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### The Implementation of a Complete Systematic Land Registration Program to Realize Legal Protection and Public Welfare

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Abstract. Land registration is one of the government's efforts to overcome land problems in Indonesia. One of the government's programs in an effort to maximize land registration in Indonesia is through a complete systematic land registration (PTSL) program/policy to ensure legal certainty and protection in order to create prosperity in the land sector for the community. Therefore this study aims to examine the problems that often occur in the implementation of PTSL in South Tangerang City and provide input regarding the concept of law enforcement for the implementation of PTSL so that it can run optimally. This research is an empirical juridical research with a form of diagnostic and descriptive research using two data collection tools, namely the study of documents or library materials, and interviews with South Tangerang City ATR/BPN officials and the community. The results of the study show that there are many problems in the implementation of PTSL in South Tangerang City caused by the not yet optimal Legal Structure and Legal Culture besides that there are also many technical obstacles. Second, the enforcement efforts that can be carried out are improvements in legal structure and legal culture, including increasing the number of PTSL officers and providing massive education to the public about the importance of land registration and the legal consequences received when committing fraud in land registration.

Keywords: Land; Protection; Registration.

#### 1. INTRODUCTION

The land issues in Indonesia are complex and have been going on for a long time. Land is a matter that concerns the interests of the livelihood of many people so that it obliges the state to intervene in its management. This is as emphasized in the 1945 Constitution of the Republic of Indonesia Article 33 paragraph (3) that: "Earth, water and the natural resources contained therein are controlled by the State and used as much as possible for the prosperity of the people." The definition of "controlled by the state" in this article, in which the state is not the owner of the land, but as an organization of power from the people as the governing body. Implementation of the mandate of Article 33 paragraph (3) of the 1945 Constitution, is further elaborated in Article 2 of Act No. 5 of 1960 concerning Basic Agrarian Regulations.

This complex land problem requires a quick and precise solution. The registration of land parcels is one of the government's efforts to solve this problem. This land registration is carried out so that owners of land rights can obtain legal certainty guarantees for the land they own. As regulated in Article 19 paragraph (1) of Act No. 5 of 1960 concerning Basic Agrarian Regulations, hereinafter referred to as UUPA, the implementation of which is regulated in Government Regulation Number 24 of 1997, states that in order to guarantee legal certainty by the Government, land registration is held throughout the territory Republic of Indonesia. Registration includes measurement.

The mandate of Article 19 paragraph (1) of Act No. 5 of 1960 is an effort so that all Indonesian citizens get legal certainty guarantees for the land they already own, and aims for rights holders to obtain valid evidence in the form of a certificate as a strong evidentiary tool as well as the holder of the rights to the land they own. Therefore the government implemented a land registration program as an implementation of Article 19 of Act No. 5 of 1960 which was then regulated in Government Regulation Number 10 of 1961 concerning Land Registration, which was later amended by Government Regulation Number 24 of 1997 concerning Land Registration.<sup>1</sup>

One of the government programs in an effort to maximize land registration in Indonesia is through the complete systematic land registration (PTSL) program/policy as stated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration, hereinafter referred to as Permen ATR/KBPN No 6/2018, the meaning of complete systematic land registration (PTSL) is listed in Article 1 paragraph (2) of Permen ATR/KBPN No 6/2018 namely:

"Complete Systematic Land Registration, hereinafter referred to as PTSL, is the activity of Land Registration for the first time carried out simultaneously for all Land Registration objects throughout the territory of the Republic of Indonesia in one village/kelurahan area or other name equivalent to that, which includes the collection of physical data and juridical data regarding one or several land registration objects for registration purposes"

The purpose of the complete systematic land registration (PTSL) as stated in article 2 paragraph (2) of the ATR/KBPN Regulation Number 6 of 2018 is to realize the provision of legal certainty and legal protection of community land rights based on the principles of simple, fast, smooth, safe, fair and equitable and open and accountable so as to increase the welfare and prosperity of society and the country's economy as well as reduce and prevent land disputes and conflicts.<sup>2</sup> Optimizing land registration with PTSL is considered to be able to provide greater results in a relatively short time, because the target every year is very high, and the collection of land registration data is carried out simultaneously regarding land parcels in a village/kelurahan, besides that it is not only shown to people of weak economic groups, but all levels of society.

