

Legal Implications of Determining Red Zone Status on Land Ownership Rights

Novita Sari¹⁾ & Bambang Tri Bawono²⁾

¹⁾Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: novitans.sari04@gmail.com

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

Abstract. *This study aims to determine and analyze the legal implications of the determination of red zone status on land ownership rights in Tanah Laut Regency, to determine and analyze legal protection for land ownership rights owners. This study uses empirical legal research with a qualitative approach. Data were obtained through literature studies on laws and regulations and interviews with related parties, namely affected residents, BPBD TALA, PUPRP TALA and the Head of Kurau District. Based on the study, it can be concluded that the determination of the red zone does not eliminate land ownership rights, but limits these rights in accordance with the principle of social function as regulated in Article 6 of the UUPA. Legal protection for land rights owners, namely ownership rights are guaranteed by the UUPA, restrictions must be based on law, compensation rights, and recognition of ownership rights remain valid despite restrictions.*

Keywords: Land; Property; Zone.

1. Introduction

From a legal perspective, land plays a fundamental role in human life, both individually and socially. This key role determines the existence and continuity of legal relationships and actions, both for individuals and their implications for others. Law is established by society to regulate its life as a form of relationship, as law is created by and enforced for society.

The relationship between humans and land extends beyond simply providing a place for human life. It goes beyond that: land provides resources for human survival, providing natural resources to be utilized in ways that meet human

needs. Land management also requires rules for equitable control and use, consistent with its potential, and maintaining environmental sustainability.¹

Land rights are rights that authorize the holder to use and/or benefit from the land. Use in this sense means that the land rights are used for purposes other than building construction, including agriculture, fisheries, plantations, and animal husbandry.²

Land as an object in human activity can be interpreted legally, socially, politically and economically. Article 4 paragraph (1) of Law Number 5 of 1960 concerning Agrarian Principles states that rights to the surface of the earth are called "land" which can be given to and owned by people either alone or together with other people and legal entities.³

Land issues are caused by several factors, one of which is natural disasters, such as tsunamis, landslides, floods, and other natural disasters. One of the most frequent natural disasters in Tanah Laut Regency is flooding.

Historical records of disasters in Tanah Laut Regency indicate that the area is prone to disasters. In the 17-year period from 2000 to 2017, Tanah Laut Regency experienced 691 disasters.⁴ These disasters include floods, flash floods, extreme weather, extreme waves/abrasion, forest and land fires, drought, and landslides. These disasters have had negative impacts, including loss of life, property damage, environmental damage, and psychological impacts on the people of Tanah Laut Regency.

Kurau District is one of the districts frequently affected by flooding. It lies between Takisung, Bati-Bati, and Bumi Makmur. To the west, Kurau District directly borders the Java Sea. Kurau District is home to 11 villages, but Kali Besar Village is the worst-affected village by flooding.

This study aims to determine and analyze how legal protection is provided for land ownership rights owners in Kurau District, Tanah Laut Regency.

2. Research Methods

This research is an empirical study using a qualitative approach. The data sources used are primary, secondary, and tertiary data. Data collection in this study took the form of literature studies and interviews. Interviews were conducted with

¹ Mulyono Sadyohutomo, *Land Use and Spatial Planning Harmonization* (Yogyakarta: Pustaka Pelajar, 2016).

² Adrian Sutedi, 2023, *Transfer of land rights and their registration*, Sinar Grafika, Jakarta, page 6, quoted from LB Curzon, 1999, *Land Law*, Seventh Edition, Pearson Education Limited, Great Britain, pages 8-9

³ Husni Thamrin and M. Khoidin, *Notarial Law and Land: The Authority of Notaries and Land Deed Officials to Make Land Deeds*, 1st ed. (Yogyakarta: LaksBang Justitia, 2021).

⁴ Indonesian Disaster Data and Information, BNPB.

affected residents, the Tanah Laut Regency Regional Disaster Management Agency, the Tanah Laut Regency Public Works and Public Housing Agency (PUPRP), and the Kurau District Head. The data analysis obtained was descriptive in nature, with the collected data separated into their respective categories, then interpreted and conclusions drawn from the analysis.

