

CHAPTER I

INTRODUCTION

A. Background

Land for an agrarian country like Indonesia is not only used as agricultural and plantation land but also as a resource of productivity and means to meet human needs such as the construction of office buildings, industrial houses, road construction, educational facilities, worship and so on, so that land plays a role very important for human life. Thus, the land plays a very important role for strategic in various aspects of human life, for example in economic aspects, political aspects and legal aspects. These three aspects are interrelated issues as an integrated whole in making the legal policy process carried out by the government, and also to guarantee legal certainty.

One of the objectives of Law Number 5 Year 1960, namely the Basic Principles of Agriculture (UUPA), is to create legal certainty regarding land rights for all Indonesians. One of the efforts to achieve legal certainty is to carry out land registration so that land rights holders can prove their rights to the land they control to the government to implement land policies.¹

As a rule of law, in dealing with land issues, especially on land rights since 1960, the Government abolished the dualism system that had existed since the Dutch East Indies government with the issuance of Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA). With the enactment of the Basic

¹ Urip Santoso. *Pendaftaran dan Peralihan Hak atas Tanah*, cet 2, Jakarta : Kencana, 2010. hlm.2.

Agrarian Law, a legal entity is created in the field of Agrarian Law in our country, so that legal actions relating to issues related to land issues must be carried out based on Law Number 5 of 1960.

Understanding Land Law is legal regulations both written and unwritten which regulate the rights of control over land which are legal institutions and concrete legal relations. Land Law is the entire legal provisions, both written and unwritten, all of which have the same regulatory objects, namely the right to control land as legal institutions and as a concrete legal relationship, which has a public and private perspective, which can be arranged and systematically studied, so that it becomes a unity which is a system.²

In the standard Indonesian Dictionary the definition of land is mentioned, that is, *the surface of the earth or the layers of the earth* that are above once. The definition of land is regulated in Article 4 of the The Basic Agrarian Law (UUPA) stated as follows.

"On the basis of the state's right to control as referred to in Article 2, the existence of various types of land surface conditions, called land, can be given to and owned by people, both alone and together with other people and bodies law."

Thus, the term land referred to in the above article is *the surface of the earth*. The meaning of the surface of the earth as part of land that can be cursed by any person or legal entity. Therefore, rights arising above the earth's surface (land rights) are included.

² Dr. Sahnan S.H., M.Hum, 2016, Hukum Agraria Indonesia, Malang, Setara Press, hal. 7-8

Article 19 The Basic Agrarian Law has stipulated basic provisions on land registration to ensure legal certainty over land rights, including:

1. To guarantee legal certainty, the Government has registered land throughout the territory of the Republic of Indonesia, according to the provisions regulated by government regulations.
2. The land registration referred to in paragraph (1) includes:
 - a. measurement, mapping, and accounting of land:
 - b. registration of land rights and the transfer of these rights:
 - c. the granting of proof of rights which acts as a strong proof.

The provisions of Article 19 paragraph (1) of the Basic Agrarian Law is a provision that is shown to the Government to regulate and administer the course of land registration in the territory of Indonesia. This is an obligation for the Government to regulate and organize the course of land registration. Land registration also requires the ownership of rights, building rights, business rights, and usage rights and management rights for the obligation to register land rights held by the owner to be in line with the ideals of legal certainty desired by the legislator Agrarian Law. That is because the existence of land registration will result in the issuance of a certificate of land title which is called a land certificate to the party concerned as a strong means of proving ownership of the land rights it holds.

Complete Systematic Land Registration is a land registration activity that is carried out simultaneously for all objects of land registration throughout the territory of the Republic of Indonesia in one village / urban village area or other

similar name, which includes the collection and determination of the truth of physical and juridical data concerning one or several land registration objects for the purpose of registration.

The acceleration of the implementation of a Complete Systematic Land Registration which is regulated in Article 3 paragraph (3) of the Regulation of the Minister of Agrarian Affairs and Spatial Planning / National Land Agency Number 1 of 2017 concerning the Acceleration of the Implementation of a Systematic Complete Land Registration is carried out in stages:

- a. Determining the location of the activities of the Systematic Land Registration Acceleration
- b. Formation and establishment of a Systematic Complete Land Registration Adjudication Committee;
- c. Counseling;
- d. Collection and processing of Physical Data and Juridical Data on parcels of land;
- e. Soil inspection;
- f. Announcement of Physical Data and Juridical Data;
- g. Issuance of the decision to grant land rights;
- h. Bookkeeping Rights on Land;
- i. Issuance of Land Title Certificate; and / or
- j. Submission of Land Rights Certificates