<sup>2</sup>Consideration of Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 6 of 2018.

<sup>&</sup>lt;sup>1</sup>Arie S. Hutagulung, 2005, *Tebaran Pemikiran Seputar Masalah Hukum Tanah,* Jakarta: Lembaga Pemberdayaan Hukum Indonesia, p.81

Regulation of the Minister of ATR/BPN No. 6 of 2018 concerning PTSL is the manifestation and function of the government executive. This Ministerial Regulation is here to realize the objectives of PTSL which are mandated in the Law, namely legal certainty and being able to improve the welfare and prosperity of the community. But in practice there are still problems in the implementation of PTSL.

South Tangerang City is one of the regional parts of Banten Province which also implements the PTSL program. In 2017-2020 the Land Agency for the City of Tangsel and the Camat differed by 3,000 data. In addition, there are also 5000 certificate jams. This program has not been completed due to a number of reasons, including incomplete documents, unpaid taxes, lack of coordination, or the land owner has moved, then there is also the land object being disputed and several other causes. The target for PTSL in Tangsel City from 2017 to 2020 is 140 thousand. However, from the reports of sub-district heads to DPRD Commission I, it was found that 5,001 PTSL files had not yet become certificates. However, this number differs from BPN data, which is only around 3,000 unfinished files. The data obtained by the author has been confirmed by the South Tangerang ATR/BPN. With so many problems, the PTSL Program in South Tangerang City has not been able to improve the welfare and prosperity of the community. So that input is needed for BPN and also local governments so that the objectives can be achieved in implementing the PTSL Program.

Based on the description above, to find out the obstacles and efforts that can be formulated with the first formulation of the problem, what problems are commonly found in the implementation of Complete Systematic Land Registration in the City of South Tangerang and secondly What efforts should be made so that the Complete Systematic Land Registration Program (PTSL) can run well to achieve the goal of legal protection and welfare in the land sector for people in the city of South Tangerang.

#### 2. RESEARCH METHODS

This research is included in the type of empirical juridical research with a form of diagnostic and descriptive research. The data used is primary data obtained through interviews with South Tangerang City ATR/BPN officials as well as the community and secondary data obtained through literature study. Therefore, in this study two main issues will be examined, namely: 1). What problems are often found in the implementation of Complete Systematic Land Registration in the City of South Tangerang? and 2). What efforts should be made so that the Complete Systematic Land Registration Program (PTSL) can run well in order to achieve the goal of legal protection and welfare in the land sector for people in the city of South Tangerang?

in South Tangerang City, September 16, 2022

<sup>&</sup>lt;sup>3</sup>Jaisy Rahman Tohir, Sejak 2017 5.001 PTSL Warga Tangsel Macet, BPN dan Camat Berselisih ribuan data, <a href="https://jakarta.tribunnews.com/2021/08/31/sejak-2017-5001-ptsl-warga-tangsel-macet-bpn-dan-camat-berselisih-ribuan-data">https://jakarta.tribunnews.com/2021/08/31/sejak-2017-5001-ptsl-warga-tangsel-macet-bpn-dan-camat-berselisih-ribuan-data</a>. accessed on 2 August 2022.

