

## IMPLEMENTATION OF LAND REGISTRATION PROCEDURES IN INDONESIA BASED ON GOVERNMENT REGULATION NO. 18 OF 2021

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### ABSTRACT

Soil is inseparable from all activities of living things. Land is also a source of activity for life and human habitation, especially for Indonesian citizens, where the majority of citizens still rely on land for survival, such as for agricultural land and plantations. The purpose of this study is to analyze the application of legal rules regarding land registration procedures based on Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration. This research uses the Normative Juridical type of research, which is conceptualized as norms or rules that exist and are obeyed in society, so that they become a reference in behavior. In related arrangements land registration must be based on the principle of legality. In *Black's Law Dictionary*, legislation/legality has many meanings, one of which is Legislative Action, Drafting and Making Laws and/or Drafting rules for the future. Based on the results of the analysis in this study, it was found that a legal effect was arising related to the implementation of the installation of stakes and related to the principle of delimitation contradictions.

**Keywords:** *land, land rights, law*

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### INTRODUCTION

Soil is inseparable from all activities of living things. Land is also a source of activity for life and human habitation, especially for Indonesian citizens, where the majority of citizens still rely on land for survival, such as for agricultural land and plantations. Therefore, the guarantee of legal certainty for land becomes very important. Complete and binding legal rules regarding land can be applied to the community, where this is necessary to provide legal certainty related to land and the implementation of land registration. With the existence of laws and regulations on land, it is intended to ensure the fulfillment of land rights and avoid conflicts in land.

Based on the rule of law contained in the 1945 Indonesian Constitution (UUD 1945), the state is the holder of full power over water, earth and natural resources contained in Indonesia. The state has the right to manage and take maximum profit, this is in accordance with Market 33 Paragraph (3) of the 1945 Constitution. Which stipulates that: "Earth, water and natural resources contained therein are controlled by the state and used to achieve the health of the people".

Based on article 4 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, which regulates the rights to land, water and air. It also includes basic rules and regulations for the control, use or utilization of Indonesia's national agrarian resources, land registration, criminal provisions and transitional provisions. Furthermore, Law No. 5 of 1960 is an affirmation that the control and utilization of land, water and air must be carried out based on the principles of justice and prosperity for the development of a just and prosperous society. This is in line with the 1945 Constitution Article 33 Paragraph 3 which reads "Earth,

water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

Based on article 4 of Law Number 5 of 1960 concerning Basic Agrarian Regulations (Basic Agrarian Law), land is the capital for people in all regions in Indonesia, therefore land is closely related to human life. The purpose of the establishment of the Basic Agrarian Law is to provide legal certainty and regulate the land rights of all Indonesian citizens. Related to legal certainty and also the protection of land rights for Indonesian citizens can be done by preceding land registration as stipulated in article 19 of the Basic Agrarian Law.

In the application of land law, land registration is also regulated in Government Regulation 24 of 1997. Land activities include registration of land and also include its maintenance. Based on the provisions of article 1 angka 1 of Government Regulation Number 24 of 1997 concerning Land Registration, land registration is a series of activities carried out by the government continuously, continuously and the presentation and maintenance of physical data and juridical data, and units of flats, including the provision of letters of proof of their rights to land parcels that already have rights and property rights to apartment units and certain rights that encumber them.

In article 26 paragraph (1) PP  
24/1997 on Registration

Soil, it is explained that:10

*"The list of contents referred to in Article 25 paragraph (2) along with a map of the relevant land fields or parcels as a result of measurements as referred to in Article 20 paragraph (1) shall be announced for 30 (thirty) days in systematic land registration or 60 (sixty) days in sporadic land registration to provide an opportunity for interested parties to raise objections."*

Meanwhile, in Article 88 paragraph (1) of PP 18/2021 concerning Management Rights, Land Rights, Flats Unit and Land Registration, it is explained that:11

"Announcement of the results of physical data collection and juridical data: a. in the Land Registration systematically carried out for 14 (fourteen) calendar days; b. in sporadic Land Registration for 30 (thirty) calendar days."

The registration process is not only regulated by one statutory regulation, but also regulated by other regulations. Laws and regulations are often confused between one regulation and another. This is because there are differences in the way land registration is carried out in relation to the announcement of land registration, the government regulation should be implemented properly, but in practice the regulation is still poorly applied in the field. As a consequence, to obtain legal certainty for citizens, a rule was established, namely Government Regulation Number 18 of 2021 concerning Management Rights, Land Ha katas, Flats Units and Land Registration.