3. Results and Discussion

3.1. Legal implications of determining red zone status for land ownership rights

Disaster zoning is the division of areas based on disaster risk levels determined by the government through scientific studies and spatial planning regulations. The goal is to protect communities and reduce losses from natural and non-natural disasters. There are three types of disaster zoning:

a. Green Zone

Green zones are low-risk/safe zones. These areas are relatively safe from disasters, with relatively stable geological conditions and minimal potential for major earthquakes, tsunamis, floods, or landslides. These green zones are often designated as safe zones for evacuation during disasters. However, these green zones are not completely disaster-free; they are simply relatively safer than other zones.

b. Yellow Zone

The yellow zone is a moderate-risk zone. It has the potential for disasters but can still be utilized under certain conditions. Development in the yellow zone is still possible, but with the requirement that established safety standards be observed. The potential for disasters in the yellow zone still exists, but is not as frequent or severe as in the red zone. These yellow zones require additional mitigation measures for permanent housing, such as evacuation routes, earthquake-resistant buildings, and early warning systems.

c. Red zone

Red zones are high-risk areas. They are prone to flooding, landslides, earthquakes, tsunamis, and liquefaction. Development in areas designated as red zones is strictly restricted, even prohibited, for safety reasons. Red zones should be avoided for permanent housing, but they can be used as conservation or protected areas.

Based on the types of disaster zoning described above, green or yellow zones can change to red zones due to natural dynamics such as earthquakes, eruptions, floods, or landslides, as well as human activities such as development, deforestation, or inappropriate spatial planning. Zones can shift from green to

yellow or red if the risk increases, or vice versa if mitigation is successful. The following are the causes of zone changes in disasters:

a. Natural Factors

- 1) Geological activity that can cause new earthquakes, fault shifts or volcanic activity that can increase the risk.
- 2) Climate change caused by extreme rainfall increases the risk of flooding and landslides, rising sea levels make previously safe coastlines vulnerable to tsunamis or tidal flooding.
- 3) Degradation of the natural environment is caused by the loss of forests or mangroves which reduces natural protection against floods and waves.

b. Human Factors

- 1) Land conversion through the development of settlements in riverbank areas or steep slopes increases vulnerability.
- 2) Rapid urbanization caused by rapidly growing cities can trigger changes from green zones to yellow due to infrastructure pressure and poor drainage.
- 3) Exploitation of resources caused by illegal mining, deforestation, and reclamation can exacerbate disaster risks.
- 4) Spatial planning policies regarding zoning can change if the government updates the risk map based on the latest data.

A change in status from a green or yellow zone to a red zone can occur due to new scientific studies conducted by the Regional Disaster Management Agency (BPBD), the Spatial Planning Agency, and research institutions, which result in geological or hydrological studies indicating the potential for disaster. This potential disaster could result in a major catastrophic event, such as an earthquake, flood, abrasion, or landslide.

The government has the authority to designate disaster-prone areas as red zones based on Article 11 of Law No. 26 of 2007 concerning Spatial Planning, and the government is obliged to protect the community from disaster risks, including through designating red zones (Article 26 of Law No. 24 of 2007 concerning Disaster Management).

Tanah Laut Regency in South Kalimantan has areas designated as red zones, particularly due to flooding and stunting. This designation directly impacts land use rights. Ownership remains valid, but use is restricted for public safety and

health.⁵The Tanah Laut Regency Government has highlighted flooding as a major threat. Several areas prone to abrasion and flooding have been designated as red zones in spatial planning. This means new development in these areas is restricted or prohibited.

Tanah Laut Regency is located between 114°30'20 East Longitude – 115°23'31 East Longitude and 3°30'33 South Latitude – 4°11'38 South Latitude, with an area of approximately 3,631.35 km² or 9.71 percent of the area of South Kalimantan Province. Administratively, Tanah Laut Regency consists of 11 sub-districts and 135 villages. Kurau District is one of the districts where when the rainy season arrives, all the villages there will experience flooding.⁶ Kurau District has 11 villages, of the 11 villages the author researched 1 village, namely Kali Besar village.

Based on the author's interview with the Acting Head of Kali Besar Village and several residents of Kali Besar Village, the flooding in Kali Besar Village began in 2010. The cause was the planned construction of a Sewage Treatment Plant (STP), sometimes used as another abbreviation (Strategic Treatment Plant or Urban Planning System).