<sup>&</sup>lt;sup>4</sup>Syarief Oebaidillah, Ribuan PTSL Warga Tangsel belum rampung, DPRD gelar Rakor dengan BPN Setempat. <a href="https://mediaindonesia.com/megapolitan/429434/ribuan-ptsl-milik-warga-tangsel-belum-rampung-dprd-gelar-rakor-dengan-bpn-setempat">https://mediaindonesia.com/megapolitan/429434/ribuan-ptsl-milik-warga-tangsel-belum-rampung-dprd-gelar-rakor-dengan-bpn-setempat</a>. accessed on 2 August 2022 
<sup>5</sup>Interview with Amrinif, as Head of Sub-Division for Control and Handling of ATR/BPN Disputes

### 3. RESULT AND DISCUSSION

## 3.1. Problems in the Implementation of Complete Systematic Land Registration in the City of South Tangerang

### a. Implementation of Complete Systematic Land Registration in Indonesia

Complete Systematic Land Registration is a national program organized by the Central Government and run by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency simultaneously throughout Indonesia. With the Complete Systematic Registration that is being carried out at this time, it is hoped that it will be able to help overcome the many land problems that exist in Indonesia. Land registration throughout the territory of the Republic of Indonesia is mandated in Article 19 of the UUPA, in practice it is regulated by Government Regulation Number 24 of 1997, and the purpose of land registration itself is to ensure legal certainty by the government which is implemented according to the provisions regulated by government regulations namely measurement,<sup>6</sup>

The implementation of Article 19 of the UUPA, namely in Article 12 PP Number 24 of 1997 which states that the first land registration activities include the collection and processing of physical data, Proof of rights and proof of physical data, Ordering of certificates, Presentation of physical data and juridical data, Storage of public registers and documents.

First-time land registration is a land registration activity for land parcels that have not previously been registered according to the provisions of applicable regulations. According to Budi Harsono, the first land registration is carried out in 2 (two) ways, namely:

- 1. Systematically, namely the first time land registration is carried out simultaneously which includes all land registration objects that have not been registered in a village or sub-district area. This was initiated by the government based on a long and annual work plan and implemented in areas determined by the State Minister for Agrarian Affairs/Head of the National Land Agency. In a village/kelurahan that has not been designated as an area, land registration is carried out in a sopradic manner.
- 2. Sporadic means land registration for the first time concerning one or several objects in an area or part of an area in a village or sub-district individually or in bulk. Sporadic land registration is carried out at the request of interested parties, namely parties entitled to the object of land registration in question or their proxies<sup>7</sup>In addition to providing information, the purpose of land registration is to provide legal certainty and legal protection for holders of land rights, as well as to facilitate government officials in providing media information to people who need services in the land sector, both regarding physical data and juridical data. The National Land Agency (BPN) introduced the Complete Systematic Land Registration (PTSL) program which is a series of

<sup>&</sup>lt;sup>6</sup>Anggara Reza Mulyawani, 2022. Kajian Yuridis Pelaksanaan Pendaftaran Tanah Sistematis Lengkap di Kabupaten Kulon Progo, Jurnal Notarius, Vol 5 Number 1: 2022, p. 3

<sup>&</sup>lt;sup>7</sup>Boedi Harsono.2003. Hukum Agraria Indonesia: Sejarah Pembentukan Undang-undang Pokok Agraria, Isi dan pelaksanaanya, Edisi Revisi, Cetakan Ke-9, Jakarta: Djambatan, p. 5.

activities carried out by the Government continuously, continuously and regularly, including collection, processing, bookkeeping, and presentation and maintenance of physical data and juridical data, in the form of maps and lists, regarding land parcels and apartment units, including the provision of proof of title for land parcels for which there are rights.<sup>8</sup>

### b. Complete Systematic Land Registration in the City of South Tangerang along with the obstacles that occur in its implementation.

