

Analysis of The Legal Strength of Land Tenure Statement (SPPT) as a Basis for Land Rights in East Kutai Regency, East Kalimantan Province

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KEYWORDS

SPPT; Basis of Land Rights;
Land Law System

ABSTRACT

Research on the legal strength of land tenure statements (SPPT) as a basis for land rights in East Kutai Regency, East Kalimantan, aims to find out the position of the SPPT as proof of land rights in the land law system and the legal strength of a land tenure statement as proof of ownership rights. Above ground. This research was carried out because many landowners in East Kutai still rely on the legality of their land using SPPT as proof of land ownership. They assume that having the SPPT is strong enough as proof of ownership of land rights. This can be seen in the number of land cases that enter the judicial process where the SPPT is still recognized. Meanwhile, based on the negative land law system with a positive tendency adopted by Indonesia, the strongest evidence for land ownership rights is only a certificate issued by the National Land Agency, and even then it still has the potential to be sued as long as the truth can be proven. In this research, normative and descriptive juridical research methods are used to answer legal issues by describing, analyzing, assessing, and explaining appropriately and analyzing applicable laws and regulations as well as various opinions of legal experts, with the aim of answering the problems raised.

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1 Introduction

Landownership Statement Letter, commonly known as SPPT, is a statement letter in the form of a statement from someone who controls a plot of land as the basis for their rights. This SPPT is generally still used by the community in East Kutai Regency, East Kalimantan Province, as one of the requirements in the application process for issuing land certificates by the National Land Agency (BPN) (Akbar, 2017).

Based on Circular Letter Number 1756/15.I/IV/2016 concerning Guidelines for the Implementation of Community Land Registration, which in its instructions states that "In the event that the basis for control and/or proof of ownership of land is incomplete or the community does not have a basis for control and/or proof of ownership at all. a written statement regarding physical control of the land parcel in good faith from the person concerned must prove land." (Christian, 2008; Yamin, 2008)

It can be concluded that the Land Tenure Statement Letter (SPPT) made and signed by the Village Head/Lurah is a Certificate of Physical Authority over the land (Erliyani, 2021; Hadjon, 2002). It is also confirmed in Government Regulation Number 18 of 2021 Article 97 concerning Management Rights, Land Rights, Flat Units, and Land Registration that "Land Certificates, Compensation Certificates, Village Certificates, and other similar things are intended as Certificates made and signed by the village head/subdistrict head/district head can only be used as a guide in the context of land registration.

Based on the negative publication system with a positive tendency (mixed publication system) used by the Indonesian state, land certificates are not absolute evidence but only strong evidence, and at any time a lawsuit can be filed against the certificate, it does not provide legal certainty for the certificate holder. so it could potentially be canceled, as well as the Land Owner's Statement Letter (SPPT), which can be said to be just a person's statement to prove land ownership (Dukeminier et al., 2020; Hadiman, 2011).

With the change in the function of the land ownership statement, which is only used as a guide for land registration, there is actually no problem. This is because the land ownership statement format states and includes the land boundaries, which are the basis and are recognized by the relevant parties and witnessed by witnesses.

Based on this, the existence of the SPPT is often legally questioned. From the description above, the author is interested in conducting research on the legal strength of land tenure statements (SPPT) as a basis for land rights in East Kutai Regency, East Kalimantan Province.

2 Materials and Methods

This research is normative legal research, where the researcher examines legal issues in depth from the perspective of legal science regarding norms established laws 1. This type of research uses doctrinal research, which focuses on one object, namely a set of statutory rules and their principles that have been prepared systematically and/or systematized.

The author's research approach is the statutory approach, considering that this approach clarifies issues concerning the consistency of philosophical bases, ontological bases, and conceptual logical ratios. This approach requires other approaches because understanding the views or doctrines that develop in legal science can guide legal arguments when resolving the legal issues at hand.

The legal materials used in this research are;

1. Primary legal materials consisting of Laws, Government Regulations and Ministerial Regulations.
2. Secondary legal materials consist of literature books, legal journals, and scientific papers.
3. Tertiary Legal Materials consisting of a Law Dictionary and a large Indonesian dictionary.

