

Legal Status of Land Rights of the Former Eigendom Verponding After the Issuance of the Conversion Rules

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ARTICLE INFO	ABSTRACT
<p>Submitted :02-04-2023</p> <p>Received :05-04-2023</p> <p>Approved :15-04-2023</p> <p>Keywords: <i>Legal Status; Land Rights; Eigendon Verponding; Conversion</i></p>	<p>Beginning on September 24, 1960, there were not any more western freedoms and standard terrains. The organization no longer exists while the freedoms have been changed over by the BAL into one of the new privileges. In such manner, beginning in 1961 there could have been as of now not any land that its arrangements could be dependent upon European Verponding, Indonesian Verponding, and Lanrente or Land Expense. The assessment endorsements that existed and were held by individuals around then and were not detailed for substitution of new privileges under the UUPA, were still as Eigendom Verponding. In any case, in all actuality, there are still holders of land privileges who after September 24, 1980, still have confirmation of responsibility for freedoms as western privileges and standard freedoms that poor person been changed over, which will create legitimate issues assuming that these are not directed in regulation. To expect lawful issues that emerge because of changes in guidelines in the land area, the public authority through transformation guidelines reaffirmed the lapse of privileges to the place that is known for beginning of the Change of Western Freedoms on September 24, 1980, which is likewise the standard framed in the BAL., to end the legitimacy of the excess Western privileges to land in Indonesia with every one of attributes are not by Pancasila and the 1945 Constitution.</p>

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1. Introduction

The requirement for land today is expanding in accordance with the rising populace and other expanding needs connected with land. The land isn't just a spot to reside, and a spot to cultivate but at the same time is utilized as security to get a credit at a bank, for trading, and renting. So significant, the utilization of land for the public interest of people or legitimate

elements requires an assurance of lawful conviction over the land (Sangsun, 2007) .

Before 1960, dualism in land law prevailed in Indonesia. On the one hand, Dutch colonial land laws apply, to land that is subject to and regulated by Western Civil Law, which is often called Western Land or European Land, for example, land with eigendom rights, post-all rights, refract rights, and others. Responsibility for with the privileges of native individuals or local people groups who are dependent upon standard regulation who don't have composed proof, which has a place with the nearby populace is in many cases called standard land, for instance, land with standard freedoms, standard land, land, gogolan land, and others.

September 24, 1960, is a memorable day on the grounds that on that date Regulation Number 5 of 1960 concerning Fundamental Agrarian Guidelines was proclaimed and pronounced for the whole domain of Indonesia. With the sanctioning of Regulation Number 5 of 1960 concerning Essential Agrarian Guidelines (hereinafter alluded to as UUPA), there has been a basic change in Agrarian Regulation in Indonesia, particularly in the land area (Budi Harsono, 2007) . It ended the dualism of land law and the implementation of unification, namely legal unity in the field of land law in Indonesia. This provision at the same time repealed the Agrarian Law that was in effect during the colonial era, including Agrarische Wet (Stb. 1870 Number 55), Agrarische Besluit, and the Civil Code, especially Book II concerning Materials, one of which regulates the issue of land rights. With the presence of the Public Land Regulation, it is trusted that lawful conviction will be made in Indonesia. For this reason, the public authority circled back to the arrangement of composed legitimate instruments as different guidelines in the field of public land regulation that help lawful conviction, and afterward through the current administrative instruments, policing did as viable land enrollment.

As per Article 9 of Unofficial law No. 24 of 1997 concerning Area Enlistment, the items that can become land enrollment objects are: a. plots of land claimed by property freedoms, usufructuary privileges, building use privileges, and usufructuary freedoms; b. land the executives privileges; c. waqf land; d. possession privileges to condo units; e. contract right; f. state land; as a matter of fact, it just so happens, inside the local area there are still eigendom privileges, postal freedoms, refract freedoms, and the privileges of native individuals or local people groups who are dependent upon standard regulation who don't have composed proof, which is claimed by inhabitants, frequently called standard land, for instance, land with standard privileges, standard land, Yasan land, Gogolan land, and others.