The purpose of this study is to analyze the application of legal rules regarding land registration procedures based on Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration and to analyze the legal consequences that occur in Government Regulation Number 24 of 1997 concerning land registration after the enactment of Government Regulation Number 18 of 2021.

## **METHOD**

A legal research is a set of methods or things related to other systematics that are interrelated with each other in order to study an aspect of law in society. Furthermore, a more in-depth analysis will be carried out to answer every problem that occurs. This is done so that the research that occurs is in accordance with the expectations of researchers.<sup>14</sup> In a study has a certain type which is a method that will make it easier for researchers to conduct research and also describe it in a problem that arises. The results of the study are used as a reference for researchers to answer any problems that arise so that they can be analyzed more thoroughly.<sup>15</sup> This research uses the type of Normative Juridical research, which is conceptualized as norms or rules that exist and are obeyed in society, so that they become a reference in behavior.<sup>16</sup> In this study, a literature study will be carried out related to land registration procedures based on PP Number 18 of 2021 and also legal consequences which occurred after the issuance of Government Regulation Number 18 of 2021.

In this case, it uses analytical descriptive specifications, which means that the first thing to do is to describe the existing problem based on the appropriate theory available in various literature. Furthermore, researchers will also examine these problems in the applicable legal regulations in Indonesia. After getting all the data, an in-depth analysis will be carried out to get the desired answer. The types of data used are secondary data and tertiary data. Primary data is not used because this study uses normative juridical research type. As for collecting data, library research is carried out, which uses written legal sources such as legislation, books, scientific notes, seminar papers, journals and other related readings to discuss a problem.<sup>17</sup> The purpose of this research will be obtained on secondary data. In conducting a study, data analysis is a very important part. This is because data analysis discusses the outline of the research results which will later be presented and conclusions can be drawn in writing the final project. According to Patton, data analysis is the process of arranging the order of data, organizing it into patterns, categories, and basic description units so that the data is easier to read and conclude. The data analysis technique carried out by the authors in this study is qualitative.

## **RESULTS AND DISCUSSION**

### **Land Registration Arrangements Based on Government Regulation Number 18 of 2021 related to Management Rights, Land Rights, Flat Units (flats), and Land Registration**

#### ***Land Registration Arrangements Based on Laws and Regulations***

In related arrangements, land registration must be based on the principle of legality. In *Black's Law Dictionary*, legislation/legality has many meanings, one of which is Legislative Action, Drafting and Making Laws and/or Drafting rules for the future. Laws are decided by the legislature. While regulations that are strongly correlated with registration based on legality theory can be explained below as follows:

#### **a. Law No. 5 of 1960 related to Basic Regulations on Agrarian Principles (UUPA)**

The UUPA regulates several bases of rights in land acquisition such as property rights, HGB, Right of use, and so on. Arrangements regarding some ownership of the land are also regulated in Article 9 of Government Regulation Number 24 of 1997 concerning land registration.

**b. Government Regulation No. 24 of 1997 concerning Land Registration Jo Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Flats Unit and Land Registration.**

Based on Article 1 paragraph 1 of Government Regulation Number 24 of 1997, land registration is a series of activities organized by the government in the form of management, archive, presentation, and maintenance of physical and juridical data, as well as the issuance of certificates as a sign of their rights.<sup>19</sup> The PP in Article 3 regulates about:

1. to provide legal certainty and protection to holders of rights to a plot of land, units of flats and other registered rights in order to easily prove themselves as the holder of the rights concerned;
2. to provide information to interested parties including the Government in order to easily obtain the necessary data in conducting legal actions regarding land parcels and apartment units that have been registered;
1. for the orderly implementation of land administration. Therefore, there is a District / City Land Office to obtain a land registration effort called a general inventory, which is so that parties related to the case can undergo legal action against a specific land entity or unit of flats (flats) needed and therefore they have the right to know the data organized in it. public inventory. A land book is a book that contains the origins of land ownership including the identity of the right owner. Files regarding land ownership are in the form of data collections that contain information related to a person's authority over land and related to land rights, or management rights related to people or legal entities.

Article 1 paragraph (1) of Government Regulation No. 24/97 reveals that land registration is a series of activities carried out by the government continuously and regularly. Furthermore, Article 11 explains that the implementation of land registration includes land registration activities for the first time and maintenance of land registration data.