3 Results and Discussions

Proof of ownership of land rights according to the UUPA

According to the UUPA, a certificate is proof of legal ownership of land rights. Having a land certificate will ensure the legal certainty of land rights, where the issuance of land certificates applies as a strong means of proof. Land certificates are issued by the National Land Agency as the final product of land registration activities for the first time (Syarief, 2014).

In the UUPA, the land registration system is a negative publication system that contains positive elements where:

1. The certificate as a letter of proof of rights that applies as a strong means of proof, not as an absolute means of proof. Strong is meant here to be a characteristic of the negative publication system.
2. The land registration system uses a rights registration system, not a deed registration system. The rights registration system is a characteristic of a positive publication system.
3. The State does not guarantee the correctness of the physical data and juridical data contained in the certificate. This is a characteristic of the negative publication system.

Certificates as a means of proof must provide a guarantee of legal certainty to land rights holders as stated in Government Regulation No. 24 of 1997 explaining that related to the meaning of a strong means of proof. The certificate is a strong proof of rights, in the sense that as long as it cannot be proven otherwise, the physical data and juridical data contained in it must be accepted as correct data and listed in the relevant land book and survey letter.

According to the explanation above, it can be seen that the UUPA adheres to the proof of certificate as a sign of authentic legal evidence that contains proof of land rights, as stipulated in article 19 concerning land registration to ensure legal certainty, article 23 concerning property rights of each transition, deletion, other rights must be registered along with the encumbrance of their rights.

One of the purposes of land registration, as stated in Article 3 of Government Regulation No. 24 of 1997 concerning Land Registration is:

1. To provide legal certainty and protection to the holder of a plot of land, flats and other registered rights so that he can easily prove himself as the holder of the right concerned;
2. to provide information to interested parties, including the Government so that they can easily obtain the necessary data in carrying out legal acts regarding land plots and flats that have been registered;
3. For the orderly implementation of land administration.

In the legal consideration of the Constitutional Court Decision Number 12/PUU-XIX/202 in the examination of Article 23 paragraph (1) of the UUPA, it is stated that in order to obtain legal certainty on the ownership of land rights (in this case, property rights), any legal act related to the transfer or imposition of it becomes invalid if registration is not carried out with the authorized agency that has been determined. In addition, this provision is also a must that must be passed in accordance with the processes and procedures that laws and regulations have determined.

Meanwhile, related to the receipt of the purchase of land which is postulated to be proof of ownership according to the Court, this is not appropriate. The Constitutional Judge explained that the receipt is only proof of payment or transaction; even the sale and purchase deed made before the PPAT cannot be declared as proof of ownership because it is only one of the conditions for the transfer of rights.

Proof of legal ownership of land is a certificate of land rights obtained through land registration that can know who is the holder of the land rights, when the rights to the land are transferred, and who is the new right holder, including if the land is encumbered with dependent rights. If only the receipt is used as the basis for ownership of land rights, this can actually obscure the essence of the legal certainty of ownership of land rights.

Registration of a piece of land is carried out to obtain legal certainty for land rights holders and other parties interested in the land. By having registered and obtained a certificate, the holder of land rights has strong evidence of the land.

The UUPA stipulates that the government holds land registration throughout the territory of the Republic of Indonesia with the aim of ensuring legal certainty of land rights. If in the future there is a lawsuit in court about the right to own land, then all the information contained in the certificate of land right has strong evidentiary force, and therefore, the judge must accept it as true evidence, as long as there is no other evidence that denies it or proves otherwise. But if it turns out that there is an error in it, then changes/corrections are made as necessary.

In this case, the right to make corrections is not the court but the agency that issued it, namely the National Land Agency (BPN) by the way the aggrieved party applies for a change in the certificate by attaching a court decree stating that there is an error in question.

According to the provisions of the UUPA, Government Regulation Number 10 of 1961 concerning Land Registration and Government Regulation Number 24 of 1997 concerning Amendments to Government Regulation Number 10 of 1961 state that a certificate is only a sign of strong evidence and not of absolute or perfect evidence.

This means that the information in it has legal force and must be accepted by the judge as true, as long as there is no evidentiary device to prove otherwise.

In accordance with the provisions of Article 32 paragraph (2) of Government Regulation No. 24 of 1997, the certificate is a strong proof tool, and the purpose of land registration is to ensure that legal certainty in the field of land becomes visible and felt.

