

Legal Certainty Regarding The Right to Build on PT. KAI Land in the City of Medan

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Abstract. Land control by communities over state-owned assets, particularly land managed by PT Kereta Api Indonesia (KAI), raises legal issues concerning the certainty of land rights. This phenomenon occurs when communities occupy land over a long period without a valid legal basis, giving rise to conflicts between formal legality and social reality. The problem becomes more complex when the land is granted Building Use Rights to third parties. This study employs a normative juridical method with statutory, conceptual, and empirical approaches, and is analyzed qualitatively. The results indicate that Building Use Rights over PT KAI's land assets remain legally valid if issued in accordance with applicable regulations; however, in practice, they are often ineffective due to physical occupation by communities. Therefore, resolving such conflicts requires an integrated approach through administrative structuring, legal measures, and non-litigation mechanisms such as mediation, relocation, and compensation in order to achieve equitable legal certainty.

Keywords: Building; Certainty; City; Control; Legal.

1. Introduction

Indonesia, as a state governed by the rule of law, places law as the primary foundation in regulating social life, including in the land sector. Land holds a highly strategic position as it functions not only as a place of residence but also as a primary means in economic activities and national development (Ali, 2020). The existence of land is closely related to public welfare as well as social stability.

Therefore, land regulation must be able to provide legal certainty, justice, and utility in a balanced manner. This principle serves as the basis for the formulation of various policies in the agrarian sector. Article 33 paragraph (3) of the 1945 Constitution affirms that land, water, and natural resources are controlled by the state for the prosperity of the people. This provision grants legitimacy to the state to regulate and manage land. Such state control must be exercised responsibly for the benefit of the wider community (Winanti, Qurrahman, & Agustanti, 2021).

As an implementation of these constitutional provisions, the government enacted Law Number 5 of 1960 concerning Basic Agrarian Principles. This law serves as the primary foundation for the regulation of land rights in Indonesia (Supriadi, 2022). The Basic Agrarian Law regulates various types of land rights, including Building Use Rights as one of the important forms of rights. Building Use Rights grant the holder the authority to construct and own buildings on land that does not belong to them. This right is granted for a specific period in accordance with applicable regulations. The legal subjects eligible to obtain this right are limited to Indonesian citizens and Indonesian legal entities. Such regulation aims to ensure legal certainty and orderly land administration. The Basic Agrarian Law also serves as the foundation for the development of the national agrarian legal system (Adnan, Sunarto, Parhusip, & Khair, 2023)

Building Use Rights play a significant role in supporting national development, particularly in the housing, industrial, and business sectors. This right provides legal certainty for its holders to utilize land in accordance with its designated purpose. The utilization of land through Building Use Rights allows for the optimization of land use in a productive manner. However, this right is subject to limitations, both in terms of duration and its designated use. These limitations are intended to ensure that land use does not deviate from the original purpose of granting the right. In addition, Building Use Rights are often granted over state land or land under Management Rights. This reflects the relationship between the state as the holder of control and the parties utilizing the land. The existence of Building Use Rights thus becomes an important instrument in the lawful management of land.

One of the State-Owned Enterprises that possesses a large amount of land assets is PT KAI. The existence of these assets is inseparable from the long history of railway development since the colonial era. During that period, land was controlled by railway companies owned by the Dutch government, which were later nationalized after Indonesia gained independence. This nationalization process transferred all assets to state ownership. These assets include land, buildings, railway tracks, and other supporting facilities. The management of these assets was subsequently entrusted to PT KAI as a company engaged in the transportation sector. The land status remains state-owned, even though its

management is carried out by a State-Owned Enterprise. This condition places PT KAI as a manager, not a private landowner (Karini, 2021).

The legal control of land by PT KAI falls within the framework of state control over land. This form of control is generally in the form of Management Rights or other forms recognized by laws and regulations. These lands were previously evidenced by *grondkaart* documents originating from the colonial period. After the enactment of the Basic Agrarian Law, these lands were converted into state land. This conversion process provides a clearer legal basis regarding land status. PT KAI has the authority to manage and plan land utilization in accordance with its designated function. This authority must be exercised in line with the principles of national agrarian law. PT KAI's position remains within the framework of managing state assets (Haneswara, Subekti, & Raharjo, 2023).