In light of the arrangements of Article 9 above, obviously land starting from western freedoms can't be enrolled. In the event that these grounds can't be enlisted, it will be impeding to the landowners, since they will obviously lose their freedoms. Consequently, a way is required so this land can be enlisted, then the way that should be possible is to change over land starting from these western freedoms. With the change of land from western freedoms, it is trusted that no local area will be hurt by their privileges on the grounds that, after transformation, these freedoms can be enrolled.

Change of previous land privileges is one of the instruments to satisfy the guideline of legitimate unification through Regulation Number 5 of 1960. Guideline of the Priest of Land and Agrarian Undertakings (PMPA) Number 2 of 1962 manages arrangements in regards to the affirmation of the transformation and enrollment of previous Indonesian freedoms to regulating land. The change guideline is an execution of the momentary arrangements of Regulation Number 5 of 1960.

The reason for enlisting a land transformation is to give lawful conviction, and legitimate insurance to holders of land freedoms or to deliver a substantial evidence of title as major areas of strength for an of verification (Raharjo, 2010) .

Eigendom Verponding is a possession right to a land or building resource by forcing an expense assortment on the land. The burden of this duty was completed by giving an expense

assortment letter for the land proprietor, which around then was referred to among individuals as an assessment gatherer, pipil, girik, and others. Charge receipts capability as a letter of burden and installment of expenses, in light of the installment of these duties, charge receipts around then among individuals are thought of and treated as confirmation of responsibility for land being referred to. The burden and receipt of expense installments by the public authority are additionally deciphered by individuals as an affirmation of responsibility for land area.

Concerning the mentalities and suppositions above, individuals don't have a solid sense of reassurance, as long as the land charge receipts they have bought have not been supplanted with new freedoms to their names. So that with the sanctioning of the UUPA, beginning on September 24, 1960, there were not any more western freedoms right terrains and standard claimed lands. The organization does not exist anymore, while the current privileges have been changed over by the BAL into one of the new freedoms. Hence, beginning in 1961 there was no more land that as per its arrangements could be dependent upon European Verponding, Indonesian Verponding, and Lanrente or Land Duty. The expense authentications that existed and were held by individuals around then and were not announced for substitution of new privileges under the UUPA, obviously, were still as Eigendom Verponding.

In any case, as a general rule, there are still holders of land privileges who after September 24 1980 still have verification of responsibility for freedoms as western freedoms and standard freedoms that poor person been changed over, which obviously will create lawful issues in the event that these are not directed in regulation.

To expect lawful issues that emerge because of changes in guidelines in the land area, the public authority through transformation guidelines reaffirmed the termination of privileges to the place that is known for beginning of the Change of Western Freedoms on September 24, 1980, which is additionally the standard illustrated in the BAL., to end the legitimacy of the leftover Western privileges to land in Indonesia with every one of qualities are not by Pancasila and the 1945 Constitution.

The issue in this paper is the legitimate status of the previous Eigendon Verponding land privileges after the issuance of the Change Rules?.

2. Materials and Methods

Method

The strategy utilized recorded as a hard copy this applied paper is the illustrative scientific technique, in particular by utilizing information that plainly portrays the issues straightforwardly in the field, then the examination is done and finished up to tackle an issue. Strategies of information assortment through perception and writing study to get critical thinking in the arrangement of this paper.

In line with the research objectives to be achieved, the realm of this research is included in the authenticity of qualitative research, thus a qualitative approach method will be used. According to Petrus Soerjowinoto et al., a qualitative method is a method that emphasizes the process of understanding the researcher on the formulation of the problem to construct a complex and holistic legal phenomenon (Soerjowinoto, 2006) .

Approach

Normative juridical approach carried out on certain laws and regulations or written law, relating to the Legal Status of Land Rights of the Former Eigendon Verponding after the issuance of the Conversion Rules (Soemitro, 1990) . The study describes the condition of the object under study, namely focusing on regulation and the Legal Status of Land Rights of the Former Eigendon Verponding After the Issuance of the Conversion Rules in practice.