These provisions do not reduce the principle of balanced protection, both to the party who owns the land that is controlled and used as it should be and to the party who acquires and controls it in good faith and is strengthened by the registration of the land concerned⁷.

This negative principle is the best in land registration⁸, even though it is only limited to 5 years. Based on the provisions of Article 32 Paragraph (2) of the Government Regulation above, the negative publication system in Indonesia is only valid for 5 years.

If, after 5 years, the certificate is issued by the authorized official and in good faith, the certificate holder obtains and controls the land in real faith, then the publication system becomes positive.

Status of Land Rights Not Subject to the UUPA

In accordance with Government Regulation Article 9 Number 24 of 1997 concerning Land Registration, the objects that can be the objects of land registration are:

1. Land parcels owned by Ownership Rights, Business Use Rights, Building Use Rights, and Use Rights;
2. Land Management Rights;
3. Waqf Land;
4. Ownership of Flats;
5. Dependent Rights;
6. National Land.

The facts in the community show that there are still Eigendom Rights, Opstal Rights, Erfpacht Rights, and the rights of Indigenous people or sons who are subject to Customary Law that does not

have written evidence. These rights are owned by local residents and are called customary lands, such as Customary Rights Land, Customary Land Ownership, Yasan Land, Gogolan Land, and others.

The administrative conversion of land rights is one of the instruments to fulfill the principle of legal unification through Law Number 5 of 1960. Regulation of the Minister of Land and Agrarian Affairs (PMPA) Number 2 of 1962 regulates provisions regarding the affirmation of the conversion and administrative registration of Indonesia's rights to land in a normative manner. The conversion regulation is the implementation of the transitional provisions of Law Number 5 of 1960 (Putri, 2023).

With the enactment of national agrarian law, lands with western rights and lands with customary rights can be included in the UUPA system, which is completed through conversion institutions. Especially for lands that are subject to Customary Law but are not registered in the provisions of conversion as land that can be converted into a land right according to the provisions of the UUPA, but the land is recognized as a customary right. The effort of "Affirmation of Rights" submitted to the Head of the local BPN Office is followed by preliminary evidence such as proof of tax, sales and purchase documents made before the enactment of the UUPA and a letter confirming a person's rights and explaining that the land is for housing or agriculture and the citizenship information of the person concerned.

In the UUPA, there are 3 (three) types of conversion:

1. Conversion of land rights, derived from western land rights,
2. Conversion of land rights, derived from Indonesian rights,
3. Conversion of land rights, originating from the land of the former Swapraja.

The rights to land that are subject to customary law are:

1. Agricultural Property Rights
2. Land ownership, foundation rights, andar beni, rights to druwe, rights to village druwe, pesini,
3. Grant Sultan, grant lama,
4. Landrerijen bezitrecat, Altijddurende Erfpacht, Business Rights on Former Particulate Land.

Proof of ownership of land rights that have not been registered for land rights

Everyone who owns land, of course, has proof of ownership of his land. For land that has not been certified, there are 2 (two) problems related to the right to the land as follows:

1. What evidence can be used by the holder of the right to land that has not been certified.
2. How to protect the legal protection of property rights holders of land that have not been certified.

Prior to the birth of the UUPA, evidence of land that has not been certified, in accordance with Article 23 of PP 24 of 1997 concerning Land Registration, can use evidence of ownership as stipulated in Article 24 paragraph (1) of PP 24/1997, in the form of: Grosse deeds, eigendom rights, Land tax petuk, girik, pipil, ketitir, and Verponding Indonesia.

However, after the enactment of the UUPA, a land history certificate that has been made by the Land and Building Tax Service Office, or other forms of written proof with any name as referred to in Article II, Article VI, and Article VII of the provisions of the UUPA Conversion, the proof of ownership of land rights is a certificate.

There are two forms of legal protection for land rights holders who have not been certified, namely:

Preventive legal protection is legal protection that is more oriented to prevent disputes. Preventive legal protection for land title holders who have not been certified is by registering land. A person who has registered his land will get a certificate of proof of rights in the form of a certificate issued by BPN.

With this certificate, as intended for the purpose of land registration as stipulated in Article 3 of PP 24/1997 and Article 2 paragraph (2) of the Ministerial Regulation of ART/BPN 6/2018 concerning Complete Systematic Land Registration, a person can prove himself as a holder of legal land rights, so that he can provide legal certainty and legal protection for the holder of rights and his land.