The National Land Agency (BPN) clarifies that land registration is one of the conflicts, disputes and cases. The conflict itself is a land problem that has nuances

or broad social aspects, while disputes are land issues that do not have a broad social and political nuance, in general individual problems. Then, the case is a conflict and dispute that has entered into the court, both the district court, high court, or PTUN.³

Conflicts that occur because Indonesia adheres to the law of land registration, which although a person already has a proof of ownership of his land rights in the form of a certificate that has legal force. But it still has an opportunity to be questioned by other parties who also have strong legal evidence grounds (in the form of certificates and other evidence) obtained through the land justice system in Indonesia while land disputes also occur due to the absence of a strong data base to prove each ownership of the land rights. This problem can be resolved if the main factors that affect the law on land rights can be corrected such as the coverage of the basic map of land, the number of certified areas, the determination of forest and non-forest boundaries to avoid land use in a forest area, the settlement of land ownership cases and the determination of customary land boundaries.⁴

Agrarian Reform (RA) is a corrective effort to reorganize the agrarian structure which is still lame. Within the Agrarian Reform (RA) there are assets of reform and access to reform. Reform assets are realized by accelerating the land redistribution program. During the administration of Joko Widodo-Jusuf Kalla, the Agrarian Reform (RA) was placed as the National priority set in the 2015-2019 National Medium-Term Development Plan (RPJMN). Agrarian Reform can

³ Ministry of PPN / Bappenas, 2013

⁴ Ministry of PPN / Bappenas, 2015

be realized through the acquisition of assets and access, the Government through the Ministry of ATR / BPN launched a National Priority Program that has the purpose of completing land registration, namely the Acceleration of Systematic Complete Land Registration (PTSL). The PTSL program is outlined in Ministerial Regulation No. 12 of 2017 concerning Complete Systematic Land Registration and Presidential Instruction No. 2 of 2018. In Article 1 paragraph (1) it is explained that Complete Systematic Land Registration, hereinafter abbreviated as PTSL, is:

"Land Registration Activities for the first time carried out simultaneously for all objects of Land Registration in the entire territory of the Republic of Indonesia in one village / urban village or other name of the same level, which includes the collection and determination of the truth of physical and juridical data concerning one or several Object of Land Registration for registration purposes. The PTSL object covers all parcels of land without exception, both parcels of land that do not yet have land rights or parcels of land, whether they are Government / Regional Government land assets, land of State-Owned Enterprises / Regional-Owned Enterprises, village lands, State Land , customary law community land, forest area, land object land reform, transmigration land, and other parcels of land ”.

Article 2 (two) concerning PTSL also explained that:

"This PTSL is carried out village by village in the district and urban village by urban village in the regency and urban village by urban village which covers all parcels of land throughout the territory of the Republic of

Indonesia".

The purpose of the PTSL program is to accelerate the registration of legal certainty and legal protection of community land rights in a sure, simple, fast, smooth, safe, fair, equitable and open manner and accountable, so as to provide a sense of security to the certificate holder. The certificate can also increase the registration of a country, reduce and prevent land conflicts because land certificates are the end of land registration activities. Basically, land registration starts from a measurement process and making a basic map which is a picture of an area that contains scale, legend, and other identities. The Ministry of ART / BPN makes the concept of "One Map Policy" as a basic map of land or base map, where the benefits to be obtained through the policy will facilitate BPN in preparing plans for the use of large-scale space with integrated Spatial Planning documents so that it will facilitate and speed up a the process of resolving land use conflicts including regional borders throughout Indonesia, accelerating the implementation of regional and infrastructure development programs, speeding up the licensing process related to land use, making it easier to use disaster mitigation maps, preserving the environment, to land requirements which can improve the reliability of information related to the location of various economic activity because this can also provide business certainty.⁵

Implementating land registration is one of the tasks of the state that must be carried out by the Government for the benefit of the community. The government agency that organizes land registration is the National Land Agency

⁵ <https://portal.ina-sdi.or.id/> Accessed on 16 September 2018 at 15.32

(BPN) while the implementation is carried out by the Head of the District / City Land Office. This innovation in land management through the Systematic Complete Land Registration program was also carried out by the Temanggung District Land Office.

