

## Review on The Application for Rights Juridical Backing to Book C Village Based on PP No 24 of 1997 on Land Registration in Sumowono Sub-District, Semarang District

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**Abstract.** Land registration function is to provide evidence of land ownership (certificate) in order to provide legal certainty and legal protection to rights holders on the ground. PP 24/1997 on land registration, implying that the Certificate of Land Rights to provide legal protection to the rights holder named on the certificate as evidence that stronger as the physical data, juridical met. In corvetion indigenous lands and quotation Village Books C that is Letter C which may be cited as proof of entitlement. Letter C contains data on the origin of the soil and record the transition that occurs before 24 September 1960. In the PP 24/1997 states that the book excerpts C Letter C Village and Village serves as evidence of payment of tax and have the force of law as the foundation of evidence for the right to land. Village C book loss events resulted in the loss of certainty about the object, the subject, and the certainty of the status of their land rights and it can cause problems to the strength of evidence for the right to land. Then how the impact of the loss of the book C Village of the rights on public land that is lost letter C? ensuring legal certainty for holders of indigenous land rights and land registration application process for them. The research method of juridical empirical approach to socio-legal research, by location in District Sumowono and Semarang District Land Office.

**Keywords:** Land Registration; Guarantee Legal Certainty; The Strength Of Evidence.

### 1. Introdoction

Land ownership is a fundamental right of every citizen of Indonesia as stipulated in the Act of the Republic of Indonesia of 1945, which is mentioned in Article 28 H that every person is entitled to have private property rights should not be taken over ill - treatment by anyone. Countries in this regard Citizens guarantees the right to own and control private property rights, including land.

Article 19 paragraph (2) c of Act No. 5 of 1960 on Basic Regulation of Agrarian (BAL) describes that the land registration ends with the provision of a letter of proof applicable right as evidentiary tool. Provisions concerning the registration of land further stipulated in Government Regulation No. 24 of 1997 on Land Registration Article 4 paragraph (1) in conjunction with Article 3 letter a PP Land Registry determines that to provide certainty and legal protection to the rights holder concerned. And to the person concerned is given the certificate of land rights.

Prior to the issuance of certificates, there is some evidence on the ground called Letter C, *girik*, *petuk* D or *Kekitir*. Although the letter C is not a sign of ownership / proof of authenticity but Books C Village is early evidence to obtain legal certainty in the field of legal land ownership. Written evidence for registration of rights - old rights referred to in Article 24 paragraph (1) Regulation No. 24 of 1997 which mentions the Letter C The

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village is in letter (f): "*petuk* Tax / Landrente, *girik*, pipil, *Kekitir* and verponding Indonesia before the entry into force of Regulation No. 10 of 1961."

In the rural communities of practice, the existence Letter C village is precious and powerful enough to be the basis of the petition right to land or certificates, because basically the law of our land rooted in customary land laws are not written. This is in accordance with Article 5 of Law - the Basic Agrarian Law of 1960.

As an illustration, in the case of a citizen who will apply for the right to land in this case a certificate, while the preliminary evidence dipunyainya pedestal just *girik*, then that should be done by the village chief or headman is based on the physical state of the soil, control, proof of tax payment. A village chief or headman can perform the matching *girik* in Book C in office. While the filing of tenure, which first requires the History Land (quoted from the Book C) as well as the Certificate of No In Dispute known by the village chief or headman. So when the requirements have been met then the public can apply to land ownership for recognition of land rights in the Land Office called certificate. Letter C is an excerpt of the book C obtained from the office of the village where the land is located, Letter C is proof that the land under its control has a record that is in the Office of the Village / Sub. Problems often occur at the C book is a description of the land that are in the book C it is far from complete and most of the way the recording was not done thoroughly and carefully so that the data are in the book C is not accurate or complete. Book Excerpt C like Letter C, *girik*, *Kekitir*, *petuk* D, it is held and controlled by the owner of the land. The competent authority shall record book C is the Village / Village, which was active in the sense is not the owner of the land who come to the village office / village to record the statement on land they own, but automatically by the village / village which recorded peristiwa law occurs in the soil such as grants, buying and selling, inheritance, profit sharing and so on.