Repressive legal protection, which is a form of legal protection whose direction is more about dispute resolution efforts. Regarding the ownership of land that has not been certified, it still gets legal protection if it acquires the land in good faith. The importance of proof of land rights is especially at the time of land registration or will be transferred such as buying and selling.

In the case of land registration for the first time, the process of issuing ownership certificates for land originating from customary lands such as SPPT is carried out systematically and sporadically, then the implementation procedure is carried out by means of Recognition of Rights/Affirmation of Rights, as stipulated in the Regulation of the Minister of Agrarian State/Head of the National Land Agency Number 3 of 1997 concerning the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration.

Furthermore, in Article 9 paragraph (2) number 2 letter (a) PMNA/Ka. BPN No. 9 of 1999 clearly states that one of the requirements for the processing of land ownership applications is to include the basis of rights as evidence of basic control, either in the form of certificates, girik, kapling letters, documents proving the release of rights and repayment of land and houses and/or those that have been purchased from the government, court decisions, PPAT deeds, deeds of relinquishment of rights, and other documents proving land acquisition.

Legal certainty for the holder of a Land Ownership Statement Letter as a basis for proof of registration of a Land Rights certificate provides convenience for people who want to register a Land Ownership Statement Letter to the Land Office.

If the Land Tenure Statement (SPPT) does not exist in the Letter C book in the village/sub-district concerned, the Land Tenure Statement Letter can still be processed for registration as basic evidence for the registration of the Land Rights certificate, provided that the Village Head provides information, that the Letter C book does not exist in the Village/Village or no other evidence is found, the Land Office can process the registration of the customary ownership land by referring to article 24 Paragraph (2) of the Regulation Government Number 24 of 1997, concerning Land Registration.

With this convenience, it can provide benefits for the community in applying for a certificate because currently strong proof of ownership is a Land Rights certificate. In article 2 of Government Regulation Number 24 of 1997 concerning Land registration, the principles are simple, safe, and affordable. In practice in the field, this principle has not been fully implemented at the Land Office. Land registration with a land certificate, in this case SPPT to become a certificate, requires expensive costs and a long time, about 6 months to an indefinite time.

The recognition and respect for the people's traditional rights to land subject to customary law is clearly regulated in the 1945 Constitution Article 18B paragraph (2) which states "The State recognizes and respects the units of customary law communities and their traditional rights as long

as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which Law regulates." Clearly, the Constitution of the State of Indonesia expressly recognizes and respects the rights that apply in the Motherland of Indonesia.

Through the *rechtverwerking* institution, the Land Ownership Statement Letter (SPPT) as the basis for proof of registration of Land Rights has legal certainty. SPPT that has been registered and has become a certificate, then the Certificate is a strong proof of Land Rights. Land that has been certified for 5 years since the certificate was issued, no party has sued or sued the land. This is explained in article 32 Paragraph (2) of Government Regulation Number 24 of 1997. With this *Rechtverwerking* institution, it can provide legal certainty and legal protection as one of the purposes of land registration.

In the development of the National Land Law, Customary Law is the main source to obtain its materials, in the form of conceptions, principles and legal institutions, to be formulated into written legal norms, which are compiled according to the Customary Law system. The conception that underlies the National Land Law is a religious communalism conception, which allows individual land tenure, with personal land rights, as well as containing elements of togetherness.

The principles of Customary Law used in the National Land Law include the principle of religiosity, the principle of nationality, the principle of democracy, society, equality and social justice, the principle of planned use and maintenance of land, and the principle of horizontal separation of land from buildings and plants on it. Legal institutions known in Customary Law are generally needed to meet the needs of a society that is still simple. Therefore, the institutions taken in developing the National Land Law must be perfected and adjusted to the needs of the times and the changes in the society that they will serve without changing the essence and without eliminating their nature and characteristics.

Registration of land is something that must be done by land owners, whether land that has been registered or has not been registered, with this registration the land owner will get protection and recognition from the state. Land registration in Indonesia is regulated in the Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration. Article 1 paragraph (1) of the Government Regulation states: "Land registration is a series of activities carried out by the Government on a continuous, continuous and ongoing basis, including the collection, processing, bookkeeping, and presentation as well as the preservation of physical and juridical data, in the form of maps and lists, regarding land plots and flats, including the issuance of certificates of proof of rights for land plots to which there are already rights and property rights to units of flats and certain rights that burden them.