Therefore, the meaning of land registration includes measuring, mapping, and archiving land; registration of land and transfer of rights. Meanwhile, the registration system in Indonesia uses a land registration system (*registration of title*) as used by PP No. 10/61 and PP No. 24/97, which is a negative system with a positive tendency or *Quasi Positive declut. (Pseudo-Positive)* description. We can see in the publication system used for the public through strong evidence as stated in Article 19 paragraph (2) of the UUPA which is not a pure negative system. Through the *Quasi Posstive (pseudo positive) system*, there are 2 registration systems that are implemented in accordance with the will of the Article

13 Government Regulation No. 24/97. First, systematic registration of land registration is carried out by the government by forming a special committee to carry out registration, and there is an initiative from the Government and committees formed by the government or Adjudication. Second, sporadic registration is the first time about one or more objects of individual or mass registration. Initiatives arise from rights owners, both individually and en masse.

***Complete Systematic Land Registration and Sporadic Land Registration***

Complete systematic, namely the first land registration activity carried out simultaneously which includes all land arrangement objects that have not been recorded in one village location

or other area. What is meant by complete systematic land registration is regulated in Article 1 number 2 of the Minister of ATR / BPN No. 6/2018, namely: Land registration activities at the beginning of time are carried out jointly for all land registration objects in all locations of the Unitary State of the Republic of Indonesia which includes juridical data or field data on a number of land registration objects. The implementation of complete systematic land registration aims to realize legal certainty and legal protection of land owned by the community based on a sense of security, and justice, so as to achieve peace, people's welfare, state economic achievement, and also to prevent land disputes.

The legal basis for sporadic land registration is contained in PP Number 24/1997 concerning Land Registration Jo. PP Number 18 of 2021 which regulates land registration. Sporadically, i.e. land registration activities carried out individually or en masse, and all costs are charged to applicants through the city/district National Land Agency, sporadic land registration is carried out on the initiative of unregistered land owners.

With the emergence of regulations in the latest government regulations on land management rights, it can provide legal certainty for land ownership by applicants who first inventory their land to the National Land Agency Office with systematic 14-day announcements of Article 88 and sporadic 30-days while in Government Regulation Number 24 of 1997 related to Land Registration, the first registration announcement is Systematic 30 days Article 26 and sporadic 60 days, while it does not necessarily matter a different announcement, but there are shortcomings in PP Number 18/2021

has new rights and no certificates have been issued, while in the Government Regulation on Land Registration, there are still new rights Article 23 and Article 31 Issuance Certificates.

### **Procedures for Land Registration Based on Government Regulation Number 24 of 1997 related to Land Registration and Government Regulation Number 18 of 2021 related to Management Rights, Land Rights, Flat Units (flats), and Land Registration**

#### **a. The Origins of Land Ownership**

There are 2 sources related to the origin of land ownership, namely derivative and original methods. What is meant by derivative is the right to land obtained from the transfer of rights that can occur due to laws or legal transfers such as inheritance, buying and selling, grants, and so on. While original is a land that has never been owned by anyone, so the owner is the first person. How to obtain property rights to land can be obtained in several ways, namely:

- a. based on the law there is,
- b. based on the provisions of the law,
- c. based on government provisions, and
- d. based on law.<sup>20</sup>

The requirements for registering the required land are as follows:

1. Form filling and signing of the form by the applicant, which has been matched.
2. Deposit of power of attorney, with a note when the land has been authorized
3. Photocopies of various identification marks of the applicant and his attorney if they have been authorized to match
4. The mark of the owner of the land/customary rights/former property is found
5. Photocopy of the current year's UN SPPT that has been matched with the original by the counter officer and the submission of the SSB mark (BPHTB)
6. Attach SPP/PPH mark according to provisions<sup>21</sup>

Land registration for the first, including conversion, recognition and assertion of rights. First, Conversion: defined as the conversion of land rights before the enactment of the UUPA into land rights. Second, Recognition: defined as the right to land where there is no sign of ownership but the fact that the person has physical authority for 20 years or more has been marked or that its predecessor can be recognized as title to the name of the authorized person. Third, affirmation which means as an affirmation of rights to land that has been or has been converted is recognized.

