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LEGAL EFFORTS TAKEN IN THE REGISTRATION OF LAND CERTIFICATE WITH LETTER C REGISTER

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ABSTRACT

In this current era, land tax receipt/Land rent is no longer issued. This was replaced by the Letter C Register issued by the Village Head. Freehold land marked with the Letter C can be transferred from its owner to another party through inheritance or buying and selling. However, this is also accompanied by the verification of several important factors and applicable legal remedies. Therefore, this study aims to analyze the legal efforts to register the sale and purchase of land marked with the Register Letter C. This study uses a normative legal research approach to the *statute* and *conceptual approach*. The results of the study showed the ownership of land for sale and purchase that is marked with Letter C Register could be proven by the authorized Land title registrar. Land ownership under Letter C Register that is the object of mass land registration through a Complete Systematic Land Registration in which the Income Tax and the Land Acquisition and Land Acquisition Fee have not been paid in full cannot be moved or transferred, as stated in the Proprietary Certificate. Thus, it can be concluded that the proof of the sale and purchase of land through Proprietary Rights by the Land Registrar through the Letter C Register is considered valid. However, the transfer of land rights cannot be granted if they cannot fulfill their obligations.

INTRODUCTION

Based on the state's right to the land, various types of rights are stipulated in Article 4 paragraph (1) of the Agrarian law which is specified in Article 16 paragraph (1) of the Agrarian law and Article 53 paragraph (1) of the Agrarian Law. Article 16 paragraphs (1) of the Agrarian Law stipulates the types of land

rights, namely ownership rights, business use rights, building rights, use rights, rental rights for buildings, rights to open land and rights to collect forest products. In addition, the types of land rights that are temporary are stipulated in Article 53 paragraph (1) of the Agrarian Law, namely Liens, Right to Share Business, Right to Stay, and Right to Rent Agricultural Land.

As stated by Jacobs, (2010) the distribution is not only collected on the existence of the land through its use aspect, but also on who owns it, which then makes the land divided into rights and categories. The same point was also revealed by Lehavi, (2017) in which the division of categories and land rights is due to it being different from other law or rights, thus the distribution must be clear and consistent.

One of the land rights stipulated by the Law in Article 16 paragraph (1) of the Agrarian Law is Ownership Right. Provisions regarding ownership rights are elaborated in Article 20 of the Loga to Article 27 of the Agrarian law. According to Article 50 paragraph (1) of the LoGA a further provision on the Ownership Right is regulated in the Act. Until now, the Law on Ownership Rights ordered by Article 50 paragraph (1) of the LoGA has not been established yet.

The definition of ownership rights mentioned in Article 20 paragraph (1) of the LoGA is a downward, strongest, and most fully fulfilled right that a person can own over the land by remembering the provisions of Article 6 of this Law. Santoso(2015) conveys that the existence of land along with its ownership, which is then referred to as Ownership Right, is a hereditary nature of land that can last as long as the owner is still alive, and if the owner dies, his Ownership Rights can be continued by the heirs as long as they qualify as subject to it.

Through the verification aspect, it is known that there is a registered ownership right. This means that the land has been issued a certificate as proof of rights by the City Land Officer (Varley, 1985). However, if there is a land ownership that has not been registered, it means that the land has not been issued a certificate as proof of rights by the City Land Officer or is still marked with proof of land tax receipt/*Landrente*, Girik, Pipil, Ketitir, *Verponding* Indonesia, which is currently replaced by the Letter C Register.

In this current era, land tax receipt/*Land rent* is no longer issued. This was replaced by the Letter C Register issued by the Village Head. Most of the land with the evidence marked by the Letter C Register is mostly in rural areas, while some are in urban areas. Freehold land marked with the Letter C can be transferred from its owner to another party through inheritance or buying and selling. Landowners with evidence of the Letter C Register have the right and authority to sell their Property to another party. In other words, a person can obtain his ownership as long as there is a Letter C Register. Through this case, this study aims to analyze the legal efforts to register the sale and purchase of land marked with Letter C.

RESEARCH METHOD

This study uses a type of normative legal research relating to assessing the validity of the sale and purchase of Freehold land marked with Letter C Register. Marzuki(2005) states that legal research is conducted to find solutions to legal issues that arise. The results do not accept or reject the proposed hypothesis, but rather provide a prescription regarding the proposed legal issues. Hence, this research was conducted to resolve the problems related to the validity of the sale and purchase of land with ownership right as proven by Letter C Register.

