

A Review of the Complete Systematic Land Registration (PTSL) Program and Its Accompanying Taxes

Maria Emelia Retno Kadarukmi

Fakultas Hukum, Universitas Katolik Parahyangan, Bandung, Indonesia, E-mail: emelia@unpar.ac.id

Abstract. *In theory, the goal of land registration is to provide legal certainty to Indonesians. The government, through the Ministry of ATR, is actively conducting the first round of land registration under the Complete Systematic Land Registration Program (PTSL). Land registration can be carried out systematically or sporadically. However, after the issuance of land rights certificates, the community faced issues and uncertainty during the PTSL implementation. This was due to the lack of socialization regarding the PTSL program and unclear regulations concerning the due dates for BPHTB and income tax obligations. To achieve legal certainty regarding land rights, this research aims to examine the implementation of the PTSL program in relation to the collection of BPHTB and income tax. The research employs a normative juridical methodology. The findings, which include opinions and recommendations, suggest that while the execution of the PTSL program provides some legal clarity about the community's land rights status, it also causes confusion among the community regarding the responsibilities for income tax and BPHTB. This is because the community has already been exposed to propaganda from the Government that the first land registration through the PTSL program is free. Suggestions to the Government to immediately make regulations to regulate BPHTB and Income Tax and provide tax relief by imposing a zero percent rate.*

Keywords: *Land; Registration; System; Tax.*

1. Introduction

Soil is very closely related to daily human life, because soil is a necessity for human life. Humans live and carry out various activities on land. So important is land for human life, that humans always try to have land rights. The economic life of today's society has made land rights a commodity and a factor of production sought after by humans.

For most people, land rights are a basic need that must be fulfilled. Land rights are a necessity of life that must be owned in order to live a more prosperous life. A family can feel unsettled before it has its own land rights and a house for living and doing activities.

Therefore, it is natural that people always try to obtain land rights. There are efforts made by buying from owners who want to sell their land rights, making exchanges, getting grants, getting inheritance or bequests and so on. These legal actions or legal events result in the ownership of land rights transferring from one party to another. (Amelia, 2023)

Besides land, buildings are also important for human life. Buildings in the sense of residential houses have benefits for their owners to shelter from heat and rain, as well as for a place of activity. In addition to houses, of course there are office buildings, factories, hospitals, malls and others that are also important for places of business and providing public services. (Puspasari & Damayanti, 2018)

This makes land and construction rights "valuable" in the end, as they can be transferred from one party to another. Legal provisions undoubtedly play a role in the transfer of land and/or structures. This is to provide those who acquire rights to land and/or structures with legal clarity. (Andriyani et al., 2023)

The deliberate transfer of land and/or building rights can occur when the land and/or building owner knowingly (through a legal action) transfers ownership of the land and/or building rights to another party; this can happen through buying and selling, exchanging, or granting. However, inheritance is another unintended way in which rights to land and/or structures might be transferred. (Andriyani et al., 2023)

As previously mentioned, the acquisition of rights to land and/or buildings, which is closely tied to the law and supported by evidence, refers to the transfer of rights to land and/or buildings that occurs either purposefully or by law. A contract of sale, grant, certificate of inheritance, or decree granting land rights can all serve as proof of the transfer or purchase.

Additionally, obtaining a certificate of land rights requires registering the acquisition of property and/or building rights with the local land office. As a result, the person who purchases the land and/or structures becomes the legal owner and is able to protect their rights against any party. (Permadi, 2023)

According to Article 19 of the UUPA, the government of Indonesia conducts land registration throughout the country's territory to establish legal certainty. This process includes: a) mapping and measuring the land; b) registering and transferring land rights; and c) providing evidence of rights, which serves as a strong form of proof. Government Regulation No. 24/1997 (hereafter PP No. 24/1997) was created as an amendment to Government Regulation No. 10/1961 on Land Registration to implement Article 19 of the UUPA. (Supriyadi et al., 2023)