From this understanding, it can be concluded that land registration is one of the means for the Government to collect data on the rights of a land. This data collection is absolutely necessary so that all land in the unitary region of the Republic of Indonesia is clearly owned and can provide legal certainty to land rights holders.

In East Kutai, East Kalimantan Province, the unregistered lands are generally found in rural areas where the ownership of land is only proven by the SPPT signed and known by the Village Head. By having the SPPT, a land owner can carry out his purchase and sale transactions which are carried out on the principle of trust between the seller and the buyer by making a deed under the hands signed by the buyer and the seller and witnessed by two witnesses and known by the Village Head.

The position of the Village Head is reviewed from the Land Registration PP, regulated in the provisions of Article 7, Article 8, and Article 39, and in PP No. 37 of 1998 concerning the Regulation of the Position of Land Deed Making Officer, which is hereinafter referred to as the PPAT Position PPAT in Article 5 paragraph (3) letter a that, the Village Head as the lowest temporary PPAT has very strategic duties in assisting the Head of the Land Office in carrying out land registration, including the preparation of sale and purchase deeds land in accordance with applicable laws and regulations.

In daily life, the village head is always in contact with community members who have paternalistic traits that are still closely attached. The Village Head is placed in the position of a figure and becomes a role model, as a result of which all his recommendations will always be embraced by the community.

One of the purposes of land registration, as stipulated, is to provide guarantees of legal certainty and legal protection to the holders of rights to a plot of land, flats, and other registered rights so that they can easily prove themselves as the holders of the rights concerned.

Land ownership contains a proof aspect so that the ownership can be said to be strong and perfect, namely: proof of a letter in which 4 main things must be fulfilled in the issuance of a land right certificate, namely:

1. Status and legal basis. This is to know and ascertain on what basis the land is obtained;
2. Identity of the right holder or known as the certainty of the subject. To ascertain who the actual right holder is and whether the person is actually authorized to obtain the right to the land;
3. The location and area of the land object or the certainty of the object. This is manifested in the form of a survey letter or situation drawing to ascertain where the boundaries or locations of the land are;
4. The issuance procedure is regulated in the Land Registration PP, and 2 physical evidence that serves as a certainty that the person concerned really controls the land physically and avoids the occurrence of two different rights.

Meanwhile, SPPT is a certificate of the object or proof of land/land ownership made at the request or request of the community to the Village/Village office where the land object is requested. Upon the request or request, the Head of the Village/Village then comes and issues the SPPT.

The community's need for proof of ownership of land rights is because they are aware of the guarantee of legal certainty in the land sector so that in the future there will be no interference from other parties. Thus, some people take various ways to get proof of ownership of land rights, including by visiting the Village/Village office to ask for an SPPT to be made. Almost all community members in East Kutai have proof of land ownership or land in the form of SPPT.

The process of issuing SPPT is very simple because there is enough testimony by RT and several witnesses of the land boundary are then proposed to the Head of Village/Lurah to be approved by the SPPT. If referring to Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, in order to provide legal certainty of ownership of community land rights, the government conducts land registration throughout Indonesia in accordance with the provisions stipulated in Government Regulation (PP) Number 24 of 1997 concerning Land Registration including: measurement, mapping, and bookkeeping as well as the recording of land rights and the transfer of these rights which are then granted Proof of rights certificates, which apply as a strong means of proof, namely land rights certificates.

However, the fact that exists in the community by having SPPT, the community has assumed that it is safe and protected by the law because the practice has been so, the government itself indirectly admits it, when there is community land affected by development by the government through related agencies will record the affected community, by collecting all evidence or documents in the form of land certificates, both certificates and SPPT which are then determined at the appropriate price at a price from the government.

Another thing that is considered is that the community has not directly registered their land as a certificate because the price of certified land and those that have not been certified in the same area is the same price, thus that the SPPT and the certificate of position are the same in the eyes of the government. Banking institutions also often accept if people apply for credit at banks using SPPT as collateral. Even in judicial institutions, SPPT is recognized as proof of ownership of land rights and there are many other practices in society that use SPPT as a transaction tool.

