

Effectiveness of Implementation of Land Rights Transfer Registration Former Customary Property

Tri Lestari¹⁾, Achmad Arifulloh²⁾ & Taufan Fajar Riyanto³⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: trilestarii@gmail.com

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: achmadarifulloh@unissula.ac.id

³⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia,
E-mail: taufanfajarriyanto@unissula.ac.id

Abstract. *This study aims to analyze: 1) The effectiveness of the implementation of registration of transfer of rights to former customary land in Boyolali Regency. 2). The obstacles faced and solutions in the implementation of registration of transfer of rights to former customary land in Boyolali Regency. This type of research falls within the scope of empirical legal research. The approach method in this study is a sociological juridical approach. The types and sources of data in this study are primary and secondary data, obtained from interviews and literature studies. The analysis in this study is descriptive analytical. The results of the study concluded: 1). Registration of transfer of rights to former customary land in Boyolali Regency has increased in effectiveness through government policies, service digitalization, and increasing public awareness. Simplification of administrative procedures and an increase in the number of certificates issued are the main indicators of its success. With legal certainty, land ownership status becomes clearer, reducing the potential for disputes, and facilitating land transactions such as buying and selling and inheritance. 2) The obstacles and solutions in the implementation of registration of transfer of rights to former customary land in Boyolali Regency are related to regulatory aspects, administration, and public understanding of the importance of legal land ownership. However, various solutions have been attempted to overcome these obstacles. The government and relevant institutions, such as the National Land Agency (BPN) and Land Deed Officials (PPAT), continue to simplify procedures, promote public awareness, and utilize technology in land administration. Furthermore, improving coordination between local governments, traditional leaders, and communities is a strategic step in accelerating the registration process for transfers of rights to former customary land.*

Keywords: *Former Customary Land; Land Registration; Transfer of Rights.*

1. Introduction

Land plays a central role in Indonesian life and the economy. The rapid development of land in various sectors has made it a commodity with high economic value and is difficult to control. Land plays a crucial role in various aspects of life, especially as a place to live/housing. The proliferation of buildings in various sectors has made land a commodity with high economic value and is difficult to control. This situation is caused by the rapidly increasing demand for land, while its supply is limited, which often gives rise to land conflicts, both in the form of ownership conflicts and conflicts concerning the use/designation of the land itself.¹ With the existing land law, it is hoped that land conflicts/disputes can be prevented, or at least minimized. To this end, the government, represented by authorized agencies, is responsible for organizing and administering land affairs.² The government has continuously strived to implement land registration throughout the country to ensure legal certainty. However, to date, the implementation of land registration has not yielded satisfactory results. Land registration coverage has not yet reached 100%. If this is not immediately improved, various land conflicts and disputes will arise.³ Land registration aims to provide certainty of rights and legal protection for land rights holders, evidenced by land certificates, as an instrument for regulating land ownership and control, as well as controlling land use and utilization. Land rights registration serves as a guarantee from the state and is an important instrument for protecting landowners.⁴

Providing legal certainty regarding landowners' rights is crucial. Legal certainty of land ownership begins with a legal product, a land ownership certificate, issued by the National Land Agency. Land registration serves to protect the community's rights to land ownership.⁵ BPN as the party organizing land registration guarantees the accuracy of land data, both physical and legal, on the land title certificate, and provides legal certainty by applying the latest principles, so that the community will feel safe because the community places its trust in BPN as the government

¹Adrian Sutedi, (2018), *Peralihan Hak Atas Tanah dan Pendaftarannya*, Jakarta : Sinar Grafika, p.22

²Dyara Radhite Oryza Fea, (2018), *Panduan Mengurus Tanah Rumah dan Perizinannya*, Jakarta : Legality, p.1

³Maulida Soraya Ulfah, Denny Suwondo, Pelaksanaan Pendaftaran Tanah Sistematis Lengkap (PTSL) Di Kabupaten Demak, *Prosiding : Konferensi Ilmiah Mahasiswa Unissula (KIMU) 2*, Unissula Semarang, 18 October 2019, p. 2