According to Article 13 of Government Regulation No. 24/1997, land registration for the first time includes both systematic and irregular land registration. Systematic land registration follows a work plan and is carried out in regions selected by the Minister, while sporadic land registration is conducted at the request of interested parties. (Perkasa & Lukman, 2022)

In accordance with the Decree of the Minister of Home Affairs and Agrarian Affairs Number 189 of 1981, the National Agrarian Operation Project (henceforth referred to as PRONA) was established to implement Article 19 of the UUPA. PRONA, which is essentially a form of asset legalization, is a land administration procedure that involves land registration, adjudication, and the issuance of certificates or evidence of property rights to the underprivileged.

Based on Presidential Instruction No. 2/2018 on the Acceleration of Complete Systematic Land Registration (PTSL) in all regions of the Republic of Indonesia and Regulation No. 12/2017 of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency on the Acceleration of Complete Systematic Land Registration (PTSL), the government launched a replacement program for PRONA in 2017. The Minister of

Agrarian Affairs and Spatial Planning Regulation No. 6/2018 on Complete Systematic Land Registration (PTSL) was a revised version of the government's 2018 PTSL regulation. (Sari & Jumiati, 2020)

A land registration operation conducted simultaneously for all land registration objects across the territory of the Republic of Indonesia within a single village, kelurahan, or other areas of the same level is known as Complete Systematic Land Registration, or PTSL for short. This process involves gathering both physical and legal information about one or more land registration objects for registration purposes. This description is based on Article 1, Point 2 of the Minister of Agrarian and Spatial Planning's Regulation Number 6 of 2018. (Yanto & Hikmah, 2023)

One of the important activities that can support the success of this PTSL activity is the need for guidance and socialization to the community regarding the importance of land registration, the results of which in the form of land rights certificates can be stored as state documents.

Additionally, it can be argued that the National Land Agency does not have sole authority over the land registration process, as it is connected to other organizations such as the Ministry of Finance for Income Tax (PPH) and the Local Government for Fees for the Acquisition of Land and/or Building Rights (BPHTB).

The successful implementation of complete systematic land registration (PTSL) has been an achievement in terms of public policy. But on the other hand, some of the certificates produced under the PTSL program still have a note attached to them stating that the recipients of the certificates still owe the acquisition duty land and/or buildings (BPHTB), which has not yet been paid. This is a problem for recipients of land certificates who do not know that they have an obligation to pay BPHTB. This becomes a real problem when the recipient of the land title wants to sell the land title, or the recipient of the land dies and the heirs want to sell the land.

2. Research Methods

The research method used in this research is descriptive analytical, namely research that describes and analyzes secondary data concerning issues related to the imposition of Income Tax (PPH) and Fees for Acquisition of Land and/or Building Rights (BPHTB) in first-time land registration through the PTSL program. Furthermore, in accordance with the secondary data that has been analyzed, this research provides proposals to provide tax relief even if it is possible to impose a zero percent tax rate on first-time land registration through the PTSL program. (Septianti et al., 2023)

This research is conducted using a normative juridical approach, namely secondary data that has been collected will be analyzed based on norms, rules, doctrines and legal principles known in the field of Law.

3. Results and Discussion

The Complete Systematic Land Registration (PTSL) in Relation to Fees on Acquisition of Land and / or Building Rights (BPHTB)

According to Articles 19, 23, 32, and 38 of the UUPA, both the government and land rights holders are required to register land across the Republic of Indonesia. Land registration is necessary for legal clarity and the preservation of land rights ownership. The following requirements must be fulfilled in order to establish legal certainty: a)

government agencies must consistently apply, adhere to, and obey the rule of law; b) the public must adapt their behavior to the rule of law; c) judges must be impartial and independent, applying the rule of law consistently and carefully when resolving legal disputes; d) court decisions must be implemented in tangible ways. (Adrian Sutedi, 2023)

Land registration in Indonesia was initially divided into two categories: systematic land registration and sporadic land registration. The land registration process follows the systematic land registration type in accordance with Article 1, paragraph (2) of Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia No. 6 of 2018 concerning Complete Systematic Land Registration (hereinafter referred to as Permen ATR/Ka. BPN No. 6 of 2018).

