

Land Grants Cancellation and Its Legal Consequences to the Right Transfer Certificate

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Abstract: The purpose of this study was to determine the application of laws and regulation in relation to the registration of land right stipulated in the Basic Agrarian Law Number 5 of 1960 and related regulations. Based on experience and data obtained from conflicts with a background of land problems, there are many occurrences in various regions in Indonesia and not a few take lives. There are many problems related to land in Indonesia, some of which are related to overlapping land ownership, the existence of double land certificates, the problem of difficulty in managing land certificates and others. In order to overcome these problems, one of the main facilities used in restructuring the use and ownership of this land is through the land registration process. Therefore only by holding land registration in a comprehensive and complete manner will it be easy to arrange how the ownership, use and ownership of land in Indonesia. But in reality there are various factors that have caused difficulties in carrying out land registration. Therefore the results of this study will provide a legal review of the effectiveness of registering land rights.

1 INTRODUCTION

One of the main objectives of the enactment of Law Number 5 of 1960 concerning Basic Regulation on Agrarian Principles (UUPA) is to realize legal certainty regarding the rights to land for all Indonesian people. There are two efforts to realize the legal certainty, namely :

- Providing written, complete and clear legal instruments.
- Organizing land registration that allows land rights holders to prove land rights under their control and for the government to implement land policies.

Land registration is regulated in Article 19 of the UUPA, namely Article 29 paragraph (2) includes :

- Measurement of land mapping and bookkeeping.
- Registration of land rights and transfer of rights.
- Provision of proof of rights, which acts as a strong evidentiary tool.

Provision concerning land registration further regulated in Government Regulation Number 10 of 1961 concerning Land Registration (PP 10/1961). This law is deemed unable to provide satisfactory results so that it needs to be refined and replaced by Government Regulation Number 24 of 1997 concerning Land Registration. The implementation provisions of the Government Regulation are contained in the Regulation of the Minister of Agrarian Affairs / Head of BPN Number 3 of 1997.

Land rights as stipulated in Article 16 paragraph (1) of the UUPA consist of Ownership Rights, Right to Build, Right to Use, and Right to Use, which authorize the rights holders (both individuals, groups of people together or bodies law) to use in the sense of mastering, using and or taking advantage of certain parcels of land.

Basically all land rights can be transferred or transferred, switching is the transfer of land rights due to law, by itself there is no legal action that is deliberate to transfer the rights to other parties. The transfer of land rights occurs

because of inheritance. Whereas the transfer means that the transfer of the land rights to another party is due to deliberate legal actions so that the rights to the land are transferred to other parties, such as buying and selling, grants etc. The transfer of land rights due to a legal act is carried out by deed of transfer of land rights made by the Land Deed Making Officer. The importance of making a deed of transfer of rights to the land under the PPAT relating to registration is done to obtain a guarantee of legal certainty and guarantee the certainty of land rights certificate of land rights in the form of a certificate of land rights that serves as a strong evidentiary tool for ownership of land rights.

Based on experience and data obtained from conflicts with a background of land problems, there are very many occurrences in various regions in Indonesia, and not a few take lives. There are many problems related to land in Indonesia, some of which are related to overlapping land ownership, the existence of double land certificates, the problem of difficulty in managing land certificates and others. based on the backgrounds that elaborated above, the problem of this study is formulated in the following questions : how is the implementation and the application of land registration in Medan City ?

2 RESEARCH METHODOLOGY

This research is a descriptive analytic research. A descriptive analytic research is expected to reveal detailed and systematic description of the problem. In addition, analytic means a careful analysis in answering the problems is based on the facts.

This research is expected to provide explanations (i) whether the court's decision is appropriate and in accordance with the system of land registration in Indonesia; (ii) whether the procedure of canceling a certificate by the National Land Agency is corresponding to the prevailing laws and regulations; and (iii) how a legal certainty is given to the grant-based certificate that can, therefore, explain the legal

consequences of the cancellation over the grant-based certificate to the *legitimaris* (legitimate off springs).

3 RESULT AND DISCUSSION

Implementation and Application of Land Registration in Medan city in order to accelerate the registration of rights to land in the Medan City, The National Law Agency of Medan City Land Office has issued the following letter from the Head of Land Affairs Office of Medan.