"Kali Besar Village had never experienced flooding before 2010, but since the planned construction of a STP (Storage Station) in 2010, flooding has become frequent, even now. Moreover, 2021 was the year with the longest and largest flood, with floodwaters reaching half of the houses and even the roofs."⁷

STP is an urban planning system that regulates, manages, and develops office areas so that urban spaces can function optimally, in balance, sustainably, and contribute to the well-being of the community. The objectives of developing an urban planning system are:

- a. Creating a safe, comfortable and healthy city for residents.
- b. Reducing the gap between the city center and the suburbs.
- c. Supporting sustainable development in accordance with the principles of SDGs.
- d. Integrating national and regional policies in urban space management.

The explanation and purpose of the STP itself are significantly different from reality. In fact, the planned construction of the STP has actually created

⁵Official Website of the Tanah Laut Regency Government, <https://portal.tanahlautkab.go.id/main> accessed January 20, 2026 at 20.00.

⁶Interview with (Fajar Suryadi) Sub-district Head of Kurau District, November 20, 2025.

⁷Interview with (Fathurrahman) Acting Head of Kali Besar Village, November 17, 2025.

difficulties for residents. Here's what residents experienced after the planned construction:

- a. Often flooded.
- b. Every rainy season is a regular occurrence of flooding.
- c. Every flood causes mudflow (floodwater residue that sticks to the walls of houses).
- d. The flood level reached half the height of the house to the roof of the resident's house.
- e. Causing loss of livelihood.

Over time, some residents of Kali Besar Village have chosen to renovate their homes and raise them to prevent further flooding. The only solution proposed by the Kurau Sub-district Head is dredging or installing a diversion channel, as the Public Works and Public Housing Agency (PUPRP) has yet to respond to this issue. An interview with the head of the prevention and preparedness section of the Regional Disaster Management Agency (BPBD) revealed that some areas in Kurau Sub-district are already in the red zone due to their high risk of flooding.⁸ However, the government has not dared to relocate residents affected by the flood because there are too many people and there is no place to relocate them.

To ensure legal certainty in the land sector, two things must be considered: the need for written land laws and the implementation of land registration. In other words, discussing land registration means discussing one of the efforts to ensure legal certainty in the land sector.

Land registration is a series of activities consisting of:

- a. Collection, processing, storage and presentation of physical data on certain land plots;
- b. Collection, processing, storage and presentation of certain legal data;
- c. Issuance of a certificate of proof of rights and;
- d. Recording of changes to physical data and legal data that occur subsequently.

Land registration is carried out continuously and regularly, in the form of collecting certain information regarding certain lands, which are in certain areas

⁸Interview with (Bakti) Head of the Prevention and Preparedness Section of BPBD, November 3, 2025.

for certain purposes and then processed/processed, stored and presented in order to fulfill the purpose of carrying out the land registration.

The purpose of land registration is to ensure legal certainty and certainty of land rights. This is done for the benefit of land rights holders, making it easier to prove that they are entitled to a particular plot of land, through the issuance of a Land Title Certificate. Interested parties will easily obtain the necessary information, with the physical and legal data presented at the Land Office, which is open to the public, where the information is provided in the form of a Land Registration Certificate (SKPT).

This is regulated in Article 19 paragraph (1) of the UUPA concerning Land Registration which states that:

"To guarantee legal certainty, the Government carries out land registration throughout the territory of the Republic of Indonesia according to the provisions regulated by Government Regulation."

The article above clearly states that the purpose of land registration by the government is to ensure legal certainty. Legal certainty regarding land is essential to maintain the stability of land use in development and to ensure legal certainty regarding land ownership for all members of the community who wish to access the land. The legal certainty referred to in land registration will result in the granting of a land title certificate by the National Land Agency (BPN), the state administrative institution, to those entitled to it and to be relied upon by the owner to serve as strong evidence of a person's land rights.⁹

The determination of a red zone does not eliminate land ownership rights, but limits these rights in accordance with the principle of social function inherent in every land right as regulated in Article 6 of the Basic Agrarian Law, thus the red zone is a form of state intervention in space which legally aims to ensure that land use does not conflict with public safety, spatial planning, and provisions of laws and regulations.