3. Results and Discussions

Conversion Term and Eigendom Rights.

In light of Regulation Number 5 of 1960 concerning Agrarian Standards, substantial land declarations according to the law are Property Privileges Endorsements (SHM), Building Use Freedoms Authentications (SHGB), and Pads Unit Title Testaments (SHSRS). Nonetheless, incidentally, different sorts of letters are much of the time involved by the Indonesian public as verification of authority over something land. The residency is perceived by Indonesian land guidelines. This form of ownership is proof of ownership that existed before the ratification of UUPA Number 5 of 1960, which includes: Girik, Petok D, Letter C, Surat Ijo, Detail, Wigendom or Eigendom Verbonding, Ulayat Rights, Opstaal, Gogolan, Gebruik, Erfpacht, Bruikleen, the types of land ownership are letters that are still used in Indonesia.

The letter is proof of ownership before the land is certified by BPN. It happened because the ownership was before the enactment of the Basic Agrarian Law. Verification of responsibility for privileges in light of confirmation of responsibility for reports as referenced above isn't adequate, however should likewise be demonstrated by actual information and other juridical information as well as actual ownership of the land by the individual concerned successively or ceaselessly for 20 (two) twenty years or more. Given that the control is completed with sincere intentions and transparently by the individual worried as the proprietor of the privileges to the land, affirmed by the declaration of a confided face to face, and the said control isn't questioned by the standard regulation local area or the town/ward concerned or different gatherings. This is what needs to be understood why the proof of the letter needs to be certified at the National Land Agency because one purpose of enacting the BAL is to unite and simplification of national agrarian law. To achieve this unification and simplification, the conversion of land rights to letters is carried out.

Western civil law regarding land law has its starting point from prioritizing personal (Individualistic/liberalistic) interests, so that the base and center of regulation lies in eigendom-recht (eigendom rights), namely full and absolute individual ownership, in addition to the domain verklaring (dome statement) of land ownership by state. The customary law of the land is part of the most important part of customary law which has its starting point from the collection of community interests which results in always considering the public interest and individual interests. In customary law, there are ulayat rights which mean legal partnership rights over land.

Then the philosophical basis related to land rights is different from that of western civil law as follows:(Hasanah, 2012)

a) Land rights according to Western Civil Law.

The types of land rights that were enforced during the Dutch colonial era were usually referred to as western rights which were regulated and subject to western civil law (Burgerlijk Wetbook) called western lands (European lands) including land rights of Eigendom, rights West land rights that have not been canceled by the parties by the UUPA are still in effect and are not automatically deleted and are still recognized, but to become property rights over land must be opstaal, erpacht rights and others following the system that has been regulated. in UUPA which must first be converted according to the implementing regulations.

b) Land rights according to customary law.

Ownership of land with native rights (Bumiputera) which is subject to customary law

where unwritten law applies so there is no written evidence on the land in question. Types of land rights according to customary law include customary land rights, real estate, customary land, and gogolan land.

Legal Status of Land Rights of the Former Eigendom Verponding After the Issuance of the Conversion Rules.

The agrarian constitution is a constitution that contains the foundation regarding the relationship between the state and citizens towards land and other natural resources, the agrarian constitution is to see how the constitution of a country formulates agrarian justice and agrarian relations concerning tenure, ownership, use and utilization and management of land and other natural resources in its constitutional document (Arizona, 2014) . The plan of lawful relations with individuals in controlling normal assets contained in Article 33 of the 1945 Constitution of the Republic of Indonesia is ordinarily alluded to as the state's all in all correct to control as a control capability for the state to direct regular assets for the best flourishing individuals (Mujiburohman, 2021) .The right to control the state is the only material right explicitly granted by the constitution to the Indonesian state (Kusumadara, 2013) .

State control over land, the state can give such land to an individual or legitimate element with a right as per its assignment and requirements, for instance, property freedoms, usufructuary privileges, building usufructuary freedoms, or usufructuary privileges, or give it in administration to a decision office to be utilized for the exhibition of their separate obligations. State control over land is likewise restricted by standard freedoms from legitimate local area units (Clarification of the Essential Agrarian Regulation).