- Decree of Head Medan Land Office Number : 32/KEP-12.71/I/2017 Concerning Determination of Location for Acceleration of Complete Systematic Land Registration 2017 Budget Year, Head Land Office of Medan, with consideration points :

- a. that in the framework of providing a guarantee of legal certainty and legal protection of the rights to people's land in a just and equitable manner, as well as encouraging the country's economic growth in general and the people's economy, in particular, it is necessary to accelerate complete land registration throughout the Republic of Indonesia.
- b. That in order to carry out the complete land registration as referred to in letter "a", it is necessary to determine the location of the village / kelurahan which is adjusted to the availability of available funds and the legal ones in accordance with [the legislation.
- c. That based on the consideration as referred to in letters a and b, it is necessary to stipulate a Decree of the Head of Land Office of Medan concerning the Arrangement.

Based on the consideration above, it was decided that the Decree which regarding the Appointment of Implementing Officers for the Acceleration of Full Systematic Land Registration in 2017.

Appoint the name, NIP as listed in Column Number 2 (two), Ranks as stated in column Number 3 (three) and position as stated in column Number 4 (four) in addition to their daily duties, appointed also as executing Officer for Sub-District at Medan Land Office, as stated in column number 5(five) in the attachment to this Decree for 2017 fiscal year.

- Decree of The Head of Medan Land Office Number : 338/KEP-12.71/IV/2017 concerning the Determination of Complete Systematic Land Registration Participants in the National Land Management Program Land Management Activities in Medan Land Office Fiscal year 2017, in the Consideration Points :

- a. That in the framework of providing a fair and equitable guarantee of legal certainty and legal protection for people's land, and encouraging the country's economic growth in general and the people's economy in particular, it is necessary to accelerate complete land registration throughout the territory of Republic of Indonesia.
- b. That in order to carry out complete land registration as referred to in letter a, it is necessary to stipulate a Complete Systematic Land Registration Participants (PTSL) by Decree of the Head of Office.

Decide and stipulate, the Decree of the Head of Medan Land Office concerning the establishment of Complete Systematic Land Registration Participants in the National Land Management Program Land Management Activities in Medan Land Office Fiscal year 2017.

Appoints as many as 700 (Seven Hundred) people as stated in column number 2 (two), location of land Sub-District and village as stated in column number 3 (three), as well as land Areas listed in column number 4 (four), as participants of the program legalization National Land Management Land Management Activities at the Medan Land Office in the attachment to this Decree.

Where as c based on the considerations as referred to in letter a and letter b, it is necessary

to stipulate the Decree of the Head of The Medan Land Office concerning the arrangement.

Based on the consideration above, it was decided that the Decree of The Head of Medan Land Office regarding the Appointment of Implementing Officers for the Acceleration of Full Systematic Land Registration in 2017.

Appoint the name, NIP as listed in column number 2 (two), Rank as stated in Column Number 3 (three) and position as stated in column Number 4 (four) in addition to their daily duties, appointed also as executing Officer for Sub-District at Medan Land Office, as stated in column number 5(five) in the attachment to this Decree for 2017 fiscal year.

- Decree of The Head of Medan Land Office Number 562/KEP-12.71/VI/2017 concerning the Delegation of The Authority to Complete Systematic Land Registration Activities at the Medan Land Office, with Consideration Points are as follow :

- a. That in the framework of implementing the regulation n of minister of Agrarian and Spatial Planning/ Head of The national Law Agency No.1 of the year 2017 concerning Amendments to the Regulation of The Minister of Agrarian and Spatial Planning/ Head of The National Land Agency Number 35 of the year 2016 concerning Acceleration of Complete Systematic Land Registration.
- b. That article 14 paragraph 1 of the Regulation of The Minister of Agrarian and Spatial Planning / Head of the National Land Agency Number 1 of 2017 concerning Registration on the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency Number 35 of 2016 concerning Acceleration of Complete Systematic Land Registration implies that the Land Chief can bestow authority to sign the certificate to the Chairperson of the Implementation Acceleration Adjudication Committee to be submitted to the rightful person.

