

Enrollment Swap Bolster Indigenous Land Property Rights With *Bondo Deso* (Studies in Sedadi Village Penawangan Subdistrict Grobogan Regency Central Java Province)

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Abstract. The purpose of this study to determine: 1) The registration process Swap Bolster Indigenous Land Rights Reserved by *Bondo Deso* Sedadi Village-Penawangan Subdistrict-Grobogan. 2) Obstacles and How to Overcome It. The approach in this study is a socio legal sourced from primary data and secondary data, qualitative analysis method. Data collection techniques with interviews, and literature. Data were analyzed using qualitative data analysis.

Based on the analysis concluded: the alienation of land property rights of indigenous with *Bondo Deso* form of swaps is based on the public interest to be taken through the initial stages, namely the approval of the Head of Village and BPD (Village Consultation), approval to the Head of the Regional (Regent / Mayor, Governor), the approval of the Minister of Internal Affairs (as related to exchange) and the last is the stage registration right to use the land in the village treasury land Office. The obstacle is that when enrollment in the District Land Office Grobogan occurred facts are different between physical and juridical document, the data from the soil was not a complete history, chronology deed broken or lost and their land disputes and the absence of a line in the measurement of the ground by officers. Therefore, the completion of these problems the government handed it over to PPAT Sedadi village to take care of the land registration.

Keywords: Swap Bolster Land; Rights of Indigenous; Bondo Deso.

1. Introduction

Soil into something needs in what every person need it, it encourages everyone to be able to have and control the land it needs.⁴ Land registration is done for ensure legal certainty for the rights to land, as mandated in Article 19 of the Basic Agrarian Act No. 5 of 1960 on Basic Agrarian Law (BAL), Government shall hold the land registration throughout the territory of Indonesia and requires that the land-rights holders to register their land⁵.

PP 11 No.24 of 1997 on Land Registration includes the registration for the first time and maintenance work land registration data. Land registration activities for the first time carried out for objects of rights or land that has never been registered before. Pursuant to Article 12 paragraph (1) Regulation No. 24 of 1997 for the first time registration activities include physical data collection and management, authentication and accounting rights, publishing certificate, phisic data servicing, juridic data and general saving data and documents.

Government Regulation (PP) No. 43 of 2014 concerning the Implementation Regulations of Act No. 6 of 2014 on the village passed in 2014 but implemented in the next of 2015. Various things precisely regulated in Government Regulation No. 43 of 2014 of the

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⁴ Wayan Suandra, 1991, *Hukum Pertanahan Indonesia*, Rineka Cipta, Jakarta, p. 31

⁵ Bambang Suwito, *Pendaftaran Tanah Milik Adat Menjadi Hak Milik Pada Kantor Pertanahan Kabupaten Aceh Tamiang*, Jurnal Hukum, 2014, p. 2

Implementing Regulations of Act No. 6 of 2014 on This village. Socialization is clear and how the village would be easier to implement the Law on the Village is the duty of every citizen of the village, and keep the amount of funds that was just that much every village can be used as much as possible for the greatest prosperity of the village residents.

Bondo Deso or bent village is the right reward from the government office that was given to the village government officers as administrators a bottom. Rights is the right of a person in exchange for the post of village officials on land designated positions for him and that means that he may enjoy the fruits of the land as long as he holds his position⁶.

Bondo Deso rice paddies and village usually still productive garden soil, which can still produce a product - agricultural products in accordance with the culture of rural communities. Land of *Bondo Deso* is not a land of private property, but the land owned by the village is used by village officials are down - generation alternately as long as the village officials serving in village government⁷.

The issue of land swap agreement in Indonesia to follow local customs regulations as well as transfer of rights who have followed the rules of the Basic Agrarian Law is actually not new, but the problem will arise in case of transfer of land ownership from the ground-*Bondo Deso* in the formerly only for the leader of the village or village proper device is intended as a pension and will be returned to the village after the respective dies world⁸.

Bondo Deso is part of the village administration used to finance the interest of the village. *Bondo Deso* is ground down the village - a hereditary or customary land rights recognized central government through Law - the Basic Agrarian Law⁹. *Bondo Deso* the same position with the land - the land of another property where *Bondo Deso* can be exchanged Village.