**b. Use of Land Registration for Land Owners**

Through the promulgation of Government Regulation Number 24 of 1997 related to Land Registration, it is dreamed that it can be useful, both for citizens and for the government itself. There are various benefits felt from the land registration system through the PP on Land Registration, namely:

1. For citizens, it can make it easier for citizens to obtain property rights to land. Provide a sense of security for landowners from fear of being sued. The economy of citizens is more developed. Facilitate the transfer of rights. Increase land prices. Citizens are lighter to obtain land data because of the possibility of using sophisticated tools.
2. For the government, it reduces anxiety due to land disputes. It is easier for citizens to inventory their land and also provide relief to the government to establish policies related to taxes.<sup>22</sup>

Based on the explanation above, it can be seen that the use of land registration for citizens (land owners) and the government is carried out by carrying out land registration in PP No. 24/1997. So that it does not present a sense of justice for citizens who feel entitled and object to land disputes against the announcement of land registration because the time for announcing land registration is too short based on PP No. 18/2021.

**Government Regulation No. 24 of 1997 concerning Land Registration Jo Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Flats Unit and Land Registration.**

Until now, the rules on land registration are still related between PP No.24/1997 and also PP No. 18/2021 related to Management Rights, Land Rights, Flat Units and Land Registration.<sup>23</sup>

Article 26 of the PP on Land Registration explains that:

*"The inventory referred to in Article 25 paragraph (2) along with the map of land fronts or authorized fronts as referred to in Article 20 paragraph (1) shall be announced within 30 (thirty) days in the systematic land registration or 60 (sixty) days in sporadic land registration to present an opportunity for parties related to the case to raise objections."*

If the implementation of the entire process is not based on existing rules, then there are legal consequences related to the implementation of setting pegs and related to the principle of contradiction of delimitation. Existence of land several times there are often disputes between owners of one another and problems related to buying and selling caused by the absence of clear ownership.

The National Land Agency (hereinafter referred to as BPN), is a government institution that has the authority to implement land management. BPN Indonesia was established based on Presidential Decree Number 26 of 1988. In the presidential decree, Deputy V was also established who specifically has duties and obligations related to solving and examining land problems. This is also regulated in the Regulation of the Head of BPN Number 3 of 2006 concerning the Organization and Work Procedures of the National Land Agency of the Republic of Indonesia.

BPN continues to innovate and find the best solution to handling land problems based on every applicable regulation while still based on a sense of fairness and mutual respect between the interests of interested parties. BPN provides step-by-step on how to resolve disputes related to land, for example disputes over double certificates that can resolve the case can be done in several ways.<sup>25</sup>

There are also ways to solve problems through deliberation to reach consensus. This method has existed and is outlined in Pancasila as a guideline for citizens which is also contained in the 1945 Constitution. Deliberation conducted by the parties does not pass through intermediaries or mediators. For land problems that are resolved by deliberation can only be done for certain types of problems, and not all problems related to land can be resolved by deliberation, for example such as land purchased by someone even though BPN is declared legally owned by the seller but suddenly the village claims that the land belongs to the village government.

For problems that occur, the resolution uses methods outside the court or Alternative Dispute Resolution (APS), which is a way to resolve disputes experienced by the parties with a settlement process based on an agreement that has been agreed upon by the parties. There are several conditions that must be met in terms of solving problems related to land through APS, one of which is to write down the agreement that occurs and there has been an agreement between the parties involved. If the arbitration proceedings fail and are to be resolved through the courts, they must be approved by the arbitral institution. So that between the court and the APS institution must respect each other.

## **CONCLUSION**

The process of creating property rights and other rights is regulated in the Regulation of the Minister of Home Affairs (PMDN) Number 5 of 1973 concerning Procedures for Granting Land and PMDN Number 1 of 1977. Meanwhile, land registration is based on PP No.24 of 1997 which is a refinement of the previous government regulation. The government regulation, especially in Article 19 paragraph 2, includes: Measurement, mapping, land archives, registration and also transferring rights related to existing land. The requirements for registering the required land are as follows: Filling out the form and signing the form by the applicant, which is suitable, Depositing a power of attorney, with a note if the land has been authorized photocopies of various personal identification marks of the party applying for rights or their power of attorney, Landowner marks / customary rights are found, Submitting the UN SPPT FC in the last year which is then adjusted to the original by the officer along with the submission of proof of UN keel, Provide SPP/PPH attachments. Based on the results of the analysis in this study, it was found that a legal effect was arising related to the implementation of the installation of stakes and related to the principle of delimitation contradictions. As well

as land disputes, over land between one owner and adjacent land owners. Causing disputes between heirs to land. In addition, it creates problems for rights owners if they want to undergo buying and selling because there is no clarity of ownership.

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