⁴Anis Ayu Rahmawati, Achmad Sulchan, Kebijakan Untuk Memperlancar Pemberkasan Program Pendaftaran Tanah Sistematis Lengkap (PTSL) di Kantor Pertanahan Kabupaten Blora, *Jurnal Akta*, Volume 5 Nomor 4, December 2018, p. 885

⁵Putri, C. A., Gunarto, Efektivitas Pengecekan Sertifikat Terhadap Pencegahan Sengketa Tanah Dalam Proses Peralihan Hak Atas Tanah, *Jurnal Akta*, Vol. 5, Nomor (1) Tahun 2018, p.268.

that provides guarantees of certainty of land rights.⁶ Law Number 5 of 1960 concerning Basic Agrarian Regulations stipulates that all landowners are required to have a land certificate. However, the implementation of this law has not been as smooth as expected. This is because many rural communities are not yet aware of the importance of land certificates.⁷

One of the legal actions related to land is the transfer of land rights, based on Article 26 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Principles which states that: "Sale and purchase, exchange, grant, gift, with a will and other acts intended for the transfer of ownership rights and their supervision are regulated by government regulations." The Government Regulation in question is Government Regulation Number 10 of 1961 concerning Land Registration (PP No. 10 of 1961) and has been amended by Government Regulation Number 24 of 1997 concerning Land Registration (PP No. 24 of 1997). In Article 37 paragraph (1) of PP No. 24 of 1997 states that, the transfer of land rights and ownership rights to apartment units carried out through sale and purchase, exchange, donation, company investment and other legal acts except for the transfer of rights through auction can only be registered if proven by a deed made by an authorized PPAT and according to the provisions of applicable laws.

Transfer of land rights is a legal act that can be used to transfer land rights to another party if the owner of the land rights wishes or deliberately gives authority to carry out legal actions against the recipient of the power of attorney, as written in the power of attorney.⁸ The transfer of land rights is a crucial aspect of the Indonesian land system. This process encompasses a wide range of activities, from buying and selling, gifts, inheritances, and exchanges. Every transfer of land rights must be registered to provide legal certainty for the new owner and maintain orderly land administration. Legal certainty in the transfer of land rights is crucial to avoid potential future conflicts and disputes. In Boyolali Regency, the process of registering land transfers plays a crucial role in ensuring legal certainty for the community, particularly regarding land formerly owned by customary law. Although administrative procedures have been established, various obstacles often hamper the process. Therefore, this study will examine the effectiveness of

⁶Ni Made Rian Ayu Sumardani¹, I Nyoman Bagiastra, *Tanggung Jawab Hukum Badan Pertanahan Nasional Terkait Ketidaksesuaian Hasil Pengecekan Sertifikat Secara Elektronik*. *Acta Comitatus : Jurnal Hukum Kenotariatan*, Vol. 06 No. 02 August 2021, p.224

⁷Putri Bahagia Ningrum, Kami Hartono, *Pelaksanaan Pendaftaran Tanah Sistematis Lengkap (PTSL) Berdasarkan Peraturan Menteri Nomor 6 Tahun 2018 Studi di Kabupaten Semarang*, Prosiding, *Konferensi Ilmiah Mahasiswa Unissula (KIMU)* 4, October 2020, p.634

⁸Nurlaeli Azizah, (2024), *Problematika Peralihan Hak Atas Tanah Atas Dasar Jual Beli di Bawah Tangan Pada Sertifikat Hak Milik Nomor 1194 Di Kelurahan Sidosermo Kota Surabaya*, *Judiciary (Jurnal Hukum Dan Keadilan)*, Vol. 13 Issue. 1, p.61

the registration process for transfers of land formerly owned by customary law in Boyolali Regency to improve legal certainty.

2. Research Methods

This type of research falls within the scope of empirical legal research. The approach used is a sociological-juridical approach. The data types and sources used are primary and secondary data, obtained from interviews and literature studies. The analysis is descriptive and analytical.