South Tangerang is one of the capital buffer areas which has an area of 16,485.47 Ha. Having 7 sub-districts and 54 Sub-Districts/Villages makes South Tangerang City one of the capital's buffer zones that has a lot of potential. These include space potential, economic facilities, city development and tourism. With the potential that belongs to the City of South Tangerang, of course all of this is related to land. Land in South Tangerang still has many problems, including basic data and information that is not yet detailed and accurate, there is an imbalance in land tenure, an increase in population results in an increase in the need for land on the other hand, the availability of land is increasingly limited, this causes land conversion, including agricultural land and increasing land problems. To overcome this problem, land registration through PTSL is one of the efforts. But in its implementation PTSL in South Tangerang City also has many problems. This is shown from the land data that has been registered. There are approximately 443,079 registered plots of land in South Tangerang City, of which 127,055 have been registered through the PTSL program.<sup>10</sup>

Legalization of land assets through the Land Registration Program in accordance with Government Regulation Number 6 of 2018, the South Tangerang City government is targeting as many as 156,400 plots of land for all areas in South Tangerang City. Until 2020 and has registered a total of 16,205 hectares. <sup>11</sup> In its implementation, the Complete Systematic Land Registration in South Tangerang experienced several problems, including the large number of lands that did not yet have the legality of mastery of land rights as evidenced by the existence of a certificate. As a result, it can lead to conflicts or disputes due to ownership of land rights due to claims from other parties. In responding to lands that do not yet have strong proof of ownership, the South Tangerang City ATR/BPN cannot manage to carry out a land registration, but these lands are still being measured as a land survey effort, this is done to avoid the risk of ownership disputes, so land becomes unproductive. 12 The next problem, namely the existence of land based on evidence of ownership of girik/customary law, which needs to have formal certainty so that it has legal force. In this case, many residents of South Tangerang City are reluctant to carry out land registration independently (sporadic) due to the relatively large costs incurred and limited information regarding the importance of land registration.<sup>13</sup>

<sup>&</sup>lt;sup>8</sup>Anggara Reza Mulyawani, Op.cit, p. 5

<sup>&</sup>lt;sup>9</sup>South Tangerang City ATR/BPN Strategic Plan for 2020-2024, p. 7.

<sup>&</sup>lt;sup>10</sup>ibid. p. 13

<sup>&</sup>lt;sup>11</sup>Ibid p. 33

<sup>&</sup>lt;sup>12</sup>Interview with South Tangerang City ATR/BPN Officials, September 16, 2022

<sup>&</sup>lt;sup>13</sup>Ibid.

Several examples of land cases in the implementation of PTSL in South Tangerang City were experienced by Bp. X, a resident of Lengkong Gudang Sub-District, with land ownership of 6,424 M2. The land is inherited from great-grandfathers with proof of ownership of receipts and girik issued by the Kelurahan in 1982. When he learned about the PTSL program in 2019, Mr. X intends to register his land. Land owner Mr. X has completed the documents required for PTSL registration, including receipts and girik proof of ownership from the sub-district head, measurement of land boundaries, payments of bphtb and pph as well as identity and also a letter of application. However, when the time came for the issuance of the certificate, the certificate of land ownership could not be issued on the grounds that the land was already owned by another party. Therefore, certificate in the name of Mr. X cannot be issued. 14To solve this problem, Mr. X submitted a complaint to the Tangsel BPN/ATR for mediation. The end result of the mediation is compensation according to the agreement of both parties against Mr. X.15 To anticipate the recurrence of cases like the case of Mr. X, BPN Tangsel since 2020 no longer accepts receipts or girlk as the basis for land rights but is required to have an AJB from the PPAT or make a PPAT deed done by the District.<sup>16</sup>

# 3.2. Efforts must be made so that the Complete Systematic Land Registration Program (PTSL) can run well in order to achieve the goal of legal protection and welfare in the land sector for people in the city of South Tangerang

### a. Lawrence M. Friedman's Theory of Legal Systems

Based on the opinion of Lawrence M. Friedman, there are three main elements of the legal system, namely legal structure, legal substance and the last is legal culture. Lawrence M. Friedman argued that the effectiveness and success or failure of law enforcement depends on 3 elements of the legal system. What is meant by legal structure is law enforcement officials while legal substance includes statutory regulations and the last is legal culture, namely the living law adopted in a society. Legal Structure in Lawrence M. Friedman's theory this is referred to as a Structural system that can determine whether or not the law is implemented properly in society.