Based on this background, lifted the title "Enrollment Swap Bolster Indigenous Land Property Rights with *Bondo Deso* (Studies in Rural Sedadi Penawangan Subdistrict Grobogan Central Java Province)". This study tried to answer the question about the registration process Swap Bolster Indigenous Land Rights Reserved by *Bondo Deso* village Penawangan Sedadi Subdistrict Grobogan obstacles and how overcome.

Research methods

The method used is a socio-legal approach. Socio-legal is an approach taken by seeing something legal reality in society, and to look at the legal aspects of social interaction in the community. The primary data collection was conducted by *interview*. Secondary data were obtained from a review of the literature or a review of the literature or library materials related to the problem or research materials that are often referred to legal materials¹⁰. Analysis of the data used in this research is the analysis of qualitative data that have been obtained from field studies and literature then analyzed qualitatively with the aim of getting a conclusion of the research problem¹¹.

2. Results and Discussion

2.1 Registration of Swap Bolster Indigenous Land Property Rights with *Bondo Deso* in Sedadi Village Penawangan Subdistrict Grobogan Regency Central Java.

⁶ Imam Hidayat, 1981, *Hukum Adat Sketsa Asas*, Liberty, Yogyakarta, p. 16

⁷ Hilaman Hadikusuma, 1979, *Hukum Perjanjian Adat*, Alumni, Bandung, p. 12

⁸ Imam Sudiayat, *Op.cit*, p. 21

⁹ Supriadi, 2009, *Hukum Agraria*, Sinar Grafika, Jakarta, p. 26

¹⁰ Mukti Fajar dan Yulianto, 2010, *Dualisme Penelitian Hukum Normatif dan Empiris*, Pustaka Pelajar, Yogyakarta, p. 156

¹¹ Sudarwan Denim, 2002, *Menjadi Peneliti Kualitatif*, Pustaka Setia, Bandung, p. 62

Grobogan is the second largest district in Central Java after Cilacap district, and is adjacent to nine other districts. Size Grobogan $\pm 1975.865 \text{ km}^2$ with crowded 715,3 people / km^2 , Location of astronomical region between $110^\circ 15' \text{E} - 111^\circ 25'$ east longitude and $7^\circ \text{S} - 7^\circ 30' \text{S}$, with a span distance from north to south of $\pm 37 \text{ km}$ and from west to east $\pm 83 \text{ km}$.¹² Sedadi is a village in the subdistrict Penawangan, Grobogan, Central Java, Indonesia. Located between $07^\circ 09'16''$ latitude and $110^\circ 51'00'' \text{E}$, Sedadi village is divided into 44 RT, RW 7, 6 village (hamlet of *Kedung Gedang, Krajan, Karang Asem, Karangploso, Mijen, and Sidorejo*)¹³.

The land registry is a series of activities carried out by the Government continuously, continuous and regular, covering the collection, accounting, and presentation as well as the maintenance of physical data and juridical, in the form of maps and lists, on plots and units of flats, including the provision of a letter of proof rights for plots of existing rights and ownership of the apartment units and certain rights which encumber.

Article 1 paragraph 1 of Act No. 6 of 2014 About the village determines that the village is a traditional village or the village and called with other names, hereinafter called the Village, is the unity of the community law that has boundaries that are authorized to regulate and manage the affairs of government, the interests of the local community by community initiatives, the right of origin, and / or customary rights recognized and respected in the governance system of the Republic of Indonesia. Then Article 76 paragraph (1) of Act No. 6 of 2014 About the village can specify the form of land assets Cash Village, communal land, the village market, market animals, mooring boats, building villages, fish auctions, auction of agricultural, forest belongs to the village, the village-owned springs, public baths, and other assets belonging to the village. Elucidation of the article that one of the village assets that can be controlled and managed by the village government is the land of the village treasury. Village treasury land management for increase the prosperity of people in villages and raising rural incomes.

The ownership of the land can be transferred from one person to another. Switch means the transfer of land ownership from the owner to another party because of a legal event. With the death of his landowner's rights are legally transferred to the heirs along heirs qualify as a subject of property rights. Diverted or transfer means the transfer of rights ownership of land from the land owner to another party because of the existence of a legal act. Examples of legal acts, namely the sale and purchase, exchange, donation, inclusion (income) in the capital of the company, and auctions¹⁴. Transitional registration of land rights resulting transfer of rights, then this must be proven by deed made by officer appointed or authorized namely PPAT. Application for registration of land is includes a request to register a new right, the right time or measurement for certain purposes may be filed by the applicant himself or through PPAT¹⁵.