The first land registration operation, conducted simultaneously and covering all unregistered land registration objects within the territory or a specific area of a village or kelurahan, is referred to as systematic land registration. On the other hand, occasional land registration is requested by the person entitled to the land registration object in question or their representative. (Harsono, 2003)

Complete Systematic Land Registration (PTSL) is defined as a land registration activity carried out simultaneously for the first time across all land registration objects within the territory of the Republic of Indonesia, in a single village, kelurahan, or equivalent administrative area, as stated in Article 1, Point 2 of Permen ATR/Ka. BPN No. 6 of 2018. For registration purposes, this activity involves collecting both physical and legal data on one or more land registration objects.

The implementation of the Complete Systematic Land Registration (PTSL) program undoubtedly affects the transfer and expansion of land rights. This underscores the intersection between regulations in other sectors and the execution of the PTSL program, which aims to provide the community with legal certainty regarding their land rights. In other words, there is a significant connection between tax obligations and the implementation of the PTSL program.

The obligation to pay fees for the acquisition of land and/or building rights (BPHTB) is stipulated in Article 27, paragraph (2) of Permen ATR/Ka. BPN No. 6/2018 on PTSL. In addition to the BPHTB requirement, there is also an obligation to pay income tax (PPh). In principle, a land title certificate cannot be granted or issued until both tax obligations have been fulfilled.

Article 33 paragraphs (1, 2 and 3) of Permen ATR / Ka.BPN No.6/2018 concerning PTSL contains the following:

- (1) In the event that the recipient of the Land Rights Certificate is not or has not been able to pay BPHTB and/or there are still arrears of income tax payments by other parties on the land concerned, the Land Rights Certificate can still be issued
- (2) In the event that a PTSL participant is not or has not been able to pay BPHTB, the person concerned must make a statement of BPHTB payable
- (3) In the event that the land parcel originates from a sale and purchase in the past and the current buyer does not have proof of income tax payment from the seller in the past, the person concerned must make a certificate of income tax payable

An examination of the three paragraphs in Article 33 above demonstrates that the government facilitates the PTSL program's implementation by making a statement letter of income tax and BPHTB payable for parties who are unable or have not been able to pay these taxes.

However, the provisions of Article 33 paragraphs (1, 2, and 3) still require further explanation regarding the method or methods of collecting BPHTB and Income Tax and determining the deadline for payment or settlement of BPHTB and Income Tax that are still owed. This is because there are no provisions of laws and regulations governing BPHTB and Income Tax payable, which are different taxes (BPHTB is a local tax, while Income Tax is a central tax) associated with land tax (especially in relation to PTSL).

Article 1, Point (10) of Law No. 28 of 2007 defines tax payable as the amount of tax that must be paid in full or in part for a Tax Year, Tax Period, or Tax Term in accordance with the provisions of tax laws. BPHTB and Income Tax (PPH) are governed by distinct legal frameworks. BPHTB is regulated under Law No. 28 of 2009 concerning Regional Taxes and Regional Levies (PDRD), which is further implemented through Regency/City Regional Regulations. In contrast, Income Tax is governed by Law No. 28 of 2007 concerning the Third Amendment to Law No. 6 of 1983 on General Provisions and Tax Procedures, as well as Law No. 36 of 2008 concerning the Fourth Amendment to Law No. 7 of 1983 on Income Tax, along with their respective Implementing Regulations.