The utilization of state land by third parties must be carried out through lawful mechanisms and in accordance with established procedures. Every grant of land rights must observe the principles of transparency and accountability. In addition, land utilization must also consider public interests and spatial planning. PT KAI may utilize its assets through cooperation with third parties. Such cooperation may take the form of leases, utilization agreements, or the granting of Building Use Rights. The main objective of such utilization is to increase the economic value of state assets. Optimal utilization can also contribute to state revenue. This highlights the importance of professional asset management (Adithya & Santoso, 2024).

PT KAI's land assets are extensive and spread across various operational regions. These assets include railway lines, stations, supporting buildings, as well as non-operational land. Many of these lands are located in strategic urban areas with high economic value. This condition makes PT KAI one of the important managers of state assets. The management of these assets has great potential in supporting regional development. In addition, these assets can be utilized for various public interests. However, the vastness of these assets also creates challenges in their management, particularly in terms of supervision and safeguarding (Rumondang, Lubis, Sembiring, & Lubis, 2024)

Problems arise when PT KAI's land assets are controlled by communities without a valid legal basis. Such control often occurs on land that is not actively used. Communities utilize the land as residential areas or places of business. This occupation often takes place over a long period, even across generations. This condition creates difficulties in enforcement and regulation. Unauthorized control contradicts the provisions of national agrarian law. This phenomenon reflects a discrepancy between legal norms and practices in the field, making it one of the sources of land disputes.

The discrepancy between formal legality and factual control gives rise to complex conflicts. PT KAI has a strong legal basis as the manager of state assets. Meanwhile, communities physically control the land and often feel they have social ownership rights. This difference in interests becomes a trigger for prolonged disputes. These conflicts impact not only legal aspects but also social and economic dimensions. Resolving such conflicts often requires a comprehensive approach. This condition shows that law does not always operate effectively in society, revealing a gap between norms and reality (Susanti, 2024).

The issue becomes more complex when the land is granted Building Use Rights to third parties. Physical occupation by communities creates legal uncertainty for the rights holders. This condition leads to conflicts between legal interests and social interests. Efforts to resolve these issues are carried out through various means such as asset certification and enforcement measures. In addition, persuasive approaches such as mediation and relocation are also implemented. These steps aim to reduce the social conflicts that arise. Effective resolution must take into account aspects of justice and humanity. This is essential to achieving equitable legal certainty.

2. Research Methods

This study employs a normative juridical approach combined with an empirical approach. The normative juridical approach focuses on examining written legal norms through the analysis of laws and regulations, legal principles, and doctrines related to Building Use Rights. This study aims to understand the status, position, and legal certainty of land, particularly in relation to Building Use Rights over state land or land owned by state-owned enterprises. The empirical approach is used to complement the normative analysis by observing real conditions in society. Through this approach, it is possible to identify how the law is implemented in practice, including the factors influencing community control over land and the obstacles in achieving legal certainty (Rahayu, 2020). The data sources used consist of primary legal materials and secondary legal materials. Primary legal materials include laws and regulations such as Law Number 5 of 1960 concerning Basic Agrarian Principles, the Civil Code, Law Number 19 of 2003 concerning State-Owned Enterprises, and Government Regulation Number 18 of 2021. Secondary legal materials include legal literature, scientific journals, research findings, and expert opinions relevant to the issues under study. Data collection is conducted through library research to obtain accurate legal materials that support the analysis. If necessary, the data are also complemented by field studies through interviews or observations to obtain an empirical overview of community land control (Muhaimin, 2020). Data analysis is carried out using a descriptive qualitative method by systematically organizing and examining the data to produce a comprehensive explanation. The analysis is directed at assessing the conformity between applicable legal provisions and practices in the field, as well

as identifying potential legal issues that arise. The results of the analysis are used to formulate conflict resolution solutions through administrative, juridical, and non-litigation approaches such as mediation and relocation. In addition, the analysis also considers aspects of legal protection for the parties involved as well as efforts to increase public awareness regarding land control. This approach is expected to provide effective recommendations in achieving legal certainty and equitable land management.