Provisions position the Letter C as evidence of registration of land under Article 3 of Regulation of the Minister of Agriculture and Agrarian No.2 / 1962 on Tax Letter Produce / Verponding Indonesia or letter granting the right and competent authorities, in this rule set that properties owned Letter C is just as preliminary evidence to obtain evidence of juridical rights over land that certificate.

Land certificate to prove that the right holder has a right to a particular field. On land certificate contains data on physical and juridical corresponding data on the measurement certificate and land book rights are concerned. Physical data includes information on the location, boundaries and land area. Juridical data include information on the legal status of land, rights holders and other parties' rights and burden - another burden borne. Physical data and juridical data described in the title deed in the form of a list, while the physical data in the measurement certificate is presented in maps and descriptions. For land certificate that has not been equipped with a so-called certificate While the measurement certificate. picture function on the situation while the certificate is limited to the appointment of rights objects that are listed, is not evidence of physical data.

Here the important point genuine Books C are in the maintenance requirements of the certificate if held as early evidence of land ownership was just a *girik*, *ketitir* or *Petok*.

In cases that occurred in the village of the District Duren Sumowono Semarang District, land registration which was due to be one of the National Program for Agricultural fields can not be done due to the original book C Desa Duren District of Semarang District Sumowono lost. The loss of the Village Books C begins at the time of the disputed land, the village chief of the village lent Books C to the former village chief who long to look for the origin and history of the disputed land. But before the book C village returned to the village chief who served, Former village chief had previously died. Thus, some time after the death of former Chief of the Village, Village Books C can not be found existence.

The loss of the Village Books C eventually led to + 812 existing plots with an area of 287.98 ha not have a definite legal certainty, given that the right to own land is a right guaranteed by the Constitution - Constitution of the Republic of Indonesia Of 1945 and also a realization of the principle of social justice for all Indonesian people as enshrined in the preamble of the Constitution NRI 1945.

With the background of these problems can be formulated several problems: 1). 1.How the legal force of evidence C Books in obtaining the right to land? 2). How to guarantee legal certainty for citizens Rural District of Sumowono original Duren Books C The village is missing according to Government Regulation No. 24 of 1997? 3). Constraints - What are the obstacles and how the solution to obtain land rights after the loss of the Village Books C, according to Government Regulation No. 24 of 1997.

Upon consideration of the author is interested in conducting research on the Juridical Review of the Evidence Request Book Rights with pedestal C lost village en masse based on Government Regulation No. 24 of 1997 in the village of the District Duren Sumowono Semarang District.

The purpose of this study is to determine: 1). To determine the strength of the original law of evidence C Village Books in obtaining land rights. 2). To determine the legal guarantee for the people of the village of the District Duren original Sumowono Books C The village is missing according to Government Regulation No. 24 of 1997. 3). To find obstacles - what are the obstacles and how the solution in obtaining the right to land after the loss of the Village Books C, according to Government Regulation No. 24 of 1997.

This research is expected to provide benefits theoretically where the results of this study are expected to provide information and a complete description of the legal powers Books C as well as the application procedure right to land if the original book C Village lost / destroyed and practically where this research is expected to contribute ideas to the Government especially the National land Agency in order to determine the steps and policies more effectively and efficiently linked to the implementation of land registration in terms of proof of ownership in the form of excerpts Books C and also to the villagers of Duren where this research could be a description of the legal status Letter C and procedures for the submission of evidence right barefoot Letter C caused Books C village has been lost.

## **Research Methods**

The method I use in conducting this study is juridical empirical approach to socio legal research, which is an research methods approach a problem through a merger between normative analysis with non-legal science approach in view of the law. socio legal research remains to prioritize discussion of the norms of law, then peel them with comprehensive study of the science of non-legal / law outside factors, such as history, economics, social, political, cultural and others.<sup>4</sup> Juridical research done by researching materials - library materials is a secondary data and also referred to the research literature. Empirical research done by researching in the field which is the primary data.<sup>5</sup>

The method used in this research is data used in this study are primary data, secondary data and data that can support tertiary study, which was then analyzed by descriptive analytical method.