Legal substance according to Friedman is: "Another aspect of the legal system is its substance. By this is meant the actual rules, norms, and behavioral patterns of people inside the system...the stress here is on living law, not just rules in lawbooks. Another aspect of the legal system is its substance. What is meant by substance are rules, norms, and real human behavior patterns that are in the system. So the legal substance concerns the applicable laws and regulations which have binding power and become guidelines for law enforcement officials.<sup>18</sup>

<sup>&</sup>lt;sup>14</sup>Interview with Mr. X, a resident of the Lengkong Gudang sub-district. On September 20, 2022 <sup>15</sup>Interview with South Tangerang City ATR/BPN Officials, September 16, 2022

<sup>&</sup>lt;sup>16</sup>Interview with the PTSL ATR/BPN Task Force for South Tangerang City, on September 16, 2022

<sup>&</sup>lt;sup>17</sup>Lawrence M. Friedman, 2011. *Legal System Perspective of Social Sciences*, Bandung, NusaMedia, p. 25

<sup>&</sup>lt;sup>18</sup>Ibid p. 26

In the implementation of PTSL in South Tangerang, the existing legal structure includes ATR/BPN Ministerial Regulation Number 6 of 2018 concerning Complete Systematic Land Registration which is the implementing regulation of Act No. 5 of 1960 concerning Basic Agrarian Regulations and Government Regulation Number 24 1997 concerning Land Registration. Regulations made by the government have provided a guarantee of legal certainty and have guaranteed legal protection for the community. Regulations are formed in such a way as to achieve common goals in solving land problems in Indonesia. PTSL began to be implemented in 2017, before the implementation of the PTSL program, the government from 1981 to 2017 implemented the National Agrarian Program (Prona) which was last regulated by the legal instrument of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 4 of 2015 concerning the National Agrarian Program, However, in 2017 it was replaced with the PTSL program after the issuance of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 35 of 2016 concerning the Acceleration of PTSL. The latest PTSL regulation is the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration. PTSL arrangements are broader than Prona in terms of objects, Prona has exceptions to land types and land area as stipulated in Article 4 of Permen No. 4 of 2015 concerning the National Agrarian Program. Whereas PTSL objects are regulated in Article 4 of Permen Number 6 of 2018 concerning PTSL covering all land registration objects throughout Indonesia without exception. In this case, it appears that the set of laws and regulations aimed at land registration in Indonesia is getting better than the previous program (PRONA). Thus the elements of legal content (Legal Substance) have been properly formed.

However, to achieve a good law enforcement system, it is not only necessary to have a good legal substance, but also to pay attention to the legal structure and legal culture. It can be emphasized that law enforcement factors play an important role in the functioning of the law. If the regulations are good, but the quality of law enforcement is low, there will be problems. Likewise, if the regulations are bad while the quality of law enforcement is good, the possibility of problems arising is still open. Regarding the legal structure Friedman explained that the legal structure in the legal system consists of the number and extent of law enforcement forces, the structure also implies how the legislature is managed and how law enforcement procedures are carried out.<sup>19</sup>In the implementation of PTSL in South Tangerang, the legal structure involved is the South Tangerang ATR/BPN, village and sub-district officials and also the PTSL committee involved. To realize a good law enforcement system, of course, an adequate, strong legal structure is needed and a good understanding of the tasks that must be carried out. However, in implementation in the field, the legal structure owned by the Tangsel ATR/BPN is inadequate in terms of numbers. This is evidenced by the results of interviews conducted by the PTSL Task Force which stated that there were obstacles in the management of human resources handling PTSL, namely the large workload with so much land that had to be mapped and measured was not commensurate with the number of PTSL committee members formed.<sup>20</sup> This caused the Tangsel ATR/BPN to hand over land measurement matters to a third party by means of an auction. So that the land that will be registered by PTSL is measured by a third party. The well-known number of human resources who handle PTSL also makes

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<sup>&</sup>lt;sup>19</sup>Ibid. p.26

<sup>&</sup>lt;sup>20</sup>Interview with South Tangerang City ATR/BPN Officials, September 16, 2022

the quality of certificates issued not as good as those issued by sporadic registration. This is due to the large number of targets that must be achieved each year, the lack of human resources and the limited time for issuing certificates so that the applicant is in a hurry to complete the land rights file to be registered. Thus, the quality produced can be lower, because it is more concerned with the quantity of certificate output compared to quality.