3.2. Legal Protection for Land Owners

Ownership rights are hereditary, the strongest, and most fulfillable rights that a person can possess over land. Hereditary here means that ownership rights to land do not only last as long as the holder lives, but can also be inherited by the holder's heirs. The strongest definition of ownership rights is that these rights can be encumbered by other land rights, such as use rights, building rights, or other rights.¹⁰

⁹ R. Ramadhani, (2021). Land registration as a step to obtain legal certainty regarding land rights. SOSEK: Journal of Social and Economics, 2(1), 31-40.

¹⁰ AH Usman, (2022). Preventing Land Disputes. Sol Justicia, 5(1), 63-75.

Land ownership rights play a very important role in society.¹¹ Land plays a vital role in human life, from an economic, social, cultural, and religious perspective. It is considered a driving force for economic development and crucial for spatial development.¹²

Legal protection is a universal concept of a state governed by the rule of law. Legal protection is provided when a government violates or acts contrary to the law, whether by the authorities themselves or by the public, who must be vigilant. Legal protection is understood as an effort to provide protected rights in accordance with obligations.

Legal protection is a right held by every citizen, and the state has an obligation to establish legal regulations that protect this right. Legal protection for land has been standardized in the UUPA.

In general, the 1945 Constitution has provided protection for land rights as regulated in Article 28 letter h paragraph 4, which states that "Everyone has the right to have private property rights and these property rights may not be taken arbitrarily and must be balanced with compensation."

Other legal regulations related to legal protection for land owners are contained in Law Number 39 of 1999 concerning Human Rights, Article 36 paragraphs 1 and 2 concerning property rights (including land) as basic rights and guarantees that there will be no arbitrary confiscation of property rights by anyone.¹³

To determine land rights, land registration must first be carried out to ensure legal certainty and strong legal protection. Land rights registration must provide clear legal certainty by explaining the various legal aspects of certainty, including the subjects and objects of land rights. The objectives of land registration are:

- a. To provide legal certainty and legal protection to holders of land rights to a plot of land, apartment units and other registered rights, so that they can easily prove themselves as the holders of the rights in question.
- b. To provide information to interested parties, including the Government, so that they can obtain the data needed to carry out legal actions in relation to land and apartments.
- c. To ensure orderly administration of Land Registration carried out by the National Land Agency.

¹¹ Sappe, S., Latturete, AI, & Uktolseja, N. (2021). Land Use Rights, Ownership Rights, and Dispute Resolution. *Batulis Civil Law Review*, 2(1), 78-92.

¹² Ahmad Syafi'i. 2024. *AGRARIAN FIQH: Individual Property Rights and State Authority over Land in Modern Islamic Legal Thought*. Unisma Press, Malang, p. 13

¹³ M. Yusrizal, 2017, Legal protection for land rights holders in land acquisition for public interest. *De Lega Lata: Journal of Legal Studies*, 2(1), 113-138.

Ownership of a land title certificate is very important to provide protection to the Indonesian people regarding the rights to the land in question and to create the objective of establishing the Basic Agrarian Law, namely to lay the foundations for providing legal certainty.

Based on Law No. 5 of 1960 UUPA Article 6, namely "property rights have a social function", which means that property rights are not absolute rights, land owners may not use land only for personal interests that are detrimental to society, land use must pay attention to public interests, the environment, and the common welfare. Meanwhile, in Article 20 "Property rights as the strongest and most fulfilled rights", property rights provide the highest legal certainty for land owners, but are still subject to the provisions of the appropriate social function (Article 6).

Legal protection for owners of land ownership rights in the red zone status in Tanah Laut Regency, namely:

a. Property rights are guaranteed by the Constitution and UUPA

Everyone has the right to own private property and this right may not be taken over arbitrarily based on Article 28H paragraph (4) of the 1945 Constitution. Land ownership rights are hereditary, strongest and most complete rights that can be owned by citizens (UUPA No. 5 of 1960). This means that even if the land is in a red zone, ownership rights remain valid and protected.

b. Restrictions must be based on law

Red zone designation is carried out through the Regional Spatial Plan (RTRW) or regional policies. Land use restrictions (for example, prohibitions on the construction of permanent buildings) must have a clear legal basis and must not be imposed arbitrarily. Landowners are protected from government actions that violate procedures.