Temanggung Regency is a regency located in Central Java Province which has thousands of cities in the city of Temanggung and is bordered by Kendal Regency in the north, Semarang Regency in the east, Magelang Regency in the south, and Wonosobo Regency in the west. The total population of this Regency in 2017 reaches 759,128 inhabitants. Having a land area of 870.25 km² Temanggung Subdistrict is one of 20 sub-districts in the area of Temanggung Regency. The distance from the City of Temanggung 0 Km with an area of 3333 Ha. Temanggung Sub-District area is located at an average ground level of 569.08 m.dpl with a maximum temperature of 30 degrees Celsius and a minimum temperature of 20 degrees Celsius. The average number of rainy days is 61 days and the amount of rainfall is 22 mm / year. With details of 1.890 Ha of Wetland and 1,449 Ha of Wetland. Temanggung District Temanggung Regency in the division of Administration is divided into 25 Villages, 127 Hamlets, 575 RT, 136 RW. with the number of village heads (lurah) 25, 73 village officials and 44 BPD members.⁶

The target of PTSL will be achieved in Temanggung Regency In 2019. In Temanggung Regency, Seniri in 2019 has a PTSL target of 60,000 fields, which is planned to be implemented in 14 Sub-districts and 30 Villages. In each village, a

⁶ <https://laman.temanggungkab.go.id/info/detail/18/76/temanggung.html> accessed in 2017

complete measurement and mapping will be carried out that covers all existing plots. PTSL objects in Temanggung Regency as a whole are without exception, including land rights, land assets of the Government / Regional Government / Village Government, land of State-Owned Enterprises / Regional-Owned Enterprises, village land, state land, customary law community land, forest area , land landform objects, transmigration land, and other parcels of land.⁷

The Temanggung Regency Land Office continues to strive to encourage increased legal awareness for the community to register land rights for the realization of legal certainty in the land sector. The form of support undertaken by the Temanggung District Office of Land in accelerating the implementation of a complete systematic land registration is to do the program socialization by directly visiting the existing sub-districts to conduct counseling related to the implementation of the program, also assisting in the administration process of community land registration in various Temanggung regions. The existence of the counseling conducted, in addition to knowing the problems faced by the community at the time of arranging the certificate also encouraged the community to be more active in the implementation of a complete systematic land registration so that the land certification program could run smoothly and realized as expected. Like everything else, the program will not always run smoothly. This complete systematic land registration program also has obstacles that often occur even though many parties have tried to minimize barriers. If the complete systematic land registration program is not running optimally, the targets given

⁷ Interview with Mr. Bambang Edi S

are not easy to complete and the community is less secure of their land rights.

Based on this description, the author is interested in conducting a legal research on Complete Systematic Land Registration by compiling a legal writing entitled **“ACCELERATING THE IMPLEMENTATION OF COMPLETE SYSTEMATIC LAND REGISTRATION (PTSL) IN 2019 (A CASE STUDY OF THE LAND OFFICE OF TEMANGGUNG DISTRICT)”**. This study aims to analyze the implementation of the Systematic Complete Land Registration (PTSL) law, to find out how the current problems are related to the obstacles of the Complete Systematic Land Registration (PTSL), as input in related Government policies in this case the National Land Agency related to the implementation of Systematic Land Registration Complete (PTSL), as well as to provide information to people who have parcels of land that do not yet have certificates.

B. Research Problems

1. How to optimize the acceleration of the implementation of the Systematic Complete Land Registration (PTSL) at the Office of the National Land Agency (BPN) Temanggung Regency?
2. What are the obstacles that arise in the process of implementing the Complete Systematic Land Registration (PTSL) program in Temanggung Regency?

C. Research Objective

Research conducted by the author has the following objectives:

1. To analyze the process of implementing the Systematic Complete Land Registration (PTSL) program at the Temanggung District Land Office.
2. To find out the obstacles that arise in the implementation of the Systematic Complete Land Registration (PTSL) program in the Temanggung District Land Office and find out how to overcome these obstacles.

D. Research Benefits

The benefits of the results of this study are expected to increase knowledge and insight for the researcher to explore knowledge about how the implementation of the land registration program through the Systematic Complete Land Registration (PTSL) in Temanggung Regency and the strategies used to implement the Systematic Complete Land Registration (PTSL) program in Temanggung Regency. Therefore, the researcher also hope that this study will be able to provide several benefits including:

1. Academic Benefits

From the Academic Benefits, the results of this study are expected to contribute thoughts and knowledge development to other students, and can provide development from the study of the implementation of the Systematic Complete Soil Registration System (PTSL) so that it can provide or provide information material regarding the implementation of the Systematic Complete Land Registration (PTSL) especially in the

Temanggung Regency, as well as providing knowledge development in the field of Agrarian Law specifically regarding Land Registration relating to the implementation of a Systematic Complete Land Registry (PTSL).

2. Practical Benefits

- a. For the Temanggung District Office of Land, the Researcher hopes that this research can be used as input and suggestions as well as considerations that might influence in optimizing the implementation of a Systematic Complete Land Registry (PTSL).
- b. For the community, this research is expected to provide a source of information and new insights that make the community understand and understand about PTSL as a government innovation to provide legal guarantees or land ownership so that the community has legal proof of their land so that conflicts over land can be minimized.