The approach used in this research is the *statute approach* and *conceptual approach*. For this reason, the legal materials used are primary and secondary legal materials. Primary legal material in the form of laws and regulations relating to the sale and purchase of land ownership with evidence of Letter C Register were collected through the inventory and categorization methods. The collection of secondary legal materials is done through sorting based on the topics in this study. The processing of primary and secondary legal materials is done through grouping and sorted based on categorized topics.

RESULTS AND DISCUSSION

Proof of sale and purchase of ownership rights thorough letter c register

Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (Agrarian Law) has regulates land registration aimed at providing legal certainty guarantees. The definition of land registration is mentioned in Article 1 Number 1 Government Regulation No. 24 of 1997 which is a series of activities carried out by the Government continuously, continuously, and regularly. This includes the collection, management, bookkeeping, and presentation and maintenance of physical data and juridical data, in the form of maps and lists, regarding land parcels, and apartment units. This includes the granting of proof of rights for parcels of land for which there are already rights and ownership rights over the unit of flats and certain rights which burden it.

Government Regulation no. 24 of 1997 expressly states that the Government agencies that carry out land registration throughout the territory of the Republic of Indonesia according to Article 5, namely the National Land Agency. Furthermore, in Article 6 Paragraph (1) it is emphasized that in the framework of carrying out the registration of the land, the task of land registration is carried out by the Head of the City Land Officer. In the LoGA it is stated that the registered land rights are only ownership rights regulated in Article 23, land use rights stipulated in article 32, and building use rights stipulated in article 38 and use rights in article 41. Meanwhile, Building Leasing Rights are not required to be registered.

Land registration for the first time was carried out systematically and sporadically. Systematic land registration is the activity of land registration for the first time carried out simultaneously, covering all land registration objects that

have not been registered in the territory or territory of a village (Article 1 Number 10 Government Regulation no. 24 of 1997). While sporadic land registration is the activity of land registration for the first time regarding one or several objects of land registration in the territory or part of the village area (Article 1 Number 11 Government Regulation No. 24 of 1997).

Government Regulation No. 24 of 1997 has regulated the proof of new rights and old rights in land registration. In Article 23 Government Regulation No. 24 of 1997 stated that in order to obtain the truth of juridical data for new rights and for the purpose of registration of rights evidenced by several things namely the determination of the granting of rights from authorized officials who give rights to concerned in accordance with applicable regulations and bring the original deed of the title registrar containing the granting of said right by the holder of the ownership right to the recipient of the said right if it concerns the Right to Build and Use Rights over Property Ownership Rights.

Meanwhile, for the ownership of land which is then called the Right of Ownership, the relevant certificate will be made. The certificate is issued by the City Land Office which is signed directly by the Head of the City Land Office, or other officials who are given an abundance of authority to sign the certificate. The certificate contains 2 (two) data, namely physical data and juridical data which are copies of land books. According to Number 1 of 19 Government Regulation No. 24 of 1997, what is meant by the Land Book is a document in the form of a list containing juridical data and physical data of an object of land registration with an ownership right. Physical data in Article 1 Number 6 Government Regulation No. 24 of 1997 is a statement regarding the location, boundary, and area of the land and units of listed flats that are registered, including information on the existence of buildings or parts of the building on it, while juridical data in Article 1 Number 7 of Government Regulation No. 24 of 1997 is a statement regarding the legal status of the land parcels and listed apartment units, their rights holders, other parties' rights, and other burdens. Measuring certificate according to Article 1 Number 17 Government Regulation No. 24 of 1997 is a document that contains physical data of a parcel of land in the form of maps and descriptions.

The purpose of the issuance of a certificate in the land registration activity for the first time is that the right-holder can easily prove that he is the right-holder. Parlindungan(1999) states that the certificate is issued for the benefit of the relevant right holder in accordance with the physical data and juridical data that has been registered in the land book. The certificate also becomes part of the aspects of proof of land with registered ownership rights. This means that the Land Ownership Certificate has been issued by the City Land Office as proof of rights. Irene T (2015) emphasizes that at present the evidence has been replaced by the Letter C Register issued by the Village Head. Letter C Register issued by the Village Head contains the provisions of the name of the landowner, address of the residence of the landowner, registration book number, sub-district, city, and province, village class, land area, land location, cause and date of change, city and

date of issuance, and name as well as the signature of the Head of the Village who issued the Letter C Register.

Harsono (1971) stated that based on the provisions in Law No. 5 of 1960 (LoGA) and Government Regulation No. 40 of 1996, there were 2 (two) forms of transfer of land rights, namely switching and transfer. *First*, switching refers to the transfer of land rights to another party because the rights holder died. *Second*, transfer refers to the transfer of land rights to another party because of a deliberate legal action with the aim that the other party obtains that right. The legal act can be in the form of buying and selling, exchanging, giving, or giving through a will (Riyadi, 2017).