3. Result and Discussion

3.1. Legal Status of Building Use Rights over Land Controlled by Communities

The issue of legal certainty of Building Use Rights (HGB) over land assets of PT Kereta Api Indonesia (KAI) reflects a tension between legal norms and social practices. Agrarian law provisions have clearly regulated the status and procedures for granting land rights. However, their implementation in practice often encounters obstacles due to physical control by communities. This condition creates a dualism between juridical control and factual control (Susanti, 2024). The existence of communities that have long occupied the land adds a layer of complexity. This situation demonstrates that law does not always function effectively. The problem requires a comprehensive analysis that not only focuses on normative aspects but also considers the evolving social realities (Resmawan & Puspadma, 2025).

Building Use Rights, as one form of land rights, possess legal validity when granted in accordance with applicable regulations. The granting of such rights must follow clear and lawful administrative procedures. Legal certainty for HGB holders is a primary objective within the national land system. However, the existence of land control by communities without a legal basis hinders the effectiveness of these rights. This condition creates uncertainty for lawful rights holders. Furthermore, conflicts of interest between HGB holders and communities become inevitable. This reflects a gap between normative law and actual practice in the field, requiring appropriate resolution approaches (Haneswara, Subekti, & Raharjo, 2023).

Land control by communities without a valid legal basis constitutes a violation of agrarian law provisions. Juridically, communities do not possess legal rights over such land. However, in practice, they often feel a sense of legitimacy due to long-term occupation. Social and economic factors are the main drivers behind such control. This situation creates multidimensional conflicts involving not only legal aspects but also humanitarian concerns. Therefore, a purely legal approach is insufficient to resolve the issue. A more holistic approach is required, one that takes into account the various interests involved (Warman, Joharsah, & Muhlizar, 2022).

Legal certainty in the land sector is not solely related to the formal validity of rights. It must also be able to provide a sense of justice for the community. There is often an imbalance between legal certainty and social justice. HGB holders possess a strong legal basis, while communities have social attachments to the land. This condition creates a dilemma in law enforcement. Enforcement actions frequently trigger social conflicts. Therefore, policies are needed to balance these two aspects. A fair approach is essential in resolving such conflicts and maintaining social stability (Sutedi, 2020).

The role of PT KAI as a manager of state assets is crucial in ensuring legal certainty over land. PT KAI has the authority to manage and utilize land in accordance with applicable regulations. However, in practice, asset management faces various challenges, particularly the unauthorized occupation of land by communities. This condition hampers the optimal utilization of state assets and may cause losses to various parties. PT KAI must adopt strategic measures in managing its assets, which should be implemented systematically and sustainably (Mahardika, 2026).

The government also plays a vital role in resolving issues related to land control. Efforts include the inventory and certification of land assets, which aim to clarify the legal status of land. In addition, the government undertakes enforcement actions against unauthorized land use through administrative and legal mechanisms. However, repressive approaches often lead to social conflict, making a more persuasive approach necessary. Such an approach seeks to create more equitable solutions. The role of the government is therefore decisive in achieving legal certainty (Rinaldi, Sihotang, & Djuniarsono, 2026).

Land disputes can be resolved through both litigation and non-litigation channels. Litigation involves court proceedings to obtain formal legal certainty, but it is often time-consuming and costly. Therefore, non-litigation approaches offer a more effective alternative. Methods such as mediation and negotiation can be used to reach agreements. Relocation and compensation may also serve as solutions. These approaches emphasize humanitarian considerations and can reduce the potential for prolonged conflict, thereby helping to maintain social harmony (Azis, Kholid, & Nasrudin, 2024)

In addition, increasing public awareness of land law is highly important. Many people still lack an understanding of legal provisions related to land control. This lack of awareness is one of the main causes of legal violations. The government and PT KAI can collaborate in providing legal education to the community. Legal awareness can encourage compliance with regulations and help prevent future conflicts. Thus, legal awareness becomes a key factor in creating order and legal certainty in land management.

3.2. Legal Position of Communities Physically Controlling Land Without Legal Title

Building Use Rights possess legal validity when granted in accordance with applicable procedures. Legal certainty for HGB holders is a primary objective within the land administration system. However, the existence of communities occupying land without legal rights makes the implementation of such rights difficult in practice. This condition gives rise to conflicts between rights holders and the community. In addition, uncertainty emerges in the utilization of land. This reflects a gap between legal norms and their implementation. Legal certainty depends not only on the existence of rules but also on their effective enforcement (Hartono, 2023).