c. Right to compensation

Landowners are entitled to fair and adequate compensation in the form of money, replacement land, or other agreed-upon forms, in accordance with Law No. 2 of 2012 concerning Land Acquisition for Public Interest. Legal protection ensures that landowners do not lose their rights without compensation.

d. The right to file objections and lawsuits

Landowners can file administrative objections to the local government if they feel they have been harmed, file a lawsuit with the PTUN (State Administrative Court) if the red zone designation is deemed unlawful, and file a civil lawsuit if there is a violation of property rights without compensation.

e. Legal protection for land owners

Recognition of property rights remains valid even if there are restrictions, the right to information and participation in determining spatial planning policies and the right to compensation if the land is used for relocation or public interest.

4. Conclusion

Based on the discussion above, the author provides the following conclusions and suggestions: The designation of a red zone does not eliminate land ownership rights, but rather limits these rights in accordance with the principle of social function inherent in every land right as stipulated in Article 6 of the Basic Agrarian Law. The legal implication of the designation of red zone status for Land Ownership Rights in Tanah Laut Regency is that the property rights of citizens who have land ownership rights remain attached to the owner as stipulated in the UUPA. The designation of a red zone is a form of land control by the State for the public interest, so that individual rights are subject to safety regulations. Owners can sue the local government if the restrictions are deemed to violate the principle of justice or are not in accordance with legal procedures. Legal certainty Certificates owned by citizens remain valid, but must comply with spatial planning and social functions. Ownership of land title certificates is crucial for protecting the Indonesian people. Legal protection for landowners includes recognition of ownership rights, despite restrictions, the right to information and participation in determining spatial planning policies, and the right to compensation if land is used for relocation or public purposes. Based on the conclusions above, the author provides the following suggestions: For the Government. The government needs to draft clear Regional Regulations (Perda) regarding the designation of red zones, ensuring that regional regulations align with the Basic Agrarian Law (UUPA), the Land Acquisition Law, and the national Spatial Planning (RTRW) to avoid legal conflicts. Educate the public about the risks they face. For the Community. Communities must be aware of the law and understand what will happen. They must actively participate and safeguard land ownership documents. They must participate in government programs related to environmental rehabilitation. They must form community groups or associations to strengthen their bargaining position when facing government policies. They must support each other throughout the process.

5. References

Journals:

Ramadhani, R. (2021). Pendaftaran tanah sebagai langkah untuk mendapatkan kepastian hukum terhadap hak atas tanah. *SOSEK: Jurnal Sosial dan Ekonomi*, 2(1), 31-40.

Sappe, S., Latturete, A. I., & Uktolseja, N. (2021). Hak Pakai Atas Tanah Hak Milik dan Penyelesaian Sengketa. *Batulis Civil Law Review*, 2(1), 78-92.

Situs Resmi Pemerintah Kabupaten Tanah Laut, <https://portal.tanahlautkab.go.id/main> diakses tanggal 20 Januari 2026 pkl 20.00.

Yusrizal, M. (2017). Perlindungan hukum pemegang hak atas tanah dalam pengadaan tanah untuk kepentingan umum. *De Lega Lata: Jurnal Ilmu Hukum*, 2(1), 113-138.

Usman, A. H. (2022). Mencegah Sengketa Tanah. *Sol Justicia*, 5(1), 63-75.

Books:

Khoidin, Husni Thamrin dan M. (2021). *Hukum Notariat Dan Pertanahan Kewenangan Notaris Dan PPAT Membuat Akta Pertanahan*. 1st ed. Yogyakarta: LaksBang Justitia.

Sadyohutomo, Mulyono. (2016). *Tata Guna Tanah Dan Penyerasian Tata Ruang*. Yogyakarta: Pustaka Pelajar.

Sutedi, Adrian. (2023), *Peralihan hak atas tanah dan pendaftarannya*, Jakarta: Sinar Grafika.

Syafi'I, Ahmad. (2024). *FIKIH AGRARIA: Hak Milik Individu dan Otoritas Negara atas Tanah dalam Pemikiran Modern Hukum Islam*. Malang: Unisma Press.