Meanwhile, one example of transfer is through buying and selling. The term sale and purchase is mentioned in legislation, including Article 26 of Law No. 5 of 1960 (Agrarian Law) which states that buying and selling, exchanging, giving through a will or not, giving according to custom and other acts intended to transfer ownership rights and supervision are regulated by Government Regulation. Furthermore, every sale, exchange, giving through will, customary giving and other acts intended to directly or indirectly enforce ownership rights to a foreigner, to a citizen who in addition to his Indonesian citizenship has a foreign nationality or to a foreign nationality a legal entity, except as determined by the Government referred to in Article 21 paragraph 2 is null and void because the law and land are the state's, provided that the rights of other parties that burden it continue and all payments received by the owner cannot be claimed again.

Harsono (1971) mentioned that the sale and purchase of land is a legal act in the form of the transfer of ownership rights by the seller to the buyer, at which time the buyer also hands over the price to the seller. While Santoso (2015) stated that the sale and purchase of land is a legal act in the form of surrender of land rights for ever by a land owner or holder of land rights as a seller to another party as a buyer and simultaneously the buyer surrenders an amount of money as a price, the amount of which is in accordance with the agreement of both parties party.

While the sale and purchase of land ownership rights that are still marked with evidence of the Register of Letter C that occurred before the legalization of Government Regulation No. 24 of 1997 and the purchaser of land intends to register (certify) the title of land owned by him to the City Land Office does not have to be proven by a deed made by the Title registrar. This means that the sale and purchase of land ownership can be proven by a deed under the hand, that is, the sale and purchase of land ownership is made by the village head of the local region.

This is in contrast to the sale and purchase of land rights in which a certificate needs to be made by an authorized Title registrar. Thus, land ownership with the evidence of Letter C Register must first be taken care of in the form of a map of the plot of land and a Land Identification Number (NIB) is issued by the City

Land Office so that a deed of sale and purchase of land rights can be made by the Title registrar.

However, the sale and purchase of land with ownership with Letter C Register is not made by the Head of the village but by a Land Purchase Binding Agreement and a Power of Attorney issued by a Notary. Subekti(1998) stated that the Binding Agreement of Sale and Purchase is an agreement between the seller and the buyer prior to the sale and purchase activities because there are elements that must be fulfilled. Among other things there is no certificate because it is still in the process of making and the price has not yet been paid (Widodo, 2017).

Exploring further, it is known that the Binding Agreement of Sale and Purchase of Freehold land which is marked with proof of Letter C Register is made by a Notary. Notary is a public official who is authorized to make an authentic deed and has other authorities as referred to in the Law. Through the Deed of Agreement on Sale and Purchase of land ownership, the Head of the region can issue the new Letter C Register as a substitute for the ownership of land which is marked with the Letter C Register sold by the owner to the land buyer. This refers to that based on the deed of the Purchase Binding Agreement of Ownership of land marked with Letter C Register made by the Notary, there is a transfer of ownership of ownership of land with a proof of Letter C Register from the land owner as seller to another party as the buyer. Binding Agreement of Sale and Purchase of Ownership of land with Letter C Register made by a Notary is not regards only the buying and selling of land in which there has not been any transfer of ownership.

Subsequently, the sale and purchase of land rights will be made by the authorized Title registrar. Freehold Land marked with Letter C Register Quotations which are traded with proof of Land Purchase Binding Agreement by a notary must first be issued with a Land Plane Identification Number (NIB) by the City Land Office. After being issued, a land sale and purchase certificate can be made by the Title registrar. It should be noted that the obligation to buy and sell land is proven by a deed made by the Land Registrar so that it can be registered with the City Land Office as stipulated in Article 37 paragraph (1) of Government Regulation No. 24 of 1997).

Mass land registration for land with letter c register

Sporadically and systematically before the regulation of the minister of agrarian affairs and spatial planning/head of the national land agency no. 1 of 2017

Government Regulation no. 24 of 1997 stipulates 2 (two) types of land registration, namely systematic and sporadic land registration. According to Article 1 Number 10 Government Regulation No. 24 of 1997, what is meant by systematic land registration is the activity of land registration for the first time

that is carried out simultaneously which includes all objects of land registration that have not been registered in the territory or parts of the territory a village.

