate book must be taken from the land book and measurement certificate regarding the relevant land parcel. A certificate as an authentic deed has perfect evidentiary power for the owner, where the judge must be bound by the data stated in the certificate as long as the other party cannot prove otherwise.

5. Conclusion

Based on the description that has been described in the previous discussion, it can be concluded as follows:

1. Land Acquisition Letters (SPT) have the force of law as proof of ownership of a plot of land. certificate of land tenure in Pontianak City, in which many people in Pontianak entrust the process of buying and selling land to the head of the Lurah. The lurah is a person who is the main figure in village administration and is a formal leader who is influential in social life. Services for making land tenure certificates have been regulated in Pontianak Mayor Regulation Number 28 of 2016 concerning Amendments to Mayor Regulation Number 51 of 2015 concerning District and Kelurahan Service Standards within the Pontianak City Government. Land Acquisition Letter (SPT) which is the basis for rights that is widely used in various

²³ Rani Bilkis dan Wardani Rizkianti, "Status Hukum Kepemilikan Hak Atas Tanah Berdasarkan Surat Keterangan Jual Beli Tanah," *Jurnal Justitia: Jurnal Ilmu Hukum dan Humaniora* 8, no. 5 (2021): 1314-23.

regions, in rural areas there are different terms but this is the same as a basic letter or some people call it "SPT Head of Village/Kelurahan" and this is included in form of written evidence.

2. Land Acquisition Letters (SPT) can be used as legal evidence in the process of making certificates. Land Acquisition Letters (SPT) can be used as legal evidence in the process of making certificates. Guarantee legal certainty over community land rights and to improve people's welfare through land registration. Considering that there are still people who control the land but do not have complete proof of land ownership (the basis of rights) and even do not have any proof of ownership at all so that they are constrained in applying for the registration of their land rights. The function of the Land Certificate is as strong evidence for the owner, meaning that as long as the physical data and juridical data contained therein cannot be proven otherwise, it must be accepted as true data. The physical data as well as juridical data listed in the certificate book must be taken from the land book and measurement certificate regarding the relevant land parcel. A certificate as an authentic deed has perfect evidentiary power for the owner, where the judge must be bound by the data stated in the certificate as long as the other party cannot prove otherwise.

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