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<sup>4</sup> Adriawan W. Bedner dkk, *Kajian Sosio-Legal*, Pustaka Larasan bekerja sama dengan University of Groningen, Universiteit Leiden dan Universitas Indonesia, Jakarta, 2012, p 5

<sup>5</sup> Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum dan Yurimetri*, Ghalia Indonesia, Jakarta, 1990 p. 9

## 2. Results and Discussion

### 2.1 Excerpts strength Evidence Law Letter C Village In Acquiring Rights to Land in the village of Duren

Village Community Duren, at most a minimal letter even many who do not have a letter at all. They assumed that belongs communally held land for generations with proof of ownership form and extracts C *girik* village called Letter C, Most people still think that *girik* and the Letter C is sufficient evidence of ownership. They occupy and cultivate the land already decades - twenty years so masyarakatpun know that the land belongs to person A or person B without the need to know the letter - a letter of ownership of the land. Often there is also a shift of rights such as trade, grant, inheritance or deed - a deed that has not been enrolled is a shift of the rights that the basic acquisition of *girik* and still mutation *girik* based by deed - a deed, without registered at the Land Office, it proves that the role of the village along with his citation book C Letter C in the form of a very dominant as evidence of land ownership.

The recognition of property rights to land title deed is accompanied by the publication of a very important, because of the reasons:

- Land rights certificates to provide legal certainty over land for the parties named in sertipikan. Due to the issuance of the certificate can prevent land disputes. And a certificate of ownership will give a feeling of calm and serene because it is protected from arbitrary actions - treatment of various parties;
- With a certificate of ownership of land, the land owner can perform any legal act is not contrary to Act - legislation, public order and decency. Beyond that, the certificate has economic value as collateral for accounts payable, rent or as stock;
- Issuance of the certificate is intended also to prevent the ownership of land with an area of excessive prescribed by Laws - laws.

The recognition of property rights to land in the form of the certificate is a proof of the right to land the money based on the Article 19 paragraph (2) BAL and Article 31 of Regulation 24 of 1997, in connection with implementation of land registration. Land certificate to prove that the right holder has a right to certain parcels of land. Land certificate is a copy of the book in which there is a picture of soil and measuring situation and land book rights are concerned. Physical data includes information on the location, boundaries, and land area. Juridical data includes information on the legal status of land, rights holders and other parties' rights and burden - another burden placed on them. Physical data and juridical data in the land book diuraikan in list form, whereas in the physical data measurement certificate called a temporary certificate. The function of the image while the situation on the certificate is limited to the appointment of rights objects that are listed, is not evidence of physical data. While the book C as an important point in the maintenance requirements of the certificate if held as early evidence of land ownership was only in the form of letter C, *girik*, *ketitir* and *petuk*.

Applicability PP 24 of 1997 on Land Registration, Article 24 of the Evidence, it can be stated that the village along with his citation book C Letter C The village has no place as a means of proof of payment of taxes and have the power of law as the foundation of evidence on land rights request.

Article 33 of the Constitution 45, which provides that the whole of Natural Resources (SDA), which concerns the lives of many people controlled by the State. Departing from this rule, then in principle all the land there from Sabang to Merauke is under the power of the State (Government), so if there are people who beg to be appealed to the state

ownership. Each request for land ownership should appeal the matter to the State cq. National Land Agency (BPN). The village and its C book excerpt Letter C is material evidence that will be used as the basis for the petition. Then the conclusion is, the position of the Village Books C or *girik* today is as a material evidence to apply for the issuance of certificates to the State.

## **2.2 Legal Certainty assurance For Rural Community Residents Duren Sumowono The First District of the Village Books C Missing According to Regulation No. 24 of 1997**

From the results of research in the field of the book C Village in the village of Nil alias Duren is not found physical condition and whereabouts are unknown. While generally Books C village should be kept by the secretary of the village but did not. It certainly will make the process of registration of land in the village of Duren obstacles are more complicated and complex than the land registration process with the base are adequate and sufficient evidence.

Results of research conducted at the National Land Agency Semarang District, stated that in case of loss of the Village Books C Village in the District Duren Sumowono not necessarily abort the public's right to apply for rights to land. The legal guarantee has been mentioned in the Act - legislation that is:

- Article 33 of the Constitution of 1945, which requires states to regulate land ownership and lead the user, until all the land in all regions of the nation's sovereignty utilized for - prosperity of the people, either individually or in mutual cooperation ;;
- Article 18 B (2) UUDRI 1945 amendment - 4 which states "The State recognizes and respects the unity - the unity of indigenous and tribal peoples and their rights - all the traditional rights are still alive and in accordance with the principles of the Unitary Republic of Indonesia";
- Article 28 D (1) UUDRI 1945, "Everyone has the right to recognition, security, protection and legal certainty and equal treatment before the law."
- Article 28 G (1) UUDRI 1945, "Everyone has the right to protection of self, family, dignity, and property under its remit, and has the right to feel secure and protected from the threat and protection from threats to do or not do something the basic rights."
- Article 28 I (3), "Identification of cultural and traditional rights be respected in line with the times and civilization."
- Article 2 (1) Act No. 5 of 1960 on Basic Regulation of Agrarian (BAL), which stated: "On the basis of the provisions of Article 33 paragraph (3) of the Constitution of 1945 and the matters referred to in article 1, earth, water and space, including the natural resources contained in it at the highest levels controlled by the State, as an organization power of the whole people ";
- Article 24 of Government Regulation No. 24 of 1997 states that in order to perform the conversion of customary land rights into property rights needed to include an evidence that one of them is Quotes Village Books C (letter C);
- In Article 19 of the BAL which stated that the purpose of land registration is in order to ensure legal certainty in the field of land (rechcadaster or legal cadaster).

It can be concluded that through Article - the Article, the State has to ensure legal certainty for the people of the village of the district Duren Sumowono in his right registration process despite Letter C Books village has been lost. The legal guarantee ensures widespread and common for citizens who do the submission process of land registration can be done properly so that the right - their rights as people and citizens are met.

### 2.3 Obstacles And Solutions Acquisition of Land Rights Post-Loss Books C Village Based on Government Regulation No. 24 of 1997

Barriers - barriers to Acquire Rights to Land After Loss Books C Village:

In the land registry the first time to obtain legal certainty of land rights necessary evidence in the form's title. Where to board this right can be evidence in the form of *girik* / Letter C which has been completely - completely in accordance with the rights holder and when a shift of certain rights, there are known and recorded in the book C Village. C book is an absolute requirement in the request for land rights to obtain the certificate. To obtain a certificate, a landowner must submit application for registration in the Land Office to complete the document - the document as a prerequisite to obtaining a map of the (temporary) and the measurement certificate issued by the Land Office by completing the requirements - requirements as follows:

- Photocopy of Identity Card (KTP) Applicant;
- Evidence of land ownership in the form of excerpts Village Books C / Letter C Village / *girik* on behalf of the applicant;
- Proof of transfer of rights when the land was acquired through the process of transfer of rights such as grants, inheritance or purchase;
- Not In Dispute Certificate and Certificate of Land history issued by the Head of Village / Sub;
- Proof of payment of SPPT - The United Nations last year;
- Proof of tax payment BPHTB and SSP / PPH;

So it can be seen that in the case in the village of Duren, existing obstacles rights application filed by village residents Duren is the loss of the initial evidence in the form of booklets C Village. If explored further, the absence of the Village Books C will be so damaging to the village of Duren, because they have customary land would become state land with building rights status instead of property rights due to lack of evidence due to the loss of the Village Books C. With the loss of the book C village and make the trail of history written on the transition of existing rights is increasingly blurred. Of the 823 parcels of land in the village of Duren, 99% is communally held land that has not been converted in a sense still in the form of evidence in the form *girik* held communally issued in 1950 and have not done the changes - changes in line with the transfer of rights, so much lead to the emergence problems with many overlapping shift override.

Book C of loss of the village, the village of Duren get barriers to access services in the field of Land as it should be. As stated in Article 3 PMPA 2 Of 1962 concerning the rights - rights that are not described in what land titles, then by concerned are encouraged to complete:

- Proof of their rights, which is evidence of the agricultural tax letter / *verponding* Indonesia or documentary evidence by the competent authority granting rights (if any letter also included a measure);
- The certificate of the village chief who corroborated by the assistant district officer (district head) are: Justifying letter or proof of that right; Explain whether the land is residential land or agricultural land; Explain who have the right, if there is an instance with a letter - a letter of buying and selling land;
- Proof of legal citizenship of a right.<sup>6</sup>

The next obstacle is the lack of technical personnel in the village who are competent in dealing with land matters, as well as existing infrastructure in the village of Duren still very

<sup>6</sup> <http://repository.usu.ac.id/bitstream/123456789/1503/1/fh-erna4.pdf>, Accessed on 14.11.2018

simple and impressed they are. Given the loss of C Village Books is the responsibility of the Village Administration village it is proper to give more attention given the land problem is a problem which is very risky and vulnerable.