Land control by communities without a legal basis constitutes a violation of agrarian law provisions. Juridically, such communities do not possess legal rights over the land. However, long-term occupation often creates a sense of social legitimacy. Economic factors and the need for housing are the primary drivers of such occupation. This situation results in complex conflicts that are not merely legal in nature but also social. Therefore, resolution efforts cannot rely solely on formal legal approaches. A more comprehensive approach is required to achieve equitable solutions (Hamid & Suryana, 2024).

Legal certainty in land affairs must provide protection for all parties involved. It is not limited to formal legality but must also encompass a sense of justice. In practice, there is often an imbalance between these two aspects. Holders of Building Use Rights have a strong legal foundation, while communities have social attachments to the land. This condition creates a dilemma in law enforcement. Enforcement measures frequently lead to social conflict (Narestya & Saleh, 2025).

PT KAI, as the manager of state assets, plays an important role in maintaining legal certainty over land. PT KAI has the authority to manage and utilize land in accordance with prevailing regulations. However, community occupation of land remains a major obstacle. This condition disrupts the optimal utilization of assets and may cause losses to various parties. Therefore, effective management strategies are required. The measures taken must be systematic, as proper asset management can reduce the potential for conflict (Vanessa, Nurdin, & Andora, 2025).

The government also has a crucial role in resolving land disputes. Efforts undertaken include the inventory and certification of land assets, which aim to ensure legal certainty. In addition, enforcement actions are carried out against unauthorized land use. However, repressive approaches often trigger social conflict, making a more persuasive approach necessary. Such an approach aims to achieve fair and balanced solutions. The government's role is therefore decisive in

the success of conflict resolution, and appropriate policies can reduce disputes (Priyono, 2020).

Conflict resolution may be pursued through both litigation and non-litigation mechanisms. Litigation provides formal legal certainty, but it is often time-consuming and costly. As a result, non-litigation approaches serve as more effective alternatives. Mediation and negotiation can be employed to reach mutual agreements. Relocation and compensation may also serve as viable solutions. These approaches emphasize humanitarian considerations and can minimize prolonged conflicts, thereby maintaining social stability.

Public legal awareness is an important factor in land control issues. Many communities still lack an understanding of land law provisions. This lack of awareness contributes to legal violations. The government and PT KAI can play a role in providing legal education to the public. Increased legal awareness can help prevent conflicts. Communities that understand the law are more likely to comply with it, thereby supporting the creation of order. Legal awareness thus becomes a key factor in achieving successful land governance (Firdaus, 2021)

3.3. Legal Remedies to Achieve Legal Certainty over Building Use Rights on Land Assets of PT Kereta Api Indonesia (KAI) Controlled by Communities in Medan

Land assets of PT Kereta Api Indonesia (KAI) constitute part of state property that holds a strategic role in supporting public transportation functions. Historically, these lands originate from colonial-era railway assets that were later nationalized and became part of state control. From the perspective of agrarian law, such land cannot be privately owned but is managed by a state-owned enterprise within the framework of public interest. However, in practice, there has been a shift in land utilization across various regions, particularly in Medan City. Land that is juridically categorized as state assets has in fact been physically controlled by communities over a long period. This condition creates a discrepancy between formal law and social reality. Addressing this issue is essential to ensure legal certainty while maintaining social stability (Wardojo, 2024).

The phenomenon of community land control can be observed in several areas such as Gang Buntu, Jalan Jawa, Jalan Madura, and the Pulo Brayan area. In these locations, communities have established settlements and businesses across generations without possessing a valid legal basis. Based on interview findings, some residents admitted that they were unaware of the legal status of the land they occupy. They reside on the land due to housing needs and economic factors. This condition indicates that such control is not always driven by an intention to violate the law, but rather by limited access to legally available land. Nevertheless, from a legal standpoint, such actions remain inconsistent with the principle of state control over land. Consequently, conflicts arise between communities and

asset managers. This situation becomes complex as it simultaneously involves legal, social, and economic dimensions (Huang, Bima, Tandi, & Pebrianto, 2025).