Income Tax (PPH) payable is not explicitly regulated in Permen ATR/Ka.BPN No. 6 of 2018 concerning PTSL, nor does it specify when PPh becomes payable. Before an authorized official signs, the deed, auction minutes, or other relevant documents, proof of PPh payment is all that is required. On the other hand, when an authorized official signs the deed, auction minutes, or other relevant documents, the BPHTB regulation under the PDRD Law clearly indicates that the tax is due. However, until proof of BPHTB payment is presented, the authorized official is not permitted to sign the deed, auction minutes, or any other relevant documents.

In practice, however, this provision is often overridden by the use of Article 33 paragraphs (1, 2 and 3) of Ministerial Regulation No. 6/2018, because many prospective recipients of PTSL certificates do not have the money to pay the tax or are unaware of the tax obligation.

The impact of the many waivers mentioned above has been to create legal uncertainty, because once a land certificate has been issued to the holder of a land title resulting from the PTSL program, the recipient of the PTSL certificate, according to the Government's propaganda that land titling under the PTSL program is free, has no obligation whatsoever. In addition, there is uncertainty as to when the deadline for repayment of outstanding income tax and BPHTB should be made by recipients of certificates registered under the PTSL program.

However, if the implementation of PTSL complies with and adheres to BPHTB regulations, the head of the land office in each region of Indonesia can only complete the first land registration or the registration of the transfer of rights after the taxpayer provides proof in the form of a BPHTB Regional Tax Payment Slip (SSPD-BPHTB). This clause is described in Article 91, paragraph (3) of the PDRD Law as follows:

The head of the land office can only perform Land Rights registration or Land Rights transfer registration after the taxpayer submits the tax payment receipt.

Furthermore, according to Article 91, paragraph (3) of the PDRD Law, the head of the land office is legally obligated to ensure that the recipient of the rights submits the SSPD-BPHTB proof of payment before issuing a Decree on Granting Rights (SKPH) and/or a land title certificate. This applies whether the new rights are granted as a continuation of the relinquishment of rights or through other means. This requirement implies that

the SSPD-BPHTB must be included in the BPN's file or documentation before the date the SKPH and/or certificate produced through PTSL is issued.

There are differences practice between first-time land registration under PTSL and sporadic (non-PTSL) registration. In sporadic first-time land registration, the land title certificate will not be signed and/or issued if the applicant does not provide the SSPD-BPHTB. In fact, this provision applies to both sporadic and systematic first-time land registrations. But in fact, as mentioned above, there is a difference in treatment.

This shows that first-time land registration under the PTSL program has overridden the norm in the PDRD Law that requires prospective certificate recipients to pay BPHTB before the issuance of a land title certificate, and that the overriding norm is based on Ministerial Regulation No. 12 of 2017 and Ministerial Regulation No. 6 of 2018. This can certainly be considered violating the theory and/or science of legislation and violating Law No. 12/2011 on the Formation of Legislation. However, the author will not discuss it in this paper.

So how is BPHTB payable on the issuance of land certificates as a result of the PTSL program? If we are guided by the provisions of Article 44 paragraph (6) of the Law on Financial Relations Between the Central Government and Regional Governments (hereinafter abbreviated as the HKPD Law), then recipients of PTSL program certificates are still subject to BPHTB levies. This means that recipients of certificates resulting from the PTSL program who still have BPHTB debts, even though they were issued in the past (2017-2021), are still obliged to pay off their tax debts.

Since there are currently no specific laws pertaining to the collection of income tax and BPHTB payable in the implementation of PTSL, the government must promptly enact regulations in the form of a Government Regulation (PP). For the regulation to be aligned with existing tax implementation laws, it must be issued as a P.

A clause stating that the government provides exceptional income tax and BPHTB tax facilities for first-time PTSL program registration, in the form of a zero percent tax rate, may be included in the P. This tax facility could be seen as a sign of the government's commitment to enforcing the requirement that all land in Indonesia be registered.

Since first-time land registration is typically carried out by individuals with lower income, offering a zero percent tax facility for this type of registration could be a significant step toward the orderly management of land administration.