PP No. 47 Of 2015 regarding Amendment to Government Regulation No. 43 Of 2014 concerning the Implementation Regulations of Act No. 6 of 2014 on village contains new rules on fixed incomes village head and the village, especially on the status of a crooked land. Fill PP No. 47/2015 which is a revision of Regulation 43/2014, to amend Article 100 of the Shopping Village, by the addition of new rules on the status of a crooked land. The new rules, that (1) the income derived from the management of a crooked land not included in Shopping Village are set in Village's APB, (2) The results of the management of

¹² <https://www.kemendagri.go.id/>, accessed on 31 December 2018

¹³ https://id.wikipedia.org/wiki/Sedadi,_Penawangan,_Grobogan, accessed on 28 December 2018

¹⁴ Urip Santoso, 2005, *Hukum Agraria dan Hak-hak Atas Tanah*, Kencana Prenada Media Group, Jakarta, p. 91

¹⁵ Interview with mr. Agus Suparlan, Village official of Sidodadi, Grobogan, 28 December 2018

a crooked land can be used for additional allowances village head and village officials in addition to regular income and benefits head of APB village. Results crooked land management previously only for additional allowances village officials, but in the regulations.

The new one crooked land allocated for community empowerment, which is directed to improve the welfare of rural communities. The need of funds for rural development and empowerment of rural communities are very large, are not fulfilled only from the village fund aid central and local levels, so the results of this crooked land management can also be used for example to help the development of productive enterprises managed by rural communities in order to increase their prosperity.

Grobogan Regency Regulation No. 5 of 2009 on Source of Income and Wealth village in Article 1, paragraph 11 states that "Intellectual property The village is a village that comes from wealth the original village, purchased or obtained at the expense of Budget Village or other lawful acquisition of rights. On the basis of the sound of the article is resumed in Article 18 states that: "Cash Land Village is the property of the village in the form of a crooked land, village land whose results are used for village use excluding salaries village head and the village is also called land *Prancang* or *Titisara*, cemetery, and land of other villages ". The second explanation on the article mentioned above in relation Swap Bolster Land is one of the village authority in order to improve the welfare of the village.

The registration of land in the swap is based on equilibrium theory is concerned with the way someone arranging attitude towards people or objects in relation to one another within their own cognitive structures. This means that land registration is an activity that must be done although the legislation does not is said to be required in the implementation. The importance of this land registry will provide a result for those who do not register it. So according to equilibrium theory, the protection will be given if the owner took the initiative to comply with the legislation in force, and for who not registrate their land will have problems in the future.

The link between land registration with Theory Belief is when a party has faith that the other parties involved in the exchange have the reliability and integrity, it can be said there is no trust. Practice swap as described above proves that the exchange between the ground the village treasury whose land has been registered at the Land Office is willing to exchange assets with the customary land where the land is prone to conflict. Trust in these activities is proof that such exchanges had high reliability and integrity.

In practice ground the village treasury still be owned by concerned, or by his heirs, and some are already changed hands to the other party. Therefore as the village head, who at that time controlled and holds the data of the land so that it can easily change the land status of letter C village as communal land into land passed down through generations without a legal basis is legitimate, so that the land can be easy to be inherited or sold to other parties and there are converted, and thus the process of transfer of rights may be illegal and null and void law because as the official head of the village and village has exceeded an arbitrary limit by transferring the wealth of crooked village lands to other parties¹⁶. Therefore, to restore the lands crooked village has transferred to another party unauthorized, then the necessary cancellation of title deed¹⁷.

The village administration has assets of government support to carry out everyday activities in order to serve the needs of rural communities. The assets of the village can be a moving assets or assets that are not moving, such as land, buildings (office), vehicles, and other – other all procurement conducted through the help of the central government,

¹⁶ Interview with mr. Suharto, Village official of Sidodadi, Grobogan, 28 December 2018

¹⁷ Soekanto, 1996, *Meninjau Hukum Adat Indonesia*, Raja Grafindo Persada, Jakarta, p.34

provincial, district / city, as well as from community self- village itself¹⁸. Assets - village assets either in the form of goods moving and stuff that does not move with important positions in the course of a village administration, village asset is a symbol of the prosperity of the village own¹⁹.