3. Results and Discussion

3.1. Effectiveness of the Implementation of Registration of Transfer of Rights to Formerly Customary Land in Boyolali Regency

Administrative order in the defense sector is part of the effort to achieve legal certainty. The regulations have placed the task and authority on the Government to conduct data collection and registration of land in Indonesia and for the community of rights holders to be able to register the land they control based on the applicable provisions, namely the UUPA. The provisions in the UUPA, namely Article 19 regulates subjective legal certainty, namely provisions regarding legal entities and individuals who become land rights holders (subjective requirements) and related to objective certainty in the form of boundaries, length, location and width in their control.⁹

Land title certificates play a crucial role in ensuring legal certainty for land owners. This is especially important in areas with increasing economic development and population density, such as Boyolali Regency. As a strategic region in Central Java Province, Boyolali not only boasts significant agricultural and livestock potential but also faces challenges in land management, including the registration and transfer of land rights.

Boyolali Regency is a regency in Central Java Province, covering an area of approximately 1,015.10 km². It borders several areas: Boyolali Regency to the north, Surakarta City to the east, Klaten Regency to the south, and Magelang and Sleman Regencies to the west.¹⁰ Geographically, Boyolali consists of lowlands in the east and hills in the west, bordered by Mount Merbabu and Mount Merapi. Boyolali is known as one of the largest dairy farming centers in Indonesia, with significant annual milk production. In addition to the livestock sector, agriculture and small-scale industries are also growing rapidly, particularly in the dairy and food processing sectors. Infrastructure in Boyolali continues to develop, supported

⁹Irwan Soerodjo, (2003), *Kepastian Hukum Hak Atas Tanah di Indonesia*, Surabaya : Arloka, p.78

¹⁰Pemerintah Kabupaten Boyolali, (2022), *Profil Daerah Kabupaten Boyolali*, Boyolali : Dinas Komunikasi dan Informatika, p. 12

by the Trans-Java toll road, which connects the area to major cities like Semarang and Surakarta.¹¹

The majority of the Boyolali community still adheres to a customary land ownership system. Formerly customary land is generally passed down through generations without formal certification. This situation often gives rise to legal issues when rights are transferred, such as through sales, gifts, or inheritance. Land still under customary ownership status and without land certificates lacks legal certainty, particularly regarding the land area. This is because land measurements are conducted not for legal certainty but for tax purposes, making them less precise than those used for land certificates.¹² Similarly, in Boyolali Regency, many residents still don't fully understand the meaning and function of land certificates, or the procedures for obtaining them. Consequently, land status and related documents are often held to the old regulations at the sub-district/village office.

Given that much of the land previously owned remains uncertified, in practice, many residents continue to refer to it as "yasan" or "customary land." This is legally inaccurate, as since the UUPA came into effect, customary land or "yasan" has been converted into "freehold" (Hak Milik). Conversion refers to the legal transformation of both customary and non-customary land into one of the rights regulated in the UUPA. The registration process for transferring land ownership rights is divided into two categories:

1. Voluntary registration.

Voluntary registration occurs at the request of the individual who owns the land voluntarily. Requests for voluntary registration are still few. This is due to relatively low public awareness and a lack of awareness of the importance of land certificates.

2. Mandatory registration:

- a. Registration if the transfer of customary land rights is carried out through sale and purchase.
- b. Registration if the transfer of customary land rights is carried out through a grant
- c. Registration of the transfer of rights to ex-customary land if carried out through inheritance

The effectiveness of the implementation of registration of transfer of rights to land formerly owned by customary law in Boyolali Regency can be measured by the following indicators:

¹¹Badan Pusat Statistik Kabupaten Boyolali, (2023), *Statistik Pertanian dan Peternakan Kabupaten Boyolali 2022*, BPS Boyolali, p. 45.

¹²Wulandari Siregar, (2024), *Pelaksanaan Pendaftaran Peralihan Hak Atas Tanah Bekas Milik Adat*, NOTARIUS, Volume 17 Nomor 2, p.915

1. Increase in the number of certificates issued by the National Land Agency (BPN)
One key indicator of the effectiveness of land transfer registration is the increasing number of former customary lands that have been officially certified. The National Land Agency (BPN), in collaboration with local governments, has implemented various programs to expedite the land certification process, such as the Complete Systematic Land Registration (PTSL).