In view of the authority acquired from the state's all in all correct to control to manage legitimate relations between legitimate subjects and land, the public authority can decide diverse sorts of land freedoms (Article 4 related to Article 76 of the Essential Agrarian Regulation). A progression of specialists, commitments, as well as denials for the holder of the option to take care of the land, something reasonable, required, or restricted to do, the items in the right are restricted and joined by the commitment to keep up with the land including expanding its fruitfulness and forestalling its harm (Article 15 of the Essential Agrarian Regulation). All joint endeavors in the agrarian field should be founded on normal interests inside the system of public interests (Article 12 passage (1) of the Fundamental Agrarian Regulation) and keeping up with land is the commitment of each and every individual, legitimate element, or foundation having a lawful relationship with the ground. That is, each award of privileges by the state to people or lawful substances should be joined by commitments that should be done by the right holder by the assignments and prerequisites as specified in the choice on conceding the freedoms (Mujiburohman, 2021) .

Land law during the reign of the Dutch East Indies used a western land law system with an individualistic concept. The highest land tenure rights are private property rights called eigendom rights (B Harsono, 2002) . Eigendom rights over land are stated in Article 571 Chapter Three of Book II of the Civil Code. It is said, "The right of ownership (eigendom) over a plot of land contains in it the ownership of everything that is on it and in the land" (Syarif, 2014) .Article 570 Chapter Three Book II of the Civil Code states:

"Property right is the right to enjoy the use of a material object freely and to act freely on a said object with full sovereignty, as long as it does not conflict with laws or general regulations stipulated by a power that has the right to determine it and does not interfere with the rights of other people. , all of this without reducing the possibility of revocation of said right in the public interest based on statutory provisions and with the payment of compensation."

With the declaration of the Essential Agrarian Regulation, the arrangements of Book II of the Common Code to the extent that it concerns the land, water, and normal assets contained in that are canceled. As a help for the Essential Agrarian Regulation, explicitly for the place that is known for the previous eigendom freedoms which were erased, it is managed in Official Declaration Number 32 of 1979 concerning Standards of Strategy With regards to Giving New Privileges to Place that is known for Unique Transformation of Western Freedoms. As a development to the Official Pronouncement, Pastor of Home Undertakings Guideline Number 3 of 1979 was given concerning Arrangements Concerning Applications and Conceding of New Privileges to Place that is known for Beginning for Change of Western Freedoms. According to Nur (Nur, 2015) expressed that the motivation behind the two guidelines is to stress the situation with land as land straightforwardly constrained by the state, toward the finish of the right to the place that is known for beginning of the change of western freedoms, it is likewise planned to manage generally speaking approach to re-organize use, control, and land possession.

The Essential Agrarian Regulation directs the change arrangements in the second part which comprises of Article I to Article IX. Something managed in the terms of transformation is the presence of the previous land with eigendom privileges. The Essential Agrarian Regulation has given a period limit for change until September 24, 1960, unfamiliar rights who own property in view of the Common Code should move these freedoms to Indonesian residents in no less than one year, on the off chance that their privileges fall flat, the land will become land that profits to state control.

In Article I, the arrangements on the Transformation of the Fundamental Agrarian Regulation express that eigendom freedoms over land that existed at the opportunity this regulation happened have since become property privileges, just conceivable assuming the subject of the privileges has turned into an Indonesian resident on September 24, 1960. Outsiders, double citizenship, and legitimate substances can't have proprietorship freedoms, just convertible into building use privileges with a term of 20 years. On the off chance that the eigendom right is hampered with an opstal right or an erfpacht right, then the opstal right and the erfpacht right become a structure utilize right, which burdens the proprietorship right being referred to for the excess season of said opstal right or erfpacht ideal for a limit of 20 years.