Systematic land registration is carried out by the Head of District / City Land Office which is assisted by the Adjudication Committee. Adjudication according to Article 1 Number 8 Government Regulation No. 24 of 1997 is an activity carried out within the framework of the process of land registration for the first time, including the collection and determination of the truth of physical and juridical data concerning one or several land registration objects for the purpose of registration. Based on its initiative, land registration is systematically divided into 2 (two) types; *first*, systematic land registration within the framework of the Government program Systematic land registration is carried out by the Adjudication Committee formed by the Head of the Indonesian National Land Agency. *Second* systematic land registration with community self help. This systematic land registration is carried out by the Adjudication Committee formed by the Head of the Provincial National Land Agency Regional Office. While based on the initiative and funding, land registration is systematically divided into 2 (two) types, namely the land registration initiative originating from the Government and the land registration initiative originating from the holders of land rights.

According to Article 1 Number 11 Government Regulation No. 24 of 1997, what is meant by sporadic land registration is the activity of land registration for the first time regarding one or several objects in the territory or parts of an village area, be it individually or mass. Sporadic land registration is carried out by the Head of City Land Office assisted by Committee A. The role of Committee A in sporadic land registration is to assist the Head of District/City Land Office to carry out a juridical data research and determination of boundaries of the land parcels requested for registration (certification) (Santoso, 2015). Based on its initiative, sporadic land registration was requested by interested parties in land registration. The parties who are interested in registering land are the land owner, heirs, holders of Mortgage Rights, and people who control the land (Islam, 2015).

Sporadic land registration can be individual or mass, that is, a person or group of people jointly takes the initiative to register the controlled land to the City Land Office. If sporadic land registration is mass, then a group of people who jointly register the land are represented by the coordinator who registers the land to the City Land Office. In sporadic land registration there is no legal counsel regarding the importance of land rights certificates as proof of rights by the City Land Office. The parties, driven by their own awareness, register the land with to the City Land Office because they regard the importance of land title certificates as proof of rights.

En masse Registration with letter c Register on the regulation of the minister of agrarian affairs and spatial planning or head of the national land agency

Basis for consideration of changes to the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency Number 35 Year 2016 by Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency No. 1 of 2017 is stated in the Preamble under the words "weigh", namely concerning the Acceleration of the Implementation of a Systematic Complete Land Registry which cannot yet be carried out because there are principles and substantive matters that have not been regulated. While the full understanding of Systematic Land Registration is stated in Article 1 number 1 of Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 1 of 2017, which is the activities of land registration for the first time carried out simultaneously for all land registration objects in a village area or equivalent, which includes the collection and determination of the truth of physical and juridical data concerning one or several objects of land registration for registration purposes.

The aim of the acceleration of a Complete Systematic Land Registration is stipulated in Article 2 paragraph (2) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency No. 35 of 2016, namely to accelerate the provision of legal certainty and legal protection of people's land rights in a sure, simple, fast, smooth, safe, fair, equitable, and open and accountable manner so as to improve the welfare and prosperity of the community. On the other hand it should be realized that the existence of an increasingly advanced world development, makes people flock to harmonize their rights more easily and quickly, which is then accompanied by a desire for legal protection. This is similar to what was stated by Zhang and Donaldson (2013) that many people are then trying to fight for the right to land ownership quickly so that the desired law enforcement can easily protect them from various things.

In connection with Complete Systematic Land Registration, it is known that the object of registration is referred to in Article 3 paragraph (2) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 1 of 2017 which covers all parcels of land without exception, both parcels of land rights, land assets of the Government/Regional Government, land of State-Owned Enterprises/Regionally-Owned Enterprises, village land, state land, customary law community lands, forest areas, land objects land reform, transmigration land, and other land. In relation to this, it is known that the Land of Ownership marked with evidence of the Letter C Register, which is the object of mass registration through the Systematic Complete Land Registration, states that if the person concerned has not gone through several conditions, the transfer cannot be carried out. These requirements include, among other things, the payment of Income Tax and Customs Acquisition of Land and Building Rights. Both are known to be an absolute requirement related to the transfer of ownership right which is then stated in the certificate. Therefore, even though they have

brought proof of the Letter C Register and participated in the mass registration with the applicable matters, but if they have not fulfilled the applicable conditions, the Freehold is not fully valid.

CONCLUSION

Based on the research conducted it can be concluded that *first* for the purpose of registering land, buying and selling of land with ownership of evidence with a Letter C Register can be proven by the deed of an authorized Land title registrar. Title registrar may not refuse to make a deed even if the Land Ownership which is marked with Letter C Register does not yet have a Field Master Number. *Second* on land ownership with proof of Letter C Register which is the object of mass land registration as long as the income tax and Land Acquisition Fee are not paid, then the certificate of ownership is given proof that the income tax and the Obligation for the Right to Land and Buildings are payable.

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