2. Acceleration of administrative processes

The government has implemented various reforms in the land registration administration process to reduce bureaucratic obstacles that have been a significant obstacle. One such measure is the implementation of a one-stop shop system, allowing the public to process all registration documents in one location without having to go through various agencies separately. Furthermore, the document verification process has been improved with a more transparent and expedited system. Previously, the process of registering the transfer of customary land rights could take months, but with the accelerated procedures, people can now obtain certificates in a shorter time. For example, priority counter services for the public under the accelerated land certification program have been implemented at several land offices in Boyolali. This innovation helps reduce long queues and expedites service for applicants wishing to register their land.

3. Increasing public awareness

Public awareness campaigns conducted by local governments and the National Land Agency (BPN) regarding the importance of land certification have increased public awareness. Educational campaigns through various media, including village meetings, brochures, and direct outreach, have helped communities understand the benefits of land legalization. This is evident in the increasing number of landowners who formerly held customary land and are actively submitting applications for land transfer registration. Furthermore, the involvement of village heads and village officials in providing information to the community has helped accelerate awareness of the importance of land certification. Increased public awareness has also contributed to the acceleration of the land registration process, as they are more proactive in completing the required documents.

4. Stronger guarantee of legal certainty

With more land having official certificates, legal certainty for landowners is enhanced. Land certificates serve as valid and legally recognized proof of ownership, thereby reducing the risk of ownership conflicts. Furthermore, this legal certainty also facilitates transfer of rights, such as sales and inheritance, because all ownership information is officially documented. With certificates, landowners' rights are better protected from potential ownership claims by third parties. Furthermore, certified land can be used as collateral for bank loans, thus

opening up opportunities for communities to develop businesses or improve their economic conditions.

5. Utilization of technology in the land registration process

The digitization of land data and the implementation of an electronic-based land registration system have helped increase the transparency and efficiency of the registration process. This system now allows the public to more easily access information regarding land ownership status and register online without having to visit the land office in person. Technology also enables more accurate data processing, thereby minimizing errors in recording land area and boundaries, which often occur on formerly customary land. The implementation of this system has driven increased efficiency in land services, allowing applicants to monitor the status of their applications in real time through an application provided by the National Land Agency (BPN). Furthermore, digitalization also enables the integration of land data with the taxation and spatial planning systems, thereby increasing the effectiveness of overall land asset management.

There is not much difference between electronic and manual (or conventional) land registration systems in the eyes of the law, except technically. The registration system, procedures, results, and function of electronic land registration in proving land rights are the same as those of manual (conventional) land registration.¹³

Based on an analysis of Soerjono Soekanto's theory of legal effectiveness, it can be concluded that the effectiveness of registering transfers of land rights to former customary land in Boyolali Regency has progressed, but still faces various obstacles. Existing regulations are adequate, and government efforts to improve facilities and conduct outreach have yielded positive results, although some obstacles remain.

3.2. Obstacles and Solutions in the Implementation of Registration of Transfer of Rights to Formerly Customary Land in Boyolali Regency

Guarantees of legal certainty of land rights are regulated in Government Regulation Number 24 of 1997 concerning Land Registration, where Article 3 explains the objectives of land registration, namely:

1. To provide legal certainty and legal protection to rights holders of land plots, apartment units and other registered rights, so that they can easily prove themselves as the rights holders in question.
2. To provide information to interested parties, including the government, so that they can easily obtain the data needed to carry out legal actions regarding registered land plots and apartment units.