Legal culture according to Lawrence M. Friedman is a human attitude towards law and the legal system of beliefs, values, thoughts, and expectations. Legal culture is the atmosphere of social thought and social forces that determine how law is used, avoided or misused. Legal culture is closely related to the legal awareness of society. The higher the legal awareness of the community, the better legal culture will be created and can change the mindset of the community regarding law so far.<sup>21</sup>In relation to the legal system in Indonesia, Friedman's theory can be used as a benchmark in measuring the complete systematic land registration process in Indonesia, especially in the area of South Tangerang City. However, the upholding of the law is not only determined by the strength of the structure, but also by the legal culture in society. However, until now the three elements as stated by Friedman have not been implemented properly, especially in the legal structure and legal culture. Regarding legal culture, Friedman argues that legal culture concerns legal culture which is a human attitude (including the legal culture of law enforcement officers).<sup>22</sup> No matter how good the arrangement of the legal structure is to carry out the stipulated legal rules and no matter how good the quality of the legal substance is made without the support of a legal culture by the people involved in the system and society, law enforcement will not work effectively. In implementing PTSL, community culture also determines its success. However, in practice, many people take advantage of the concessions provided in PTSL to commit acts that violate the law. There are a number of cases caused by land rights claims that do not belong to them, causing disputes.23

Efforts that can be made to optimize the implementation of PTSL in South Tangerang City where all laws and regulations are good, but when it is related to structural factors which are still constrained by the lack of existing human resources, it is necessary to make changes to the Ministerial Regulation ATR/BPN Number 6 of 2018 in order to increase the number of PTSL committees and task forces. So that the quality of the certificate issued will be good. In terms of legal culture, a massive socialization is needed about the importance of land registration, socialization regarding free PTSL fees and the impact that can be received if you commit fraud in implementing PTSL, in this case committing a violation of the basis of someone's rights which can cause losses, as well as fraud in determine land boundaries.

### 4. CONCLUSION

The Complete Systematic Land Registration Program is a national program held throughout Indonesia. South Tangerang as one of the supporting cities for the capital also implements PTSL. In its implementation there are many problems, including the

<sup>22</sup>Ibid p. 27

<sup>&</sup>lt;sup>21</sup>Ibid. p. 26

<sup>&</sup>lt;sup>23</sup>Interview with South Tangerang City ATR/BPN Officials, September 16, 2022

large number of lands that do not yet have the legality of mastery of land rights as evidenced by the existence of a certificate. As a result, it can lead to conflicts or disputes due to ownership of land rights due to claims from other parties. In responding to lands that do not yet have strong proof of ownership, the South Tangerang City ATR/BPN cannot manage to carry out a land registration, but these lands are still being measured as a land survey effort, this is done to avoid the risk of ownership disputes, so land becomes unproductive. The next problem, namely the existence of land based on evidence of ownership of girik/customary law, which needs to have formal certainty so that it has legal force. In this case, many residents of South Tangerang City are reluctant to carry out land registration independently (sporadic) due to the relatively large costs incurred and limited information regarding the importance of land registration. In addition, there are also problems in measuring land boundaries, many land measurements overlap so that certificates cannot be issued. From these problems, it can be analyzed in accordance with Lawrence M. Friedman's theory which states that law can work well in society by fulfilling the legal structure requirements, the legal substance and legal culture of the three must be carried out properly and in balance. So that the ATR/BPN Ministerial Regulation Number 6 of 2018 concerning Complete Systematic Land Registration can be implemented optimally to achieve the goal of legal protection and welfare in the land sector for the people of South Tangerang City.

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