- c. That based on the Considerations as referred to in letters a and b above, then for orderly administration in its implementation it is necessary to stipulate a Decree of the Head of Medan City Land Office concerning the Delegation of Authority for Activities of Complete Systematic Land Registration at the Medan City Land Office.
- Decide and determines, grants authority to the chairperson of the Complete Systematic Land Registration Adjudication Committee of Medan Land Office in Complete Systematic Land Registration Implementation for :
 - a. Sign Decree on Granting Rights, Land Books and Land Rights Certificates which are the authority of the head of Medan Land Office;
 - b. Signing Announcement and Approval of Announcement of Physical Data and Juridical Data on Land Registration for the First Time, Recognition/ Confirmation of Rights.
 - Decree of the Head Medan Land Office as stated above, based on the Legislation as follows :
 1. Law Number 5 of the year 1960 concerning Basic Agrarian Basic Regulations (state Gazette of 1960 Number 104, Supplement to the state Gazette of the Republic of Indonesia Number 2043);
 2. Law Number 39 of 2008 concerning State Ministries (State Gazette of the Republic of Indonesia of 2008 Number 166, Supplement to the State Gazette of the Republic of Indonesia Number 4916).
 3. Law Number 25 Year 2009 concerning Public Services (State Gazette of the Republic of Indonesia Year 2009 Number 112, Supplement to the State Gazette of the Republic of Indonesia Year 2009 Number 5038).
 4. Law Number 2 of 2012 concerning the Procurement of Land for Development in the Public Interest (State Gazette of the Republic of Indonesia Number 5280 of 2012).
 5. Law Number 30 Year 2014 concerning Government Administration (State Gazette of the Republic of Indonesia Year 2014 Number 292, Supplement to the State Gazette of the Republic of Indonesia Year 2014 Number 5601).
 6. Government Regulation Number 40 of 1996 concerning Right to Cultivate, Right to Build and Right to Use of Land (State Gazette of the Republic of Indonesia Number 3643).
 7. Government Regulation Number 24 of 1997 concerning Land Registration (State Gazette of the Republic of Indonesia Number 59 of 1997, Supplement to the State Gazette of the Republic of Indonesia of 1997 Number 3696).
 8. Presidential Regulation Number 17 of 2015 concerning the Ministry of Agrarian Affairs and Spatial Planning (State Gazette of the Republic of Indonesia of 2015 Number 18).
 9. Presidential Regulation Number 20 of 2015 concerning the National Land Agency (State Gazette of the Republic of Indonesia of 2015 Number. 21).
 10. Regulation of the State Minister of Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 concerning Implementation Provisions of Government Regulation Number 24 of 1997 concerning Land Registration as amended by Regulation of the Head of the National Land Agency Number 8 of 2012 concerning Amendments to the Regulation of the Minister of Agrarian Affairs / Head of Agency National Land Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration.
 11. Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and

Cancellation of State Land Rights and Management Rights.

12. Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency Number 33 of 2016 concerning Licensed Cadaster Surveyor (State Gazette of the Republic of Indonesia Year 2016 Number 32).
13. Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 35 of 2016 concerning Acceleration of Complete Systematic Land Registration (State Gazette of the Republic of Indonesia Number 35 of 2016).

Management Activities in Medan City Land Office for Fiscal Year 2017.

- Decree of the Head of Medan City Land Office Number: 561 / KEP-12.71 / VI / 2017 concerning Changes in the Structure of Adjudication Committee for the Acceleration of Physical Task Units and Juridical Task Force for Implementation of Complete Systematic Land Registration: Belawan Sicanang Village Medan District Belawan City Medan City Budget Year 2017.
- Decree of the Head of Medan City Land Office Number: 562 / KEP-12.71 / VI / 2017 concerning the Completion of the Authority of Complete Systematic Land Registration Activities in the Medan City Land Office.

4 CONCLUSIONS

There are laws and regulations concerning land registration based on Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, Regulation of the State Minister of Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 concerning Land Registration as amended by the Chief Regulation National Land Agency Number 8 of 2012 concerning Amendments to the Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 concerning Implementation Provisions of Government Regulation Number 24 of 1997 concerning Land Registration.

The description of the legislation, the National Land Office of the Medan City Land Office, has issued several Decisions including:

- Decree of the Head of the Medan City Land Office Nomlor: 39 / KEOP-12.71 / I / 2017 concerning the Appointment of Implementing Officers for the Acceleration of Complete Systematic Land Registration for 2017 Budget.
- Decree of the Head of Medan City Land Office Number: 338 / KEP-12.71 / IV / 2017 concerning the Establishment of Complete Systematic Land Registration Participants in the National Land Management Program for Land

The purpose of the regulation is that in order to guarantee legal certainty and legal protection of people's land rights in a just and equitable manner, and to reduce the country's economic growth in general and the people's economy in particular, it is necessary to accelerate complete land registration throughout the Republic of Indonesia. one of them in Medan City.

As a suggestion, in order to effectively register land rights, a complete systematic land registration program is very beneficial for the community, therefore this program can run every Budget Year, because certificates issued by the Government are only given to:

- The community cannot afford it.
- Communities included in the Simple Housing Sector Program.
- Legal entities engaged in religious and social fields that use their land for worship, Islamic boarding schools, orphanages, nursing homes, cultural heritage sites / pilgrimage sites.

Veterans, retired civil servants, retired military officers, retired PLRI and husband / wife / widow / widower of veterans / retired civil servants / retired military / retired police officers.

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