¹³Rio Prasetyo, *Problematisasi Yang Muncul Karena Penerbitan Sertipikat Hak Atas Tanah Elektronik*, *Jurnal Hukum Bisnis*, Volume 6 Nomor 1, April 2022, p.795

3. To ensure orderly land administration.¹⁴

One form guarantee legal certainty in the land sector is through the existence of proof of ownership of land rights called a certificate. Certificates have many functions for their owners, of the many functions that exist, it can be said that the main and foremost function of a certificate is as a strong evidence (Article 19 paragraph (2) letter c UUPA), therefore anyone can easily prove themselves as the holder of land rights if their name is clearly listed on the certificate.¹⁵

Providing legal certainty regarding landowners' rights is crucial. Legal certainty of land ownership begins with a legal product, a land ownership certificate, issued by the National Land Agency. Land registration serves to protect the community's rights to land ownership.¹⁶ Providing legal certainty in the land sector requires the availability of written, complete and clear legal instruments which are implemented consistently in accordance with the spirit and content of their provisions.¹⁷

The registration of transfers of rights to former customary land in Boyolali Regency, as in other regions in Indonesia, often faces various obstacles. Obstacles to the Registration of Transfers of Rights to Former Customary Land in Boyolali Regency include:

1. Lack of Public Awareness and Understanding
2. Incomplete and Substandard Documentation
3. A Long and Time-Consuming Administrative Process
4. Registration Fees Still Considered High by Some People
5. Lack of Resources at the Land Office

The solution to the obstacles in the implementation of registration of transfer of rights to land formerly owned by customary law in Boyolali Regency is:

1. Improving Community Socialization and Education
2. Simplification of Administrative Requirements
3. Acceleration of Land Registration Services
4. Provision of Legal Aid for the Community
5. Human Resource Capacity Building at the Land Office

¹⁴Muhammad Ilham Arisaputra, dkk., Akuntabilitas Administrasi Pertanahan dalam Penerbitan Sertifikat, *Jurnal Mimbar Hukum*, Volume 29, Nomor 2, June 2017, p.277

¹⁵Musta'in, Sukarmi, Implementasi Pendaftaran Sertipikat Hak Milik Atas Tanah dalam Pembagian Waris Dan Permasalahannya di Kantor Pertanahan Kota Semarang, *Jurnal Akta*, Volume 4 Nomor 2 June 2017, p.134

¹⁶Putri, C. A., Gunarto, Efektivitas Pengecekan Sertifikat Terhadap Pencegahan Sengketa Tanah Dalam Proses Peralihan Hak Atas Tanah, *Jurnal Akta*, Volume 5 Nomor 1 Tahun 2018, p. 268

¹⁷Kuswanto, Akhmad Khisni, Perlindungan Hukum Bagi Pemegang Hak Atas Tanah Dalam Kasus Tumpang Tindih Kepemilikan Atas Sebidang Tanah Di Badan Pertanahan Nasional/Atr Kabupaten Kudus, *Jurnal Akta*, Volume 4 Nomor 1, March 2017, p.73

Legal certainty in land registration is also related to the harmonization of customary and national laws. Although former customary land is still recognized in some regions, clarity regarding its status within the national legal system is still needed. This ensures that the law does not undergo changes that could disadvantage landowners or hinder the registration process.

4. Conclusion

The effectiveness of the registration of transfers of land rights to former customary land in Boyolali Regency has shown increasing effectiveness in line with various government policies and programs. The increase in the number of land certificates issued, the simplification of administrative procedures, and the use of technology to digitize land registration are key indicators of the process's success. Furthermore, growing public awareness of the importance of land legalization has contributed to the smooth registration of transfers. With an increasingly structured and modern system, registration of transfers of land rights to former customary land can proceed more orderly and efficiently. This process provides legal certainty for landowners, clarifies ownership status, and simplifies various land transactions, thereby supporting development and community welfare in Boyolali Regency. Obstacles and solutions to the registration of transfers of land rights to former customary land in Boyolali Regency relate to regulatory and administrative aspects, as well as public understanding of the importance of legal land ownership. However, various solutions have been attempted to overcome these obstacles. The government and related institutions, such as the National Land Agency (BPN) and Land Deed Officials (PPAT), continue to simplify procedures, provide public outreach, and utilize technology in land administration. Furthermore, improving coordination between local governments, customary leaders, and the community is a strategic step in expediting the registration process for transfers of land rights to former customary land. With these efforts, it is hoped that the registration process for transfers of land rights to former customary land in Boyolali Regency will be optimized. Legal certainty for the community will be guaranteed, allowing for optimal land use without the potential for future disputes.

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