Obstacles are no less important to understand that the economic situation of citizens Desa Duren mostly less income makes people less enthusiastic about everything that involves the material therein. Moreover, in their minds, the process of land registration application is a complicated process, difficult and takes a lot of effort, thought and fees.

### **Solutions To Do**

In terms of the procedure registration of land rights in the village of Duren, where Books C village lost then there is additional - additional supporting data as strengthening existing evidence as a condition of registration of land rights.

The first step that must be taken in order for the right solution in the filing with the letter C Village's title missing mass in the village on Duren is to complete the file - with additional application file the following documents:

- Loss of a police paper work related to the loss of one original piece Books C village complete untuh 1 Village;
- Manufacture Minutes lose 1 piece of intact native village complete C book signed by an authorized officer;
- Each plot would petition for certificate bottom of the Letter D (Ipeda) held by each - each landowner plus other supporting data such as the UN SPPT Last year, the map rincikan parcels village / block UN,

The next step is to gather witness - witnesses who know and understand if it were directly determine the ownership and transition process that occurs over a plot. Noting such details from the testimony - the testimony of transfer of rights to later held consultations at village level as the search for the origin transitional rights so that history can be found right inbetween. This is allowed as referring to Article 24 of Regulation No. 24 of 1997 which stated that the acquisition must be done in good faith and openly reinforced by a trustworthy person.

Verify the actual UN map block allocation goal is to guide the determination of the tax object land with witness testimony can be trusted to then sorted based on the most recent state of the object to determine the soil.

## **3. Closing**

### **3.1. Conclusion**

Based on the results of research and discussion, the conclusions of Authors in this thesis are:

- Book Excerpt legal position Letter C according to the provisions of Article 24 paragraph (1) jo. Elucidation of Article 24 paragraph (1) letter k PP 24 of 1997 jo. Article 60 paragraph (1) and (2) f of Candy Agrarian / Head of BPN Regulation No. 3, 1997, that in order to proof the right time, then the legal position of Quotations Book Letter C used as evidence of ownership on behalf of holders of rights to land in time before the entry into force of the BAL and proof of transfer of right in a row to the hands of rights holders at the time of the bookkeeping right, this is due to acquire rights to land one must have evidence that states that the indigenous lands controlled or owned. Article 1866 BW and 164 HIR, stating that the book C as evidence Village is beginning to acquire land rights seuatu in registering the land where the soil - the soil sebgaai land - land which is subject to customary law. In a book excerpt society C village in the form of Letter C, still understood as proof of ownership. They felt that the Letter C The

village has quite a proof of land ownership rights they have.

- Existing obstacles to filing the right to land in the village is plagued with Books C Duren lost village. It is very risky considering the origin of the land can not be demonstrated with certainty and the number of intermediate tenure, which has been recorded in the past have been lost. As a result of communally held land that is not included with the book C village, to petition for the right to land will return to the ground state so that the public will be harmed and the land status would be Broking not Hak.
- Opportunities for dispute is juridical and physical data is wide open and in need of wisdom and solutions to the appropriate party to handle it.

### 3.2. Suggestion

- Socialization continuously to Duren village residents about the importance of proof of ownership of the land and to immediately carry out the registration process with the land rights through the mechanisms and procedures specified by the Act. That effort is also one way to teach people about the importance of legal certainty of property rights on land;
- The government in this case the Minister of Agrarian should intervene in solving the existing problems by providing opportunities for citizens Desa Duren to follow the registration systemically through the program PTSL so that people get the benefits of land services in the form of relief assistance in administrative and fee waivers were originally become the burden of he replied;
- Duren village government immediately implement land dispute resolution program that is by involving all citizens, if necessary, the committee formed by members of the various elements consisting of leaders and village and financed from funds that are allowed by Law. Such programs include the search for origin - the historical roots to the ground, keep records help to reorganize the existence of the data base, mapping while and things - other things that are in the form of assistance for the implementation of the application for registration of the land of the future has created a situation in which the soil the certainty has been obtained and minimal picture of the dispute. The program certainly can not walk alone but must involve coordination and supervision of the Government in this regard should always get the guidance, supervision and monitoring of the Head Office of the National Land Semarang District.

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