Unauthorized land control gives rise to legal consequences in the form of potential unlawful acts. The state, as the authority over land, has the right to enforce regulations against unauthorized use. On the other hand, communities that have long occupied the land develop a sense of social legitimacy over such control. This creates a clash between formal legality and factual legitimacy. Such conflicts often result in prolonged disputes that are difficult to resolve. Moreover, this condition hinders the optimal utilization of state assets, as land that should be used for public purposes cannot be fully utilized (Sabila, Hafidah, & Ramadhany, 2023).

Resolution efforts may begin with an administrative approach that focuses on restructuring land data. The initial step involves collecting data on both factual and administrative land control. This process aims to obtain a comprehensive understanding of actual field conditions. In addition, re-measurement and clarification of land boundaries are conducted to prevent overlapping claims. Adjustments to legal documents are also necessary to align them with actual conditions. This approach helps reduce discrepancies between formal records and reality. As a result, potential conflicts can be minimized from the outset. Administrative measures thus serve as a crucial foundation in achieving legal certainty. Without proper structuring, conflict resolution becomes difficult (Agustama, Dantes, & Yasmiati, 2026).

In addition to administrative restructuring, the government may provide limited legalization to communities. This form of legalization does not alter the status of the land as state property but grants lawful access for its utilization. It may take the form of leases, utilization agreements, or specific usage permits. This approach provides legal protection to communities without eliminating state rights. It is also more humane compared to forced eviction. Considering that many areas have developed into permanent settlements, relocation must be conducted carefully. Limited legalization can serve as a balanced alternative solution. It may also increase public acceptance of government policies, thereby enabling conflicts to be resolved more peacefully and sustainably (Medaline & Moertiono, 2023).

If administrative measures fail, judicial mechanisms may be pursued as a last resort. Land disputes can be brought before the District Court in the form of civil lawsuits. Courts will objectively assess the legal evidence presented by each party. Additionally, administrative disputes may be submitted to the State Administrative Court. Court decisions carry binding legal force and can be enforced. This provides clear legal certainty for the parties involved. However, judicial processes are often time-consuming and costly, and court decisions are not always socially accepted.

The implementation of court decisions often faces challenges in the field. Communities that have long occupied the land tend to resist eviction. This may trigger broader social conflicts. Without community support, law enforcement becomes less effective. This condition demonstrates that legal certainty does not always align with social acceptance. Approaches that consider social aspects are more likely to be effectively implemented. This is crucial for maintaining public order and stability (Adnan, Sunarto, & Khair, 2026)

Non-litigation approaches offer a more flexible alternative for resolving land conflicts. Methods such as mediation, negotiation, and deliberation can be used to reach mutual agreements. In this process, neutral third parties can help bridge the interests of conflicting parties. Open dialogue allows each party to understand the perspectives and needs of others. Solutions achieved through this approach tend to be more acceptable as they are not coercive. This method also helps preserve social relationships within the community. Moreover, the process is generally faster and less costly. Therefore, non-litigation approaches are highly relevant in conflicts involving broad community participation (Maulana, 2025).

The role of local government is crucial in supporting the resolution of land conflicts. The government acts as a facilitator in balancing the interests of the state and the community. It can also formulate comprehensive spatial planning policies. Relocation and compensation may serve as solutions if land use cannot be maintained. However, their implementation must take into account the social and economic conditions of affected communities. The provision of adequate housing is essential. Agrarian reform programs may also serve as long-term solutions. Appropriate policies will create a balance between legal certainty and social justice, thereby enabling sustainable conflict resolution.

4. Conclusion

The legal status of Building Use Rights over PT KAI land assets is fundamentally valid as long as it is granted in accordance with applicable procedures and legal provisions. However, in practice, its implementation is often hindered by physical occupation by communities who do not possess a valid legal basis. Such occupation does not give rise to legal ownership rights; therefore, the communities do not hold the status of legal rights holders over the land, even though, in reality, they have established strong social and economic ties to it. This condition creates a discrepancy between administrative legality and actual conditions in the field, thus requiring a comprehensive resolution approach. Such resolution must be carried out through a combination of administrative measures for restructuring land status, judicial mechanisms to ensure binding legal certainty, and non-litigation approaches such as mediation, relocation, and compensation. In this way, legal certainty can be achieved not only in a juridical sense but also be socially accepted and effectively implemented within society.

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