In the practice of customary land swap with *Bondo Deso* Village Sedadi, implementation of land registration request to perform maintenance services PPAT certificate request. The process of land alienation of indigenous property rights with *Bondo Deso* form of swaps is based on common interests to be achieved through the early stages, namely the approval of the Head of Village and BPD (Village Council) it is in accordance with article 24 Grobogan Regency Regulation on Rural Income and Wealth Resources. After getting approval from the BPD, the next stage is applied for approval to the Head of the Regional (Regent / Mayor or Governor). After researching and reviewing Regional Head grounds / land swap consideration of indigenous property rights with *Bondo Deso* and decided to approve, then the next stage is the approval of the Minister of Internal Affairs (as related to exchange) and the last is the stage registration right to use the land in the village treasury Land Office²⁰.

2.2 Challenges and how to Overcome It in the registration Swap Bolster Indigenous Land Property Rights with *Bondo Deso* in the village of Sedadi Penawangan Subdistrict Grobogan Central Java Province.

In practice, the implementation of sporadic land registration tend to be more difficult, the process is long, long turnaround time period, and sometimes complicated even seem cumbersome and costly and over by the landowner.

Various obstacles that occur above can be a barrier and affect the smooth operation of sporadic land registration process. In this case the land office has set counter which must be passed, forms, as well as requirements in the implementation of land registration. Thus the people who direct the process of land registration may request. Land Office information directly, so that the land registration process can be carried out easily. The ease of implementation of land registration can increase public interest in the registration of land. The information obtained by the society as a directly at the Land Office can be knowledge for the community conducting registration of land directly. People who are directly involved in the process of land registration is possible to find solutions to problems that occurred as early as possible, so that difficulties in land registration can be completed more quickly.

Land Swap process bolsters indigenous right with *Bondo Deso* has in accordance with the legislation in force but, at there are barriers to implementation that is, as the research results obtained by interview with the Head of Sedadi Village that customary land acquired with land swaps with *Bondo Deso* obtain a barrier when the implementation process of registration of rights in the Land Office. In overcoming the obstacles that exist, the need for dissemination of the procedures and processes of sporadic land registration to the public. Socialization can be administered in the form of legal knowledge in the field of land, which is done regularly and continuously with the cooperation between the Land Office with other agencies' offices. Of socialization is expected to provide a clear understanding to the public, so that it can motivate people to do the registration²¹.

¹⁸ Saefudin, 2004, *Hukum Tanah Di Indonesia*, Akademika Presindo, Jakarta. p. 67

¹⁹ Sihombing, 2007, *Evolusi Kebijakan Pertanahan Dalam Hukum Tanah Indonesia*, Gunung Agung, Jakarta, p. 35

²⁰ Interview with mr. Irfan Alim, PPAT of Sidodadi, Grobogan, 28 December 2018

²¹ Interview with Head of Sidodadi Village, Grobogan, 28 December 2018

3. Closing

3.1 Conclusion

Based on the research results can be concluded as follows:

- The process of alienation of land property rights of indigenous with *Bondo Deso* form of swaps is based on the public interest to be taken through the initial stages, namely the approval of the Head of Village and BPD (Village Consultation), approval to the Head of the Regional (Regent / Mayor or Governor), the approval of the Minister of Internal Affairs (as related to exchange) and the last is the stage registrate right to use the land in the village treasury land office.
- These obstacles are as follows: that when enrollment in the District Land Office Grobogan occurred fact that different between the physical documents and juridical, the data of the history of the land is not complete, chronology deed broken or lost and their land disputes and the absence of a line in the measurement of land by officer. By therefore solve the problems of the village government handed it over to PPAT Sedadi to take care of the land registration.

3.2 Suggestion

- Procedure alienation (swap) the land of the village with *Bondo Deso* cash has been conducted in accordance with the applicable procedures, therefore, need for supervision after the swap process, especially the implementation of the Village Regulations related to land certification substitute for Cash Land Village.
- The approval of the competent authority must be obtained, and the competent authority should also have to really examine the reasons alienation (swap) the village treasury land is used for the public interest or not.

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