To obtain legal certainty, people who buy and sell land using SPPT should register the transfer of land rights. Because the sale and purchase of land cannot be resolved just like that to all related parties, it is necessary to intervene with the authorized officials to complete the entire transfer of land ownership. The implementation of land buying and selling must comply with the rules and procedures regulated or mandated by law.

The Legal Force of the SKT as Proof of Ownership of Land Rights.

There are 5 (five) types of evidentiary power (vis probands) or evidentiary power of evidence, namely: (Luthfi & Khisni, 2017)

1. Perfect Proof Power (volledig bewijsmacht) This Perfect Proof Power gives the judge sufficient certainty, unless there is proof of resistance (tegenbewijs), so that the judge will give the legal consequences.
2. Weak Proof Power (onvolledig bewijsmacht) This weak or incomplete power of proof does not provide sufficient certainty, so the judge does not give legal consequences only on the basis of weak proof. The lawsuit, which is only based on such evidence, must be rejected.
3. Partial Proof Power (gedeeltelijk bewijsmacht) This Partial Proof Power is indeed similar to weak proof power at first glance, but it is different. Whether the power of proof is weak or is a partial force of proof depends on the defendant's response.
4. The Decisive Power of Proof (beslissende bewijsmacht) The decisive power of proof is the power of proof of resistance. So, this is the difference with perfect strength that still allows the opponent to prove it.
5. The Power of Proof of Resistance (tegenbewijs or kracht van tegen bewijs).

The legal strength of the SPPT proof is not as strong as that of the authentic deed. However, because the SPPT is a document categorized as a basis for rights or juridical data on land that is used as a condition for the completeness of the requirements for applying for land rights as stipulated in the provisions of land legislation, it is a very important document in the process of issuing a land right certificate (Rudianto, 2010).

The legal force of the SPPT issued by the Village Head in the transaction of buying and selling land based on the Land Registration PP has valid legal force if it is known by the Sub-district Head as the PPAT, with a legal basis based on the Explanation of Article 7 paragraph (2) and Article 39 paragraph (1) letter b number (1) and number (2) of the Land Registration PP can be categorized as

the basis of rights submitted as completeness of the requirements for the application for land rights. The provisions of Article 7 paragraph (2) of the Land Registration Regulation state that, for villages in remote areas, the Minister can appoint a Temporary PPAT".

It was explained that the Land Registration in the provisions of Article 7 paragraph (2) of the Land Registration PP, is intended to make it easier for people in remote areas where there is no PPAT to carry out legal acts regarding land. The one appointed as the Temporary PPAT is the Government Official who controls the state of the area concerned, namely the Village Head.

It can be said that the SPPT issued by the Village Head which is used as the basis for the implementation of the sale and purchase of land rights has legal force if the implementation of the land sale and purchase is known by the Village Head as a government official who controls the state of the area concerned in a remote rural area.

However, if in an area there is already a Sub-district Head who is appointed as PPAT or Temporary PPAT, then the implementation of buying and selling land rights on the basis of SPPT issued by the Village Head will only have legality and legal force if the sale and purchase of land rights is known and signed by the Sub-district Head as PPAT or Temporary PPAT appointed by the government.

In Article 5, paragraph (3) letters a and b of PP No. 37 of 1998 concerning PPAT Positions, which reads: "(3) In order to serve the community in the preparation of PPAT deeds in areas where there is not enough PPAT or to serve certain groups of people in the preparation of certain PPAT deeds, the Minister may appoint the following officials as Temporary PPAT or Special PPAT:

1. Sub-district Head or Village Head to serve the making of deeds in areas where there is not enough PPAT, as a Temporary PPAT;
2. The Head of the Land Office to serve the preparation of PPAT deeds necessary in the context of the implementation of community service programs or to serve the preparation of certain PPAT deeds for friendly countries based on the principle of reciprocity according to the consideration of the Ministry of Foreign Affairs, as a Special PPAT."

Article 5 paragraph (3) letters a and b of the PPAT Position clearly state that the Village Head is a position appointed directly by the state as a Temporary PPAT to assist BPN in preparing the SPPT as one of the proofs of the basis of rights from the status of land ownership.