Conversion can take place in several ways; first, solely due to law, for example, an erfpacht right for a large plantation is directly converted into a usufructuary right with a maximum period of 20 years. Second, constitutive conditions must be met for conversion, so that it can be converted into certain rights, for example, an eigendom right is converted into a property right, and the owner must prove that he is an Indonesian citizen. If it does not meet these requirements, it will be converted into a building use right with a term of 20 years. Third, conversion requires a declaratory requirement, namely the holder of the right must first apply to the Minister of Agrarian Affairs so that the right can be converted into a usufructuary right. This provision applies to holders of concession rights and lease rights for large plantations (Article IV of the Conversion Provisions) and the application must be submitted within one year of the entry into force of the Basic Agrarian Law (Wirawan, Silviana, & Widowaty, 2022) .

With the execution of this transformation, the term of previous Western freedoms in Indonesia finished on September 24, 1980, there was only one type of land law that applied simultaneously in all Indonesian territories, no longer recognized land with customary rights or land with western rights, so a uniformity of rights was formed. land. The Basic Agrarian Law aims to create unification in the field of land law and end foreign rights to land.

The land privileges of the previous eigendom freedoms that were not changed over and not moved to outsiders were lost and the land was again constrained by the state. The state

unilaterally declares that the land is back under its control and the state is free to hand over the rights to the land to third parties at the request of those who are interested (Parlindungan, 2001: 6). For eigendom rights belonging to foreigners given a deadline of 24 September 1960, owning land must transfer these rights to Indonesian citizens within one year. As stipulated in the provisions of the conversion of Articles I to VI of the Basic Agrarian Law and Presidential Decree Number 32 of 1979, confirmed by Regulation of the Minister of Home Affairs Number 3 of 1979.

Eigendom privileges are one of the land freedoms that were active under the watchful eye of the Essential Agrarian Regulation, and after the Fundamental Agrarian Regulation became effective by the arrangements of the transformation of Article I, these privileges are changed over into property freedoms except if the holder of the eigendom freedoms doesn't meet the prerequisites. Change of eigendom freedoms into property privileges in the event that the proprietor is an Indonesian resident on September 24, 1960, or a lawful element. On the off chance that the proprietor has a place with an outsider, it is changed over into a structure utilize right with a term of 20 years. Eigendom rights can be converted into usufructuary rights if used for the residence of the head of the foreign mission. If the holder of the eigendom right does not meet the requirements as a right holder, then his right to the land is nullified, and the land has the status of being state land, and any legal subject who fulfills the requirements can apply for that land. Then, it depends on the state to hand over to who has the right as specified in Article 2 of the Basic Agrarian Law regulating its allocation and Presidential Decree No. 32 of 1979 which regulates who has priority rights over the land.

4. Conclusion

Eigendom freedoms are one of the land privileges that were active under the watchful eye of the Fundamental Agrarian Regulation, and after the Essential Agrarian Regulation happened by the arrangements of the change of Article I, these freedoms are changed over into property privileges except if the holder of the eigendom freedoms doesn't meet the necessities. Conversion of eigendom rights into property rights if the owner is an Indonesian citizen on September 24, 1960, or a legal entity. In the event that the proprietor has a place with an outsider, it is changed over into a structure utilize right with a term of 20 years. Eigendom rights can be converted into usufructuary rights if used for the residence of the head of the foreign mission. If the holder of the eigendom right does not meet the requirements as a right holder, then his right to the land is nullified, and the land has the status of being state land, and any legal subject who fulfills the requirements can apply for that land. Then it depends on the state to hand over to who has the right as specified in Article 2 of the Basic Agrarian Law regulating its allocation and Presidential Decree No. 32 of 1979 which regulates who has priority rights over the land.

Priority rights are sequences of recipients of land rights, for people who meet the requirements and occupy state land with former eigendom rights are given priority to apply for land rights. However, in land administration practices, there are civil rights held by former rights holders whose civil rights can be erased by providing compensation. Granting of state land can only be granted if there is an agreement with the former rights holder regarding compensation. If there is no agreement with the former holder of the eigendom right, the land administration rights cannot be registered. What rights can be granted, namely property rights or building use rights for Paperma and management rights for Regional Governments regarding the priority rights in Presidential Decree Number 32 of 1979?

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