The Government should immediately draft a PP that regulates the collection of Income Tax and BPHTB and at the same time provide zero percent tax facilities in the first registration of land rights, and also immediately enforce it. This is an effort to attract public interest in registering their land rights, as well as to provide convenience in accelerating land registration, and indirectly have an impact on economic growth, because land rights that have been registered can become business capital for the owner of the land rights concerned. In addition, there are other positive impacts, such as minimizing the occurrence of land disputes, and also providing guarantees of legal certainty and legal protection for holders of land rights that have received certificates as a result of PTSL.

4. Conclusion

The current implementation of the PTSL program (2017–2021) has failed to provide legal certainty regarding the responsibilities that land rights certificate recipients must fulfill.

This is due to the government's lack of socialization and the institutions' failure to effectively coordinate their efforts in executing the PTSL program.

Regarding the delay in payment of income tax and BPHTB, the Government should provide a solution by drafting legislation to provide legal certainty recipients of land certificates resulting from the PTSL program. It is hoped that in the legislation that will be made, the Government should provide relief from the burden of income tax and BPHTB, considering that most people who participate in the PTSL program are middle to lower class people.

5. References

- Adrian Sutedi, S. (2023). *Sertifikat hak atas tanah*. Jakarta, Sinar Grafika.
- Amelia, S. (2023). Kedudukan Hak Waris Anak Yang Berkewarganegaraan Asing Atas Hak Kepemilikan Tanah di Indonesia: The Position of Inheritance Rights of Foreign Citizen Children on Land Ownership Rights in Indonesia. *Reformasi Hukum*, 27(2), 108–115.
- Andriyani, S., Rahman, A., & Wahyuningsih, W. (2023). Hak dan Kewajiban dalam Peralihan Hak Atas Tanah dalam Rangka Pendaftaran Tanah (Desa Jatisela Kecamatan Gunungsari Kabupaten Lombok Barat). *Empiricism Journal*, 4(1), 150–155.
- Harsono, B. (2003). Indonesian agrarian law, history of the formation of basic agrarian laws: Content and implementation. *Jakarta: Djambatan*.
- Perkasa, R., & Lukman, F. X. A. (2022). Pendaftaran Tanah Secara Sporadik Merujuk Kepada PP Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah. *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)*, 6(3).
- Permadi, I. (2023). Peralihan Hak Atas Tanah Warisan Terhadap Ahli Waris Beda Agama Dalam Perspektif Hukum Positif Dan Hukum Islam. *Jurnal Ius Constituendum*, 8(1), 149–168.
- Puspasari, D. A., & Damayanti, M. (2018). Fungsi Rumah Sebagai Tempat Usaha Bidang Pariwisata Di Desa Colo, Kudus. *Jurnal Pengembangan Kota*, 6(1), 17–25.
- Sari, Y., & Jumiati, J. (2020). Evaluasi Berjalan Terhadap Program Pendaftaran Tanah Sistematis Lengkap (PTSL) di Kota Padang. *Jurnal Manajemen Dan Ilmu Administrasi Publik*, 1(3), 1–12.
- Septianti, B., Kusumawati, A., & Rura, Y. (2023). Analisis Potensi dan Kontribusi Bea Perolehan Hak atas Tanah dan Bangunan Terhadap Pendapatan Asli Daerah. *Akrual: Jurnal Bisnis Dan Akuntansi Kontemporer*, 112–121.
- Supriyadi, S., Sediati, D. S. R., & Dardiri, N. (2023). Implementasi Pengaturan Pendaftaran Tanah Dalam Pembatalan Peralihan Hak. *Jurnal USM Law Review*, 6(2), 554–570.
- Yanto, A., & Hikmah, F. (2023). Akomodasi Hukum Yang Hidup Dalam Kitab Undang-Undang Hukum Pidana Nasional Menurut Perspektif Asas Legalitas. *Recht Studiosum Law Review*, 2(2), 81–91.