By paying attention to the above provisions in the case of the issuance of the SPPT because based on the position of the Village Head as a Temporary PPAT, it can refuse to issue a certificate of right basis as stated in Article 39 of the Land Registration PP which reads: (Atikah, 2022)

1. PPAT refuses to make a deed if:
 - a. Regarding the land plot that has been registered or the ownership of the flats unit, the original certificate of the right concerned is not submitted to him, or the certificate submitted is not in accordance with the registers at the Land Office; or
 - b. Regarding the unregistered land plot, it is not conveyed to him:
 - 1) proof of rights as intended in Article 24 paragraph (1) or a certificate from the Head of Village/Village stating that the person concerned controls the land as intended in Article 24 paragraph (2); and
 - 2) a certificate in the form of SPPT stating that the land plot 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 holder of the right concerned with the confirmation of the Head of the Village/Kelurahan; or
- c. one or both parties who will commit the relevant legal act or one of the witnesses as referred to in Article 38 is not entitled or qualified to act in such a way; or
 - d. one of the parties or parties acts on the basis of an absolute power of attorney which in essence contains a legal act of transfer of rights; or
 - e. for legal acts to be carried out without the permission of the official or authorized agency if such permission is required according to the applicable laws and regulations; or
 - f. the object of the legal act in question is in dispute regarding its physical data and/or juridical data; or
 - g. not fulfilling other conditions or violating the prohibitions specified in the relevant laws and regulations.
2. The refusal to make the deed shall be notified in writing to the parties concerned along with the reason."

From the series of land registration activity processes, both names that are carried out on re-registration (continus recording) are an activity that is carried out regularly step by step. The stages in question include measurement, mapping, cadastral activities, giving decisions (recommendations) on the right to SPPT to giving proof of the right (certificate) and maintaining the registration data.

The Village Head must pay close attention to every condition of the land that will be registered to him. In fact, each village must have an archive to record whether the land was really not owned by anyone before.

According to AP. Parlindungan stated that: (Parlindungan, 2003a, 2003b)

"The basis of rights or the basis of land control as stipulated in the UUPA can be issued rights due to the determination of the Government or the provisions of laws and regulations, as well as because of a special agreement held to give rise to a right to land over other land rights (for example, the Right to Use Building over Proprietary Rights) and also because of the provision for the conversion of rights, while the provisions for recognition or due to the expiration of a right obtained with a uitwijzingprocedure institution as regulated in article 548 of the Civil Code is not known in the UUPA, even though an inheritance is also one of the grounds of rights."

It is stated that the basis of control or basis for land rights according to the UUPA is derivative, meaning that it comes from the provisions of laws and regulations and from pre-existing rights, such as Customary Rights over land and rights derived from Western Rights.

Some of the Customary Rights and Western Rights that were used as the basis for these rights had been registered in the Dutch East Indies era and some had not been registered. At that time, the registration of land rights was only on land rights subject to the Civil Code (BW), although there were also indigenous people who had land rights with the status of Western rights other than the European group and the Foreign Eastern group, including the Chinese group, after declaring themselves subject to European Law.

Proof of ownership of land rights that can be submitted as completeness of the requirements for applying for land rights as stipulated in the Explanation of Article 24 paragraph (1) of Government Regulation Number 24 of 1997 and Article 60 paragraph (1) of the Regulation of the Minister of State Agrarian Affairs/Head of BPN Number 3 of 1997 can be categorized as a basis for rights, even though

as described above that for the basis of rights in question, the land registration can be processed through conversion or recognition/affirmation of land rights.

Article 18 paragraph (2) number 2 of the Regulation stipulates that information about the land which includes juridical data and physical data, is:

1. The basis for its control can be in the form of a deed of release of forest areas, deeds of release of former customary land, and other land acquisition certificates;
2. Location, boundaries, and extent; and
3. Type of business (agriculture, fisheries, or livestock).

In this case, what is included in the category of rights is the juridical data, namely the basis of its control, which can be in the form of a deed of release of forest areas, deeds of release of former customary land and other land acquisition certificates. Land tenure, according to Article 1 number (2) of Government Regulation Number 16 of 2004 concerning Land Stewardship, is a legal relationship between individuals, groups of people, or legal entities with land as referred to in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles.

It is stated that the basis of control or basis for land rights, according to the UUPA, is derivative, meaning that it comes from the provisions of laws and regulations and from pre-existing rights, such as Customary Rights over land and rights derived from Western Rights.

Some of the Customary Rights and Western Rights that were used as the basis for these rights had been registered in the Dutch East Indies era and some had not been registered. At that time, the registration of land rights was only on land rights subject to the Civil Code (BW), although there were also indigenous people who had land rights with the status of Western rights other than the European group and the Foreign Eastern group, including the Chinese group, after declaring themselves subject to European Law.

Proof of ownership of land rights that can be submitted as completeness of the requirements for applying for land rights as stipulated in the Explanation of Article 24 paragraph (1) of Government Regulation Number 24 of 1997 and Article 60 paragraph (1) of the Regulation of the Minister of State Agrarian Affairs/Head of BPN Number 3 of 1997 can be categorized as a basis for rights, even though as described above that for the basis of rights in question, the land registration can be processed through conversion or recognition/affirmation of land rights.

Article 18 paragraph (2) number 2 of the Regulation stipulates that information about the land, which includes juridical data and physical data, is:

1. The basis for its control can be in the form of a deed of release of forest areas, deeds of release of former customary land, and other land acquisition certificates;
2. Location, boundaries, and extent; and
3. Type of business (agriculture, fisheries, or livestock).

In this case, what is included in the category of rights is the juridical data, namely the basis of its control, which can be in the form of a deed of release of forest areas, deeds of release of former customary land, and other land acquisition certificates. Land tenure, according to Article 1 number (2) of Government Regulation Number 16 of 2004 concerning Land Stewardship, is a legal relationship between individuals, groups of people, or legal entities with land as referred to in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles.

Prior to the enactment of PP 10/1961, a land history certificate that had been made by the Land and Building Tax Service Office or other forms of written proof under any name as referred to in Article II, Article VI, and Article VII of the provisions of UUPA Conversion.

After the enactment of the UUPA, evidence that can be used by holders of land ownership rights that have not been certified related to the registration of rights in PP 24/1997 concerning Land Registration can use evidence of ownership before the birth of the UUPA as stipulated in Article 24 paragraph (1) of PP 24/1997, in the form of: Grosse deeds of eigendom rights, Petuk Bumi / Landreite tax, girik, pipil, ketitir, and Verponding Indonesia.

There are two forms of legal protection for land rights holders who have not been certified, namely: (Santoso, 2010)

1. Preventive legal protection is a legal protection that is more oriented toward preventing disputes. Preventive legal protection for land title holders who have not been certified is by registering land. A person whose land registration will issue a certificate of proof of rights in the form of a certificate issued by BPN. With this certificate, a person can prove himself as a legitimate holder of land rights and can provide legal certainty and legal protection for the right holder and his land as intended for the purpose of land registration as stipulated in Article 3 of PP 24/1997 and Article 2 paragraph (2) of the Minister of Land ART/BPN 6/2018 concerning Complete Systematic Land Registration.
2. Repressive legal protection, which is a form of legal protection whose direction is more about dispute resolution efforts. Regarding the ownership of land that has not been certified, it still gets legal protection if it acquires the land in good faith. The meaning of good faith is that a person who acquires his land in good faith has controlled, utilized, and cultivated the land and has the right to acquire land rights. Legal protection for land ownership holders who have not been certified in good faith as stipulated in Article 32 and Article 27 of GR 24/1997 concerning Land Registration, namely being able to file complaints, objections, and lawsuits through the court to seek the truth regarding the legal ownership of land rights.

4 Conclusion

Based on the description of the discussion of the SPPT problem above, it can finally be concluded as follows: The position of the Land Tenure Statement Letter (SPPT) in the land law system in East Kutai is a deed under hand that can be a guide in the land registration process. Although the Land Ownership Statement Letter (SPPT) as an Instruction for the Land Registration Process in the process of proving ownership of land rights made by a person and signed and known by the Head of Village/Lurah as an official authorized by the Government-related to SPPT, it can be concluded that the Land Ownership Statement Letter (SPPT) can provide strong legal certainty in the State of law and has a strong legal position as long as it meets the criteria law. Since the enactment of the UUPA, the UUPA only recognizes proof of valid land rights as certificates, but the Land Ownership Statement Letter (SPPT) can be submitted as a certificate through the land registration process to ensure legal certainty and legal protection for land rights owners.

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